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Presidential Documents

Title 3—

The President

Proclamation 9103 of April 10, 2014

Education and Sharing Day, U.S.A., 2014

By the President of the United States of America

A Proclamation

In the United States of America, every child should have the chance to go as far as their passions and hard work will take them. Education not only prepares young people to enter the workforce, it also expands their horizons, teaches them to think critically about the world around them, builds their character, and helps them develop the judgment to set our Nation's course. On Education and Sharing Day, U.S.A., we strengthen our resolve to provide a world-class education for every child.

Thanks to dedicated educators across our country, graduation rates have hit their highest level in almost three decades. Yet not all children have access to the best opportunities. I have called on the Congress to make high-quality preschool available to every child in America. Because great early childhood education leads to better outcomes in school and life, we will continue to invest in innovative, evidence-based preschool programs that get results. Together, we can put all our children on a path to success, even if their parents are not rich.

We are also working to ensure every classroom can take advantage of modern technology. With the support of the private sector, my Administration will connect 20 million students to high-speed broadband over the next 2 years—without adding a dime to the deficit. Within 5 years, 99 percent of American students will have access to these connections.

On this day, we remember Rabbi Menachem Mendel Schneerson, the Lubavitcher Rebbe, an inspiration to people around the world. Through a lifetime of scholarship and good works, he educated generations and inspired them to reach their fullest potential. In his honor, let us embrace the spirit that every child matters, and that there is nothing more important than the investments we make in our next generation.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 11, 2014, as Education and Sharing Day, U.S.A. I call upon all Americans to observe this day with appropriate ceremonies and activities.

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

[FR Doc. 2014–08650
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Rules and Regulations

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

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AM78

Prevailing Rate Systems; North American Industry Classification System Based Federal Wage System Wage Surveys

AGENCY: U.S. Office of Personnel Management.

ACTION: Correcting amendment.

SUMMARY: The U.S. Office of Personnel Management (OPM) published a final rule in the **Federal Register** on September 23, 2013 (78 FR 58153), updating the 2007 North American Industry Classification System (NAICS) codes used in Federal Wage System wage survey industry regulations with the 2012 NAICS revisions published by the Office of Management and Budget. The final rule inadvertently omitted deleting two NAICS codes from the list of required NAICS codes in the Electronics specialized industry in 5 CFR 532.313. This document corrects this error.

DATES: *Effective Date:* April 15, 2014.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, by telephone at (202) 606–2838 or by email at *pay-performance-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: In a final rule published in the **Federal Register** on September 23, 2013 (78 FR 58153), OPM inadvertently omitted deleting two NAICS codes from the list of required NAICS codes in the Electronics specialized industry in 5 CFR 532.313.

In the supplementary information section of the proposed rule published on March 26, 2013 (78 FR 18252), OPM proposed to delete NAICS codes 334414 (Electronic capacitor manufacturing) and 334415 (Electronic resistor manufacturing) from the list of required NAICS codes in the Electronics specialized industry in 5 CFR 532.313, but inadvertently failed to include the deletions in the regulatory text section. This document corrects the error.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Brenda L. Roberts,

Acting Deputy Associate Director for Pay and Leave.

Accordingly, the U.S. Office of Personnel Management is correcting 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

§ 532.313 [Amended]

■ 2. In § 532.313(a), remove NAICS codes ''334414'' and ''334415'' in the first column and ''Electronic capacitor manufacturing'' and ''Electronic resistor manufacturing'' in the second column from the list of required NAICS codes for the Electronics Specialized Industry.

[FR Doc. 2014–08501 Filed 4–14–14; 8:45 am]

BILLING CODE 6325–39–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0271]

RIN 3150–AJ31

List of Approved Spent Fuel Storage Casks: Transnuclear, Inc. Standardized Advanced NUHOMS® Horizontal Modular Storage System; Amendment No. 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the Transnuclear, Inc. Standardized Advanced NUHOMS® Horizontal Modular Storage System (NUHOMS® Storage System) listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 3 to Certificate of Compliance (CoC) No. 1029. Amendment No. 3 adds a new transportable dry shielded canister (DSC), 32PTH2, to the NUHOMS® Storage System; and makes editorial corrections.

DATES: The direct final rule is effective June 30, 2014, unless significant adverse comments are received by May 15, 2014. If the direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Please refer to Docket ID NRC–2013–0271 when contacting the NRC about the availability of information for this direct final rule. You may access publicly-available information related to this direct final rule by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0271. 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.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The proposed CoC, proposed technical specifications (TSs), and preliminary Safety Evaluation Report (SER) are available in ADAMS under Accession Nos. ML13290A176, ML13290A182, and ML13290A205, respectively.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Naiem S. Tanious, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6103, email: *Naiem.Tanious@nrc.gov.*

SUPPLEMENTARY INFORMATION:

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I. Procedural Background

This direct final rule is limited to the changes contained in Amendment No. 3 to CoC No. 1029 and does not include other aspects of the NUHOMS® Storage System design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on June 30, 2014. However, if the NRC receives significant adverse comments on this direct final rule by May 15, 2014, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rule section of this issue of the **Federal Register**. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or TSs.

For detailed instructions on submitting comments, please see the companion proposed rule published in the Proposed Rule section of this issue of the **Federal Register**.

II. Background

Section 218(a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended, requires that ''the Secretary [of the U.S. Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [U.S. Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in part 72 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste,'' which added a new subpart K within 10 CFR part 72 entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L within 10 CFR part 72 entitled, ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule (68 FR 463; January 6, 2003) that approved the NUHOMS® Storage System design and added it to the list of NRC-approved cask designs in 10 CFR 72.214, ''List of approved spent fuel storage casks,'' as CoC No. 1029.

III. Discussion of Changes

On December 15, 2011 (ADAMS Accession No. ML120040478), Transnuclear, Inc. submitted an application to amend the NUHOMS® Storage System. Amendment No. 3 adds a new transportable DSC, 32PTH2, to the NUHOMS® Storage System; and makes editorial corrections. The NUHOMS® 32PTH2 System is designed to accommodate up to 32 intact (or up to 16 damaged and the balance intact) pressurized water reactor (PWR), Combustion Engineering (CE), 16 x 16 class spent fuel assemblies, with or without control components. The NUHOMS® 32PTH2 System also consists of a modified version of the Standardized NUHOMS® Advanced Horizontal Storage Module (AHSM), designated the AHSM–HS (high burnup and high seismic).

Numerous sections of the TSs were revised to add and update characteristics, specifications, and requirements related to the 32PTH2 DSC and the AHSM–HS storage module. Additional changes were made to definitions and other sections to improve completeness, consistency and clarity. Revised sections are indicated by side bars in the TSs.

As documented in the SER (ADAMS Accession No. ML13290A205), the NRC staff performed a detailed safety evaluation of the proposed CoC amendment request. There are no significant changes to cask design requirements in the proposed CoC amendment. Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of containment, shielding, and criticality control. If there is no loss of containment, shielding, or criticality control, the environmental impacts would be insignificant. This amendment does not reflect a significant change in design or fabrication of the cask. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 3 would remain well within the 10 CFR part 20, ''Standards for Protection Against Radiation,'' limits. Therefore, the proposed CoC changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the

environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule (55 FR 29181) that amended 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents from those analyzed in that environmental assessment.

This direct final rule revises the NUHOMS® Storage System listing in 10 CFR 72.214 by adding Amendment No. 3 to CoC No. 1029. The amendment consists of the changes previously described, as set forth in the revised CoC and TSs. The revised TSs are identified in the SER.

The amended NUHOMS® Storage System design, when used under the conditions specified in the CoC, the TSs, and the NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be ensured. When this direct final rule becomes effective, persons who hold a general license under 10 CFR 72.210, ''General license issued,'' may load spent nuclear fuel into NUHOMS® Storage Systems that meet the criteria of Amendment No. 3 to CoC No. 1029 under 10 CFR 72.212, ''Conditions of general license issued under § 72.212.''

IV. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC will revise the NUHOMS® Storage System design listed in 10 CFR 72.214. This action does not constitute the establishment of a standard that contains generally applicable requirements.

V. Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this direct final rule is classified as Compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of 10 CFR. Although an Agreement State may not adopt program elements reserved to the NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

VI. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner that also follows other best practices appropriate to the subject or field and the intended audience. The NRC has attempted to use plain language in promulgating this rule consistent with the Federal Plain Writing Act guidelines.

VII. Finding of No Significant Environmental Impact: Availability

A. The Action

The action is to amend 10 CFR 72.214 to revise the Transnuclear, Inc. NUHOMS® Storage System listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 3 to CoC No. 1029. Under the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The NRC has made a finding of no significant impact on the basis of this environmental assessment.

B. The Need for the Action

This direct final rule amends the CoC for the Transnuclear, Inc. NUHOMS® Storage System design within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. Specifically, Amendment No. 3 adds a new transportable DSC, 32PTH2, to the NUHOMS® Storage System; and makes editorial corrections.

C. Environmental Impacts of the Action

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was initially analyzed in the environmental assessment for the 1990 final rule. The environmental assessment for this Amendment No. 3 tiers off of the environmental assessment for the July 18, 1990, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act.

NUHOMS® Storage Systems are designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an Independent Spent Fuel Storage Installation, the type of facility at which a holder of a power reactor operating license would store spent fuel in casks in accordance with 10 CFR part 72, include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other incidents.

Considering the specific design requirements for each accident condition, the design of the cask would prevent loss of containment, shielding, and criticality control. If there is no loss of containment, shielding, or criticality control, the environmental impacts would be insignificant. This amendment does not reflect a significant change in design or fabrication of the cask. There are no significant changes to cask design requirements in the proposed CoC amendment. In addition, because there are no significant design or process changes, any resulting occupational exposure or offsite dose rates from the implementation of Amendment No. 3 would remain well within the 10 CFR part 20 limits. Therefore, the proposed CoC changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents. The staff documented its safety findings in an SER which is available in ADAMS under Accession No. ML13290A205.

D. Alternative to the Action

The alternative to this action is to deny approval of Amendment No. 3 and end the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into NUHOMS® Storage Systems in accordance with the changes described in proposed Amendment No. 3 would have to request an exemption from the requirements of 10 CFR 72.212 and 72.214. Under this alternative, interested licensees would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee. Therefore, the environmental impacts would be the same or less than the action.

E. Alternative Use of Resources

Approval of Amendment No. 3 to CoC No. 1029 would result in no irreversible commitments of resources.

F. Agencies and Persons Contacted

No agencies or persons outside the NRC were contacted in connection with the preparation of this environmental assessment.

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in 10 CFR part 51. Based on the foregoing environmental assessment, the NRC concludes that this direct final rule entitled, ''List of Approved Spent Fuel Storage Casks: Standardized Advanced NUHOMS® Horizontal Modular Storage System; Amendment No. 3,'' will not have a significant effect on quality of the human environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

VIII. Paperwork Reduction Act Statement

This direct final rule does not contain any information collection requirements and, therefore, is not subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget (OMB), Approval Number 3150–0132.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

IX. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, the spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in 10 CFR 72.214. The NRC issued a final rule (68 FR 463; January 6, 2003) that approved the Standardized Advanced NUHOMS® Cask System design and added it to the list of NRC-approved cask designs in 10 CFR 72.214 ''List of approved spent fuel storage casks,'' as CoC No. 1029.

On December 15, 2011 (ADAMS Accession No. ML120040478), Transnuclear, Inc. submitted an application to amend the NUHOMS® Storage System.

The alternative to this action is to withhold approval of Amendment No. 3 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into the NUHOMS® Storage Systems under the changes described in Amendment No. 3 to request an exemption from the requirements of 10 CFR 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Approval of this direct final rule is consistent with previous NRC actions. Further, as documented in the SER and the environmental assessment, the direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and therefore, this action is recommended.

X. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and Transnuclear, Inc. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

XI. Backfitting and Issue Finality

The NRC has determined that the backfit rule (10 CFR 72.62) does not apply to this direct final rule. Therefore, a backfit analysis is not required. This direct final rule revises the CoC No. 1029 for the Transnuclear, Inc. NUHOMS® Storage System, as currently listed in 10 CFR 72.214, ''List of Approved Spent Fuel Storage Casks.'' The revision consists of Amendment No. 3 which adds a new transportable DSC, 32PTH2, to the NUHOMS® Storage System; and makes editorial corrections.

Amendment No. 3 to CoC No. 1029 for the Transnuclear, Inc. NUHOMS® Storage System was initiated by Transnuclear, Inc. and was not submitted in response to new NRC requirements, or an NRC request for amendment. Amendment No. 3 applies only to new casks fabricated and used under Amendment No. 3. These changes do not affect existing users of the NUHOMS® Storage System, and the current Amendments continue to be effective for existing users. While current CoC users may comply with the new requirements in Amendment No. 3, this would be a voluntary decision on the part of current users. For these reasons, Amendment No. 3 to CoC No. 1029 does not constitute backfitting under 10 CFR 72.62, 10 CFR 50.109(a)(1), or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in 10 CFR part 52. Accordingly, no backfit analysis or additional documentation addressing the issue finality criteria in 10 CFR part 52 has been prepared by the staff.

XII. Congressional Review Act

The Office of Management and Budget has not found this to be a major rule as defined in the Congressional Review Act.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the

Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 is revised to read as follows:

Authority: Atomic Energy Act secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2239, 2273, 2282, 2021); Energy Reorganization Act secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act sec. 102 (42 U.S.C. 4332); Nuclear Waste Policy Act secs. 131, 132, 133, 135, 137, 141, 148 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 549 (2005).

Section 72.44(g) also issued under Nuclear Waste Policy Act secs. 142(b) and 148(c), (d) (42 U.S.C. 10162(b), 10168(c), (d)).

Section 72.46 also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239); Nuclear Waste Policy Act sec. 134 (42 U.S.C. 10154).

Section 72.96(d) also issued under Nuclear Waste Policy Act sec. 145(g) (42 U.S.C. 10165(g)).

Subpart J also issued under Nuclear Waste Policy Act secs. 117(a), 141(h) (42 U.S.C. 10137(a), 10161(h)).

Subpart K also issued under sec. 218(a) (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance No. 1029 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1029.

Initial Certificate Effective Date: February 5, 2003.

Amendment Number 1 Effective Date: May 16, 2005.

Amendment Number 2 Effective date: Amendment not issued by the NRC.

Amendment Number 3 Effective Date: June 30, 2014.

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the Standardized Advanced NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72–1029.

Certificate Expiration Date: February 5, 2023.

Model Number: Standardized Advanced NUHOMS® –24PT1, –24PT4, and –32PTH2.

* * * * *

Dated at Rockville, Maryland, this 28th day of March, 2014.

For the Nuclear Regulatory Commission.

Darren B. Ash,

Acting, Executive Director for Operations.

[FR Doc. 2014–08346 Filed 4–14–14; 8:45 am]

BILLING CODE 7590–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Parts 1260, 1273, and 1274

RIN 2700–AE06

Removal of Procedures for Closeout of Grants and Cooperative Agreements

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: The National Aeronautics and Space Administration (NASA) is issuing a final rule removing from its regulation agency procedures for closeout of grants and cooperative agreements. Simultaneous with removal of the closeout procedures from the regulation, NASA will issue non-regulatory closeout procedures.

DATES: This final rule is effective April 15, 2014.

FOR FURTHER INFORMATION CONTACT: Jamiel C. Commodore, NASA Headquarters, Office of Procurement, Contract Management Division, Washington, DC 20546, (202) 358–0302; email: *Jamiel.C.Comodore@nasa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

NASA published a proposed rule at 78FR68375–78FR68376 on November 14, 2013, to begin an effort to remove agency internal policy, practices, and procedures from the regulation that do not have an impact on the public. No comments were received on the proposed rule. This final rule is published without change to the proposed rule.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

NASA certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because this final rule does not impose any additional requirements on small entities and, more importantly, this final rule serves to deregulate internal agency operating procedures which will eliminate unnecessary regulation.

IV. Paperwork Reduction Act

The Paper Reduction Act (Pub. L. 104–13) is not applicable because the removal of the closeout procedures does not require the submission of any information by recipients that requires the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq*.

List of Subjects in 14 CFR Parts 1260, 1273, and 1274

Colleges and universities, Business and industry, Grant programs, Grants administration, Cooperative agreements, State and local governments, Non-profit organizations, Commercial firms, Recipients, Closeout procedures, Recipient reporting.

William P. McNally,

Assistant Administrator for Procurement.

Accordingly, 14 CFR parts 1260, 1273, and 1274 are amended as follows:

PART 1260—GRANTS AND COOPERATIVE AGREEMENTS

■ 1. The authority citation for 14 CFR part 1260 is revised to read as follows:

Authority: 51 U.S.C. 20113(e), Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301, et seq.), and 2 CFR Part 200.

§ 1260.77 [Removed and Reserved]

■ 2. Section 1260.77 is removed and reserved.

PART 1273—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

■ 3. The authority citation for 14 CFR part 1273 is revised to read as follows:

Authority: 51 U.S.C. 20113(e), Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301, *et seq.*), and 2 CFR Part 200.

§§ 1273.50 and 1273.51 [Removed and Reserved]

■ 4. Sections 1273.50 and 1273.51 are removed and reserved.

PART 1274—COOPERATIVE AGREEMENTS WITH COMMERCIAL FIRMS

■ 5. The authority citation for 14 CFR part 1274 is revised to read as follows:

Authority: 51 U.S.C. 20113(e), Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301, *et seq.*).

§§ 1274.803 and 1274.804 [Removed and Reserved]

■ 6. Sections 1274.803 and 1274.804 are removed and reserved.

[FR Doc. 2014–08372 Filed 4–14–14; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 341

[Docket Nos. RM12–15–000 and RM01–5–000]

Filing, Indexing and Service Requirements for Oil Pipelines

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of extension of compliance date.

SUMMARY: This document revises the date to comply with the terms of the Final Rule (RM12–15–000) which was published in the **Federal Register** of Wednesday, May 29, 2013. The rule amended regulations under the Interstate Commerce Act to update requirements governing the form, composition and filing of rates and charges by interstate oil pipelines for transportation in interstate commerce.

DATES: Effective May 15, 2014.

FOR FURTHER INFORMATION CONTACT: Aaron Kahn (Technical Issues), 888 First Street, NE., Washington, DC 20426, (202) 502–8339, *aaron.kahn@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Notice Regarding Compliance Date

On June 14, 2013, the Commission granted an indefinite extension of time for compliance with the Final Rule in Docket No. RM12–15–000 (May 16, 2013 Order) [1] pending final clearance from the Office of Management and Budget (OMB) and further notice from the Commission. The Commission received clearance from OMB on September 30, 2013. Beginning May 15, 2014, covered entities are required to comply with the terms of the Final Rule published May 29, 2013 at 78 FR 32090.

Dated: April 9, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08510 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

[Docket No. FDA–2014–N–0002]

New Animal Drugs; Ceftiofur Sodium; Gentamicin; Xylazine

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

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 March 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 a change of sponsorship for an ANADA.

DATES: This rule is effective April 15, 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 March 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.*

Also, the regulations are being amended to reflect the previous approval of revised food safety warnings for ceftiofur sodium powder for injection. This amendment is being made to improve the accuracy of the regulations.

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.

[1] *Filing, Indexing and Service Requirements for Oil Pipelines,* Order No. 780, 78 FR 32090 (May 29, 2013), FERC Stats. & Regs. ¶ 31,347 (2013).

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING MARCH 2014

NADA/ ANADA	Sponsor	New animal drug product name	Action	21 CFR Section	FOIA Summary	NEPA Review
200–468 ...	Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland.	GENTAMED–P for Poultry (gentamicin sulfate) Injection.	Original approval as a generic copy of NADA 101–862.	522.1044	yes	CE.[1] [2]
200–529 ...	Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland.	XYLAMED (xylazine) Injection.	Original approval as a generic copy of NADA 047–956.	522.2662	yes	CE.[1] [2]

[1] The Agency has determined under 21 CFR 25.33 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.

[2] CE granted under 21 CFR 25.33(a)(1).

List of Subjects in 21 CFR Part 522

Animal drugs.

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 part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. In 522.313c, revise paragraph (d) to read as follows:

§ 522.313c Ceftiofur sodium.

* * * * *

(d) *Special considerations.* 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 cattle, swine, chickens, and turkeys for disease prevention purposes; at unapproved doses, frequencies, durations, or routes of administration; and in unapproved major food-producing species/production classes.

* * * * *

§ 522.1044 [Amended]

■ 3. In § 522.1044, in paragraph (b)(4), remove ''No. 000859'' and in its place add ''Nos. 000859 and 061623''.

§ 522.2662 [Amended]

■ 4. In § 522.2662, in paragraph (b)(2), remove ''No. 000010'' and in its place add '' Nos. 000010 and 061623''.

Dated: April 9, 2014.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2014–08445 Filed 4–14–14; 8:45 am]

BILLING CODE 4160–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe interest assumptions under the regulation for valuation dates in May 2014. The interest assumptions are used for paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective May 1, 2014.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion (*Klion.Catherine@pbgc.gov*), Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR Part 4022) prescribes actuarial assumptions—including interest assumptions—for paying plan benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions in the regulation are also published on PBGC's Web site (*http://www.pbgc.gov*).

PBGC uses the interest assumptions in Appendix B to Part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to Part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in Appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for May 2014.[1]

The May 2014 interest assumptions under the benefit payments regulation will be 1.50 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for April 2014, these interest assumptions are unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the payment of benefits under plans with valuation dates during May 2014, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

[1] Appendix B to PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR Part 4044) prescribes interest assumptions for valuing benefits under terminating covered single-employer plans for purposes of allocation of assets under ERISA section 4044. Those assumptions are updated quarterly.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 247, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
247	5–1–14	6–1–14	1.50	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 247, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
247	5–1–14	6–1–14	1.50	4.00	4.00	4.00	7	8

Issued in Washington, DC, on this 8th day of April 2014.

Judith Starr,

General Counsel, Pension Benefit Guaranty Corporation.

[FR Doc. 2014–08483 Filed 4–14–14; 8:45 am]

BILLING CODE 7709–012–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0237]

Drawbridge Operation Regulation; Duwamish Waterway, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the South Park Highway Bridge across the Duwamish Waterway, mile 3.8, at Seattle, Washington. The deviation is necessary to enable timely completion of drawbridge construction. This deviation allows the drawbridge to remain closed to mariners needing a full channel, double bascule leaf drawbridge opening unless 12 hours advance notice is provided. Mariners that only require a single leaf, half channel drawbridge opening will be given an opening upon signal.

DATES: This deviation is effective without actual notice from April 15, 2014 until 11:59 p.m. on September 1, 2014. For the purposes of enforcement, actual notice will be used from 12:01 a.m. on March 30, 2014, until April 15, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0237] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven M. Fischer, Thirteenth District Bridge Administrator, Coast Guard; telephone 206–220–7282, email: *Steven.M.Fischer3@uscg.mil*. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The South Park Highway double bascule span drawbridge replacement project has progressed to the point where both bascule spans have been installed. King County Road Services Division requested a deviation to the drawbridge operation schedule to enable timely completion of the bridge construction project. The South Park Highway Double Bascule Bridge is located at Duwamish Waterway, mile 3.8, in the city of Seattle, Washington, and provides 34.8 feet of vertical clearance above at center span while in the closed position and 30 feet of vertical clearance at the extreme east and west ends of the navigable channel and unlimited vertical clearance with the bascule bridge in the fully open position. Vertical clearances are referenced to mean high-water elevation (MHW). Horizontal clearance is 128 feet. However, horizontal clearance may be restricted by construction barges. As such, mariners are advised to consult the Local Notice to Mariners for current conditions.

The normal operation schedule for the bridge is in 33 CFR 117.1041, which specifies that the draws of each bridge across the Duwamish Waterway shall open on signal, except the draw of the South Park highway bridge, mile 3.8, which need not be opened for the passage of vessels from 6:30 a.m. to 8:00 a.m. and 3:30 p.m. to 5:00 p.m., Monday through Friday, excluding Federal holidays. The South Park highway bridge shall open on the specified signal of one prolonged blast followed quickly by one short blast and one prolonged blast. When fog prevails by day or by night, the drawtender of the South Park highway bridge, after giving the acknowledging signal to open, shall toll a bell continuously during the approach and passage of vessels.

The deviation period is effective from 12:01 a.m. on March 30, 2014 to 11:59 p.m. on September 1, 2014, and allows the drawbridge to remain closed to mariners needing a full channel, double bascule leaf drawbridge opening unless 12 hours advance notice is provided. Mariners that only require a single leaf half channel drawbridge opening will be given an opening upon signal. A drawtender will be present 24 hours a day, 7 days week. To request a single leaf opening, mariners may utilize any of the following methods: (1) via VHF maritime radio channel 13; (2) telephone, with the numbers posted in the Notice to Mariners; (3) one prolonged blast followed quickly by one short blast and one prolonged blast. All double leaf openings require 12 hour notification by VHF maritime radio channel 13 or telephone; double leaf openings will not be granted when requested by signal.

Waterborne traffic on this stretch of the Duwamish waterway consists of vessels ranging from small pleasure craft, sailboats, small tribal fishing boats, and commercial tug and tow, and mega yachts. Vessels able to pass through the bridge in the closed positions may do so at anytime but are advised to use caution as the area surrounding the bridge has numerous construction craft and equipment in the water. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: March 30, 2014.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2014–08550 Filed 4–14–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2009–0139]

RIN 1625–A11

Regulated Navigation Area; Gulf Intracoastal Waterway, Inner Harbor Navigation Canal, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This final rule revises an existing interim rule to permanently establish a Regulated Navigation Area (RNA) protecting floodwalls and levees in the New Orleans area from possible damage caused by vessels that can breakaway during certain tropical storm and hurricane conditions. This final rule also addresses comments from the public on the previously published Supplemental Notice of Proposed Rulemaking (SNPRM) and economic review for this RNA. This action is necessary for the flood protection of high-risk areas throughout the Greater New Orleans Area when a tropical event threatens to approach and impact the area.

DATES: This rule is effective April 15, 2014. This rule has been enforced with actual notice since April 1, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2009–0139]. 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 LCDR Brandon Sullivan, Sector New Orleans Waterways Division, U.S. Coast Guard; telephone (504) 365–2281, email *Brandon.J.Sullivan@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl F. Collins Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
SNPRM Supplemental Notice of Proposed Rulemaking
CPRA Coastal Protection Restoration Authority
HSDRRS Hurricane Storm Damage Risk Reduction System
USACE United States Army Corps of Engineers
COTP Captain of the Port
IHNC Inner Harbor Navigation Canal
GIWW Gulf Intracoastal Waterway
MM Mile Marker
RNA Regulated Navigational Area

A. Regulatory History and Information

The Coast Guard is issuing this final rule without a full 30-day notice pursuant to authority under section 4(a) of the Administrative Procedures Act (APA) (5 U.S.C. 553). Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. This final rule makes permanent the RNA specific to safety measures during hurricane season which is June 1 through November 30 each year. The existing interim rule for this RNA has been effective for approximately four years and requires necessary changes, based on the completed flood protection system, through this final rule for the approaching 2014 hurricane season. This final rule also allows for possible planned deviation from the RNA through a Hurricane Operations Plan submitted at least one month before the season begins, which is May 1, 2014 for this year. Throughout the rulemaking process for this RNA, those regulated by the rule, specifically industry and waterway users, have participated in this rulemaking through public meetings and the public comment process and are fully aware that this RNA will be in place for the 2014 hurricane season. It is unnecessary to further delay the updated RNA by waiting for a full 30 days notice to take place through publication in the Federal Register.

On June 8, 2010, the Coast Guard published an interim rule entitled ''Regulated Navigation Area; Gulf

Intracoastal Waterway, Inner Harbor Navigation Canal, New Orleans, LA'' in the FR (75 FR 32275) and provided responses to all comments to the original Notice of Proposed Rulemaking (NPRM), which published May 14, 2009 in the **Federal Register** (74 FR 22722). That interim rule is codified and the RNA is currently enforced under 33 CFR 165.838. The intent behind establishing the RNA through an interim rulemaking was to put into place interim restrictions providing the necessary protections at the time and until the final floodwalls and storm protection system were completed and final specifications established and received. The interim rule stated that the Coast Guard would reevaluate the RNA upon completion of the United States Army Corps of Engineers (USACE) Hurricane and Storm Damage Risk Reduction System (HSDRRS). With the HSDRRS being fully operational for the 2013 hurricane season, the Coast Guard, with input from Federal, State and local agencies determined that the RNA is still necessary.

On June 7, 2013, the Coast Guard published a SNPRM entitled ''Regulated Navigation Area; Gulf Intracoastal Waterway, Inner Harbor Navigation Canal, Harvey Canal, Algiers Canal, New Orleans, LA'' in the **Federal Register** (78 FR 34293). In the SNPRM, the Coast Guard proposed changes to the requirements of the RNA from those in the interim rule. In developing these requirements, the Coast Guard established a work group comprised of Federal, State and local flood protection authorities, and port and industry representatives. Through this work group, public meetings were held and input from the meetings helped to address the protections still necessary and modify the restrictions in the interim rule to provide those protections. The minutes from those meetings are available for public viewing on the docket. In addition to the work-group meetings, the Coast Guard considered lessons learned from implementing the RNA provisions of the interim rule during Hurricane Isaac in 2012. Also, while drafting the SNPRM, the Coast Guard met formally with the USACE six times to (1) determine the risks presented by vessels to the HSDRRS, (2) understand the conditions under which such risks occur, and (3) to ensure that a final RNA aligns with USACE operations and concerns.

The Coast Guard also held a public meeting on June 20, 2013 at 5 p.m. local time, to receive comments on the SNPRM. Comments received at the public meeting were supportive of the overall collaborative planning process, and did not contain any specific content requiring a Coast Guard response in this Final Rule. A transcript of that public meeting was uploaded to the public docket. During the SNPRM comment period, the Coast Guard also received 18 written comments from seven entities on the proposed changes within the public docket, which are addressed in this final rule below. These comments did not result in any substantial changes to the requirements of the RNA in this final rule.

In January 2013, the Coast Guard also requested information on a voluntary basis from 10 local industry and waterway users operating within the RNA. This information was requested in the form a questionnaire available in the public docket accessed as directed under **ADDRESSES**. The Coast Guard worked with an assigned Coast Guard economist to develop the questionnaire, which was used to gather information on the possible economic impacts—both cost and benefit—that the proposed changes may impose. These questions included but were not limited to assessing the economic impact of requiring mooring arrangements similar to those required under 33 CFR 165.803; developing and submitting mooring arrangements as an alternate to those listed under 33 CFR 165.803; evacuating all vessels out of the RNA during enforcement periods; requiring weekly inspections, continuous surveillance, and certain equipment if a facility wishes to keep vessels within the RNA during enforcement; and requiring an annual Hurricane Operations Plan from facilities desiring to keep vessels within certain areas of the RNA as a preplanned deviation from the RNA restriction. The existing RNA, the proposed changes to the RNA in the SNPRM, and this final rule restrict all vessels from entering or remaining in any part of the designated RNA during enforcement. The existing RNA, the RNA as proposed in the SNPRM and this final rule also provide an avenue for vessels and facilities to pre-plan a deviation from RNA enforcement. Comments received at public meetings and during comment periods throughout the rulemaking process for this RNA support the opportunity to deviate if a facility and/or vessel show that they can do so safely and securely. The current RNA affords vessels and facilities the opportunity to deviate from the restriction through applying for an annual waiver and the option to deviate is provided for in this final rule through submitting an Annual Hurricane Operations Plan. This plan replaces the current waiver requirement.

B. Basis and Purpose

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

The purpose of this final rule is to permanently establish the RNA to protect floodwalls and levees in the New Orleans area from possible storm damage caused by moored barges and vessels, and to prevent flooding in the New Orleans area that could result from that storm damage.

This final rule permanently establishes the RNA now that the flood protection system is complete. This final rule responds to the risks at hand using knowledge and expertise and addressing the needs uncovered throughout this rulemaking process including the NPRM, the interim rule, the SNPRM, and input and participation from federal, state, and local agencies as well as public and industry stakeholders. Without this RNA, when navigational structures within the HSDRRS are to be closed because of an approaching storm, the Coast Guard would have to individually order each vessel within the subject area to depart or to comply with specific mooring arrangements. Issuing individual orders places a significant administrative burden on the Coast Guard during a time when important pre-storm preparations must also be made. By creating this rule, the Coast Guard is informing the public in advance of the restrictions and requirements for vessels in the area during periods of enforcement, enabling vessel and facility operators to make seasonal plans and arrangements for RNA evacuation and thus eliminating the need for individual Captain of the Port (COTP) Orders.

An additional purpose of this RNA is to aid the Coast Guard in the early identification of vessels that may not depart the RNA when required. Under PWSA, the Coast Guard has no authority to take possession of, and move these vessels during emergency periods such as the approach of a hurricane. Rather, Coast Guard enforcement is limited to imposing civil or criminal penalties on anyone who fails to comply with the requirements of an order or regulation issued under PWSA. Therefore early identification of vessels that may be unwilling to depart the area, or are unable to remain safely moored within the area during a storm, is extremely

important and will provide the Coast Guard time to consider alternatives and work with interagency authorities and vessel and facility representatives to appropriately resolve the problem well in advance of a storm.

C. Discussion of Comments, Changes and the Final Rule

Seven individuals or companies submitted a total of 18 comments to the SNPRM. The Coast Guard's response to these comments are discussed in detail below, however, the Coast Guard has not made any substantial changes from the requirements proposed in the SNPRM as a result of these comments.

One comment expressed concern that proposed mooring criteria are more stringent than the criteria in the interim rule, which would require additional professional engineering certification resulting in additional costs for compliance for this particular entity. The interim rule published in 2010 stated that the Coast Guard would reevaluate the need for the Regulated Navigation Area and make changes and proposals in a final rule as appropriate. In developing the mooring criteria proposed in the SNPRM and implemented by this final rule, the Coast Guard worked with the USACE to determine acceptable standards and parameters that reduce risk within the canal basins. In February 2013, the USACE provided engineering analysis based on the design and construction of the newly completed HSDRRS which determined that mooring criteria needed to meet more stringent requirements for potential surge height, wind speeds, etc. In February 2013, the USACE provided correspondence to the Coast Guard recommending that we incorporate aspects of the standard mooring criteria found in United Facilities Criteria (UFC) 4–159 and the American Society of the Civil Engineers (ASCE) 7 that could be utilized by professional engineers in designing and approving the mooring standards. Therefore, the Coast Guard proposed a standard consistent with the maximum potential water levels USACE has determined could occur with sustained heavy rainfall over a 24 hour timeframe within the HSDRRS system. In this correspondence, the USACE recommended that the Coast Guard utilize design wind loads based on ASCE 7. The two design values mentioned are 88 mph and 140 mph. To decrease risk of a vessel breaking away from its mooring, the Coast Guard incorporated the more stringent 140 mph wind requirement, which represents a three-second maximum gust velocity in the New Orleans area as outlined by the USACE. We understand that since 2009 facilities who wished to keep vessels in the RNA during storms had to submit multiple engineering analyses which resulted in financial expenditures for each entity. Final determination on criteria required was simply not available at the time the interim rule was established. This final rule and the criteria included were developed over four years of partnerships between all entities involved to lessen the burden of multiple engineering analyses.

One comment requested that the Coast Guard differentiate restrictions and requirements based upon vessel tonnage, measured or dead weight or construction. The Coast Guard does not possess data, and is not aware of a data source, clearly delineating risk in relation to size of vessels. The USACE determined that without an analysis determining the resiliency of the I-walls, no vessels, tanks, yachts, boats, campers, buildings or other structures should be allowed to impact the floodwalls. Without this clear delineation, the Coast Guard will require all floating vessels intending to remain in the RNA during a storm event to submit Annual Hurricane Operation Plans and meet the requirements outlined within this final rule to reduce risk within the canal basins. The Coast Guard is very aware of the risk in this area and has closely coordinated with multiple agencies regarding that risk. In the absence of further analysis or other non-Coast Guard actions to mitigate risks such as reinforcing floodwalls and levees or installing barriers protecting them, the Coast Guard is compelled to take a conservative approach. Furthermore, as outlined in correspondence to the Southeast Louisiana Flood Protection Authority East dated August 20th, 2012, the USACE plans to analyze the resiliency of the I-walls subject to impact loads from small vessels, small floating objects, characteristics of boat impacts, limiting velocities and boat weight to further classify which vessels actually constitute a risk. Should this occur, the Coast Guard may review or update this regulation to potentially exempt certain classes of vessels from these regulatory requirements. In the absence of such policy, direction or analysis, the Coast Guard has decided to make this regulation applicable to all vessels in the RNA, regardless of size, to provide the maximum protection possible to the flood protection structures in the area.

One comment requested the Coast Guard reevaluate the surge height requirement for engineering certification to the lowest height of the levee walls within the canal basins as well as consider wind directions that could affect water rise. The Coast Guard has done this for surge heights; the height in the SNPRM reflects the lowest height of a levee or floodwall in each canal basin. Based on USACE analysis these heights may be reached by maximum potential rainfall amounts that could occur within a 24-hour period. The Coast Guard did not factor potential wind directions for surge height requirements because decisions to enforce and implement the provisions found in this final rule would need to occur much sooner than actual known wind directions which are subject to changing forecasts, intensities or error in track models.

One comment described a financial hardship for small craft moorings to meet mooring requirements for winds of 140 mph and requests vessels be allowed to utilize temporary lines in meeting the 140 mph requirements. This final rule implements the transition from a waiver-based system to a performance-based system proposed in the SNPRM. It also allows the facility owners to work with professional engineers on a plan that meets the performance requirements, either with permanent fixed mooring systems, mooring lines or a combination of both.

One comment requested the Coast Guard allow the standby tugboat requirement for individual facilities to be satisfied by sharing tug(s) across facilities within established geographic limits. The ability for facilities to allow vessels to stay during RNA enforcement under this final rule is grounded in the requirement that each facility owner be responsible for all vessels contained within their annual hurricane operations plan. The Coast Guard will be reviewing these annual hurricane operations plans and ensuring that each individual entity meets the requirements in this final rule to reduce risk of a breakaway at a facility. Expanding a tug's standby area across multiple businesses and a wider geographic area increases the risk of a vessel breakaway. In the event of multiple breakaways at different facilities, the likelihood that a breakaway would not be responded to given challenges in prioritizing a tug's response across businesses is certainly increased. The Coast Guard intends for each facility owner to be prepared with the required on-scene tugs should a scenario occur where multiple facilities need their tug assistance and where a sharing of resources may not be practicable. Once again the Coast Guard is only specifying these requirements for facilities with floating vessels choosing to deviate from the RNA and intending to remain within the RNA geographic

area during a tropical event. Should the facility not want to incur the additional cost, they may remove the vessel.

One comment requested the Coast Guard include in the regulation that the Port Coordination Team would be consulted prior to mandatory evacuations in the event a particularly dangerous storm is predicted. The Coast Guard agrees and has included this in the regulation at 33 CFR 165.838 (c) (4).

One comment expressed concerns that mooring arrangement design criteria were significantly increased from the SNPRM, are too stringent, and may not reflect realistic storm conditions which may occur within the canal basins. The commenter requested further discussion on the reasoning for these new requirements. In drafting this Final Rule, the Coast Guard worked with the USACE and maritime stakeholders to determine acceptable standards and parameters that reduced risk within the canal basins. The criteria in this rule was provided by the USACE based on engineering of the completed HSDRRS and their analysis of conditions (surge heights and wind speeds) that could occur within the canals in the RNA during a storm, even with navigation structures closed as outlined in correspondence to the Coast Guard from the USACE on February 7th, 2013. The USACE proposed that the standards found in UFC 4–159 and ASCE 7 were sufficient to meet the criteria. The Coast Guard relied upon the engineering expertise of the USACE to reduce risk during dangerous storms. Absent new information disputing these recommendations the Coast Guard feels it necessary to move forward with these requirements. However, the Coast Guard will accept new information that may be beneficial for future updates for this RNA.

One comment requested this final rule expand the RNA to include: (a) the ''Golden Triangle-area'' on the protected side (West) of the Lake Borgne Barrier, bound by the Gulf Intracoastal Waterway (GIWW), Mississippi River Gulf Outlet (MRGO) and the IHNC Lake Borgne Surge Barrier; (b) a half mile buffer on the East Side of the IHNC Lake Borgne Surge Barrier parallel to the entire structure; (c) the area along the de-authorized MRGO channel adjacent to the St. Bernard Floodwalls extending a half mile past the southernmost portion of the wall; and (d) the Hero Canal outside of the HSDRRS. The Coast Guard does not intend to extend the RNA geographic parameters outside of what was proposed in the supplemental rule at this time.

The ''Golden Triangle'', MRGO, and half mile area around the IHNC Lake Borgne Surge Barrier are not areas where vessels typically operate or moor in inclement weather. Should the USACE identify vessels that pose a significant risk during a tropical event in this area, the Coast Guard will issue individual COTP orders directing them to relocate outside these areas adjacent to the RNA. In regards to Hero Canal, which is outside of the West Closure Complex and adjacent to an earthen levee system, the Coast Guard does not intend to include this in the RNA without further analysis provided by levee design and construction entities demonstrating a potential risk from vessels in the canal. Hero Canal is not a waterway with commercial facilities and moorings in areas subject to storm surge during hurricanes. Hero Canal has traditionally been an area where smaller fishing vessels sought safe refuge during dangerous storms before the HSDRRS was completed. During Hurricane Isaac, fishing vessels sought safe refuge within the HSDRRS. Lessons learned from those seeking safe refuge during Hurricane Isaac resulted in the Coast Guard, USACE, Southeast Louisiana Flood Protection Authority West, other state and local agencies and the fishing community discussing allowing these vessels to stage within this canal for tropical events instead of within the RNA in the protected side of the West Closure Complex. Of note, expanding RNA Geographic areas from what was proposed within the SNPRM would require additional public comment. The Coast Guard feels it necessary to publish this final rule without further change or comment, providing those affected sufficient time to comply with RNA requirements before the 2014 Hurricane Season. However, the Coast Guard will entertain future proposed changes to this final rule should further analysis be provided to support a future update rule.

One comment requested the Coast Guard clearly define particularly dangerous storm and consider complete evacuation of all vessels. This Final Rule already contains wording that allows the COTP the flexibility to require all vessels to vacate the RNA should a particularly dangerous storm be predicted to impact the RNA area. The Coast Guard believes that flexibility is necessary in determining what storm forecasts may warrant a complete RNA evacuation. Storm track and strength forecasts are uncertain and scenarios which impact the RNA are wide ranging, making specific scenario description impractical in regulation. However, as previously mentioned, the Coast Guard accepts that this decision should be made in consultation with the Port Coordination Team and has included this in the regulation.

One comment requested that the Coast Guard require all vessels with Hurricane Operation Plans be required to maintain a constant state of compliance with this rulemaking throughout the calendar year. The Coast Guard will ensure that all facilities allowing vessels to remain in the RNA during a tropical event submit an Annual Hurricane Operations Plan but will not enforce the implementation of that plan until necessary for a particular weather event. The Coast Guard and USACE will be conducing monthly patrols during hurricane season to ensure those with Hurricane Operation Plans are prepared and able to implement those plans for pending tropical events. It is during these monthly patrols that verification checks will be made to ensure facilities are compliant with their certified plan. Requiring facilities to moor vessels in accordance with mooring plans for inclement weather simply isn't justified until the COTP announces the enforcement of the RNA. Other facility owners who intend to vacate the RNA upon activation are not required to comply with the RNA mooring requirements. If a facility with a valid Hurricane Operations Plan is not compliant with their certified plan, the vessels moored there will be required to vacate the RNA also.

One comment requested the Coast Guard consider removing all vessels from the IHNC corridor and revise the current language which states the ''Coast Guard is not inclined to allow any floating vessels to remain within the IHNC portion of the Canal Basin''. The Coast Guard considers that the current wording is adequate to address the risk in that area. The Coast Guard has no intentions to support any additional annual Hurricane Operation Plan submissions for floating vessels within higher risk IHNC areas. Performance based criteria will not apply to the IHNC area, and any vessels who expect to remain will need to apply for a deviation and demonstrate that mooring arrangements provide an equivalent level of safety. As was previously mentioned, the USACE has stated an analysis would be produced to determine the resiliency of the I-walls subject to impact loads from small vessels, small floating objects, characteristics of boat impacts, limiting velocities and boat weight to further classify which vessels actually constitute a risk. Once that analysis is produced and clearly identified, the Coast Guard would be willing to review

or update this Final Rule, which may allow certain classes of vessels to remain within the IHNC. In the absence of such policy, direction or analysis, the Coast Guard intends to maintain current posture and wording as outlined within this Final Rule.

One comment notified the Coast Guard that revised mooring criteria were being developed which may slightly differ from what the Coast Guard was proposing. The commenter requested that these newly revised criteria be included in this final rule. After a two year process of crafting this rule with multiple Federal, State and local entities, the Coast Guard is moving forward with publishing this final rule with current information. The Coast Guard however is open to future recommendations on mooring guidance and, if appropriate, would reexamine these standards in a future rulemaking. The Coast Guard is publishing this rule to enable vessels, facility owners and operators sufficient time to comply with requirements in time for the 2014 Hurricane Season.

One comment requested that mooring criteria identified within this final rule be considered a minimum requirement and further stated that additional mooring criteria utilizing UFC 4–159 would be provided to the Coast Guard for inclusion in this rule. The commenter suggested apparatus design plans that accompany a waiver application should be reviewed by the USACE and approved or denied by the USCG. The Coast Guard has stated in this final rule that the intent of this rulemaking is transitioning from a waiver approval process to a performance based system. The Coast Guard agrees with the commenter and will partner with the USACE in the annual review and submission of all Hurricane Operational Plans. The Coast Guard agrees that requirements described in this rulemaking are minimum requirements that should be attained by all vessel and facility operators, and that mooring designs need to be certified by a professional engineer. As previously stated, after a two year process of crafting this rule with multiple Federal, State and local entities, the Coast Guard is moving forward with publishing this final rule with current information to ensure vessels, facility owners, and operators have sufficient time to comply with requirements for the 2014 Hurricane Season.

One comment stated that the actual size and type of lashing shall be designed by the owner's professional engineer and shall be included in the required annual hurricane operations plan and be consistent with UFC 4–159. The Coast Guard believes this comment is already addressed within this regulation and specifically within the requirements for a professional engineer to certify minimum attainment of the mooring design criteria.

Two related comments requested clarification on the regulatory text relating to allowable actions within the RNA during the enforcement period and how that relates to the closing of the navigational structures. For further clarification, the Coast Guard intends to begin enforcement of the RNA 24 hours in advance of the anticipated closure of either the IHNC Lake Borgne Surge Barrier or the West Closure Complex. When the Coast Guard announces that the RNA will be implemented, all vessels not having an approved plan to remain in the RNA need to begin vacating the RNA, and need to be out of the RNA area prior to the closure of the structures or locks. All vessels that are transiting through the RNA will be allowed to transit providing there is sufficient time to either vacate or reach their intended and approved location. Progress and status of RNA evacuation will be monitored by Port Assessment Teams comprising representatives of the USCG, USACE and the levee protection authorities.

Finally, one comment asked whether the Coast Guard had sufficient resources to perform compliance inspections needed to ensure all vessels remaining in the RNA are properly moored to an approved mooring facility. Yes, the Coast Guard has sufficient resources, utilizing Port Assessment Teams that patrol the RNA area during hurricane season to maintain maritime domain awareness in the canals, counting vessels, and analyzing how long it would take for vessels to vacate the RNA area should a tropical event occur. Additionally, during a possible tropical event, the Coast Guard, USACE and levee protection authorities patrol daily to ensure facilities that have submitted annual hurricane operation plans are complying with those plans and address any concerns identified during those patrols. The success of these patrols and the joint effort between our port partners to enact the RNA was demonstrated during Hurricane Isaac and Tropical Storm Karen where the RNA was successfully implemented with current resource levels.

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.

In determining if this rule was a significant regulatory action, the Coast Guard considered alternatives so as not to unduly impact the segment of the economy impacted by the RNA. Furthermore, the Coast Guard also incorporated mooring requirements in regulation that negates the need for annual waivers greatly reducing associated costs. The Coast Guard incorporated into the regulatory requirements a provision that enables plans to be submitted with alternative minimum mooring requirements which will be reviewed by the COTP on a case-by-case basis. This provision enables the Coast Guard to review and allow mooring alternatives such as piling systems that permanently moor a vessel not intending to move from its berth that present an equal or greater level of safety under the regulation in an effort to mitigate possible regulatory and economic impacts. The Coast Guard also provided a series of questions for industry comment with the sole purpose of determining regulatory and economic impact. The questions were provided to those entities that had submitted waivers to remain in the RNA under the Interim Rule, along with the responses received, are available for public viewing in the docket.

Based on responses to the questions, the Coast Guard modified the proposed tug boat requirements for on-scene monitoring of vessels during RNA enforcement. The Coast Guard originally contemplated requiring each facility with three or more vessels to have one tug on-scene for every 25 vessels. As a result of the Coast Guard's outreach to industry with these questions and subsequent responses indicating an unnecessary economic hardship, the Coast Guard modified this requirement. The SNPRM proposed every facility with eight or more vessels to maintain one tug for every 50 vessels which significantly reduces the economic impact on industry but still provides a substantial measure of safety in the

event that tugs are required in an emergency.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or moor in the RNA during enforcement, and the owners or operators or facilities in the RNA who intend to keep vessels at their facility during enforcement of the RNA. On a case by case basis, the Coast Guard will continue to review alternatives to the minimum mooring requirements for those that have an equal or greater measure of safety. This provision supports the Coast Guard's ongoing effort to keep this rulemaking from having a significant economic impact on a substantial number of small entities. Also, this regulation seeks to reduce impact on small entities by transitioning to a performance based system allowing vessels to remain if they meet the mooring requirements in the regulation. In addition, several routes for vessel traffic exist for departure from the area before the RNA goes into effect.

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 may be found to call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.). The Coast Guard solicited voluntary information concerning this rulemaking from 10 of the 10–14 maritime industry entities that have applied for waivers to deviate from this RNA during the past four years. This solicitation did not meet the guidelines of a new collection of information. The information solicited from the maritime industry and waterway users was specific to the impacts of the RNA. Questions included but were not limited to, addressing the economic costs and benefits of providing an option for vessels and facilities to deviate from the RNA restriction by providing Hurricane Operations Plans allowing them to remain in areas of the RNA during enforcement. Comments received during public meetings and public comment periods throughout this rulemaking project, show that industry wants the option to safely and securely deviate from the RNA restriction. Facilities operating in this area are aware of the threat of tropical weather conditions and already have operation plans specific to Hurricane season in place. Such a plan is part of their normal course of business. Therefore, this final rule does call for a collection of information in the form of an operational plan from vessels and facilities that wish to deviate from the restrictions under the RNA when enforced. As understood from industry and waterway user comments and responses to the posed questions, no new information would need to be collected. Such requirement replaces the waiver option in the existing RNA.

Still, the Coast Guard has been advised that this final rule may include a collection of information as defined under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. Regarding the burden to respond to this collection of information, under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with the information required to deviate under this rule is excluded, and therefore should not be considered a burden because it will be incurred in the normal course of business and activities.

The Coast Guard will publish a notice requesting comments on revising existing OMB Control Number: 1625–0043 to include any collection of information resulting from requirements to voluntarily deviate from this RNA. OMB Control Number 1625–0043. The title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden are included in that notice, which may be found under the same docket number, USCG–2009–0139, as indicated under **ADDRESSES**.

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 would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

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 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 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 Final Rule involves establishing a regulated navigation area as defined within this regulation, which is categorically excluded under figure 2–1, paragraph (34)(g) of the Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES.** We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues 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 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 2. Revise § 165.838 to read as follows:

§ 165.838 Regulated Navigation Area; Gulf Intracoastal Waterway, Inner Harbor Navigation Canal, New Orleans, LA.

(a) *Location.* The following is a regulated navigation area (RNA):

(1) The Gulf Intracoastal Waterway (GIWW) from Mile Marker (MM) 22 East of Harvey Locks (EHL), west on the GIWW, including the Michoud Canal and the Inner Harbor Navigation Canal (IHNC), extending North ½ mile from the Seabrook Flood Gate Complex out into Lake Pontchartrain and South to the IHNC Lock.

(2) The Harvey Canal, between the Lapalco Boulevard Bridge and the confluence of the Harvey Canal and the Algiers Canal;

(3) The Algiers Canal, from the Algiers Lock to the confluence of the Algiers Canal and the Harvey Canal;

(4) The GIWW from the confluence of Harvey Canal and Algiers Canal to MM 7.5 West of Harvey Locks (WHL)

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

(1) Breakaway means a floating vessel that is adrift and that is not under its own power or the control of a towboat, or secured to its moorings.

(2) COTP means the Captain of the Port, New Orleans;

(3) *Facility* means a fleeting, mooring, industrial facility or marina along the shoreline at which vessels are or can be moored and which owns, possesses, moors, or leases vessels located in the areas described in paragraph (a) of this section.

(3) Fleet includes one or more tiers of barges.

(4) Fleeting or mooring facility means the area along the shoreline at which vessels are or can be moored.

(5) Floating vessel means any floating vessel to which the Ports and Waterways Safety Act, 33 U.S.C. 1221 *et seq.,* applies.

(6) Mooring barge or spar barge means a barge moored to mooring devices or secured to the ground by spuds, and to which other barges may be moored.

(7) Mooring device includes a deadman, anchor, pile or other reliable holding apparatus.

(8) *Navigational structures* are the Seabrook Floodgate Complex, the IHNC Lake Borgne Surge Barrier, and the West Closure Complex components of the Hurricane and Storm Damage Risk Reduction System (HSDRRS).

(9) Person in charge includes any owner, agent, pilot, master, officer, operator, crewmember, supervisor, dispatcher or other person navigating, controlling, directing or otherwise responsible for the movement, action, securing, or security of any vessel, barge, tier, fleet or fleeting or mooring facility subject to the regulations in this section.

(10) Tier means barges moored interdependently in rows or groups.

(11) *Port Coordination Team* is a body of public and private port stakeholders led by the COTP whose purpose is to share information, establish priorities, recommend and implement actions to address risks to ports and waterways during incidents and events.

(12) *Tropical Event* means the time period immediately preceding, during, and immediately following the expected impact of heavy weather from a tropical cyclone.

(c) *Enforcement.* (1) The provisions of paragraph (d) of this section will be enforced during a tropical event beginning 24 hours in advance of the predicted closure of the IHNC Lake Borgne Surge Barrier structure within the HSDRRS (IHNC & GIWW) in the area defined in paragraph (a)(1) of this section.

(2) The provisions of paragraph (d) of this section will be enforced beginning 24 hours in advance of the predicted closure of the West Closure Complex within the HSDRRS (Harvey & Algiers Canals) in the area defined in paragraphs (a)(2) through (4) of this section.

(3) If the Coast Guard receives notice of a closure less than 24 hours before

closure, the provisions of paragraph (d) of this section will be enforced upon the COTP receiving the notice of predicted closing.

(4) In the event that a particularly dangerous storm is predicted, the COTP, in consultation with the Port Coordination Team, may require all floating vessels to evacuate the RNA beginning as early as 72 hours before predicted closure of any navigational structure or upon notice that particularly dangerous storm conditions are approaching, whichever is less.

(5) The COTP will notify the maritime community of the enforcement periods for this RNA through Marine Safety Information Bulletins and Safety Broadcast Notices to Mariners.

(d) *Regulations.* During the period that the RNA is enforced and before closure of the navigational structures, all floating vessels must depart the RNA except as follows:

(1) Floating vessels may remain in the Harvey and Algiers Canals, provided they are moored sufficiently to prevent a breakaway and meet the minimum mooring requirements and conditions set forth in paragraphs (f) and (g) of this section.

(2) Floating vessels may remain in the Michoud Canal at least ¼ mile north of the intersection of the Michoud Canal and the GIWW, the GIWW from MM 15 EHL to MM 10 EHL, provided they are moored sufficiently to prevent a breakaway and meet the minimum mooring requirements and conditions set forth in paragraphs (f) and (g) of this section.

(3) During the period that the RNA is enforced and before closure of the navigational structures, vessels may transit through the RNA en route to a destination outside of the RNA given there is sufficient time to transit prior to the closure of a navigational structure, or they may transit to a facility within the RNA with which they have a prearranged agreement. These vessel movements and time critical decisions will be made by the COTP in consultation with the Port Coordination Team.

(4) The COTP may review, on a case-by-case basis, alternatives to minimum mooring requirements and conditions set forth in paragraphs (f) and (g) of this section and may approve a deviation to these requirements and conditions should they provide an equivalent level of safety.

(e) *Special Requirements for Facilities.* In addition to the mooring and towboat requirements discussed in paragraph (f) and (g) of this section, Facilities within the area described in paragraph (a) of this section that wish to deviate from these restrictions because they have vessels intending to remain within the areas allowed in paragraphs (d)(1) and (2) of this section shall comply with the below documentation and maintenance requirements in order to obtain the COTP's approval for their vessel(s) to remain in the closed RNA.

(1) *Annual Hurricane Operations Plan.* All facilities that have vessels intending to deviate from this RNA and remain within the areas allowed in paragraphs (d)(1) and (2) of this section shall develop an operations plan. The operations plan shall be readily available by May 1st of each calendar year for review by the COTP. The Annual Hurricane Operations Plan shall include:

(i) A description of the maximum number of vessels the facility intends to have remaining at any one time during hurricane season.

(ii) A detailed plan for any vessel(s) that are intended to be sunk/grounded in place when the RNA is enforced if evacuation is not possible.

(iii) A diagram of the waterfront facility and fleeting area.

(iv) Name, call sign, official number, and operational status of machinery on board (i.e., engines, generators, fire fighting pumps, bilge pumps, anchors, mooring machinery, etc.) each standby towboat.

(v) Characteristics for each vessel remaining at the fleeting or mooring facility, as applicable (length, breadth, draft, air draft, gross tonnage, hull type, horsepower, single or twin screw);

(vi) Details of mooring arrangements in accordance with mooring requirements and conditions set forth in paragraphs (g) and (h) of this section or COTP case-by-case approved deviations;

(vii) Certification by a professional engineer that the mooring arrangements are able to withstand winds of up to 140 mph, a surge water level of eleven feet, a current of four mph and a wave height of three feet within the canal basin in the area defined in paragraph (a)(1) of this section and a surge water level of eight feet, a current of four mph, and a wave height of two and a half feet within the canal basin in the area defined in paragraphs (a)(2) through (4) of this section;

(viii) Emergency contact information for the owner/operator, and/or agent of the facility/property.

(ix) 24-hour emergency contact information for qualified individuals empowered in writing by the owners/operators to make on-site decisions and authorize expenditures for any required pollution response or salvage.

(x) Full insurance disclosure to the COTP. Vessels moored to a facility shall provide insurance information to the facility.

(2) *Storm Specific Verification Report.* 72 hrs prior to predicted closure of the navigational structures, those facilities which have vessels that intend to remain within the RNA shall submit a Storm Specific Verification Report to the COTP New Orleans. The requirements for this Storm Specific Verification Report are located in the Canal Hurricane Operations Plan, which is Enclosure Six to the Sector New Orleans Maritime Hurricane Contingency Port Plan, *http://homeport.uscg.mil/nola.* The report shall include:

(i) Updated contact information, including names of manned towboat(s) and individuals remaining on the towboat(s).

(ii) Number of vessels currently moored and mooring configurations if less than stated in Annual Hurricane Operations Plan.

(iii) If the number of vessels exceeds the amount listed in the Annual Hurricane Operations Plan, describe process and timeframe for evacuating vessels to bring total number of vessels into alignment with the Annual Hurricane Operations Plan.

(3) The person in charge of a facility shall inspect each mooring wire, chain, line and connecting gear between mooring devices and each wire, line and connecting equipment used to moor each vessel, and each mooring device. Inspections shall be performed according to the following timelines and guidance:

(i) Annually between May 1 and June 1 of each calendar year; and

(ii) After vessels are added to, withdrawn from, or moved at a facility, each mooring wire, line, and connecting equipment of each barge within each tier affected by that operation; and

(iii) At least weekly between June 1 and November 30; and

(iv) 72 hrs prior to predicted closure of the navigation structures within this RNA; or within 6 hrs of the predicted closure, if the notice of predicted closure is less than 72 hrs.

(4) The person who inspects moorings shall take immediate action to correct any deficiency.

(5) *Facility Records.* The person in charge of a fleeting or mooring facility shall maintain, and make available to the COTP, records containing the following information:

(i) The time of commencement and termination of each inspection.

(ii) The name of each person who makes the inspection.

(iii) The identification of each vessel, barge entering or departing the fleeting

or mooring facility, along with the following information:

(A) Date and time of entry and departure; and

(B) The names of any hazardous cargo which the vessel is carrying.

(6) The person in charge of a facility shall ensure continuous visual surveillance of all vessels at the facility.

(7) The person who observes the vessels shall:

(i) Inspect for movements that are unusual for properly secured vessels; and

(ii) Take immediate action to correct each deficiency.

(f) *Mooring Requirements.* Facility owners shall consider all requirements within this section as minimum standards. Title 33 CFR 165.803, United Facilities Criteria (UFC) 4–159 and American Society of the Civil Engineers (ASCE)7 should be utilized by Professional Engineers in the certification of the Annual Hurricane Operations Plan.

(1) No person may secure a vessel to trees or to other vegetation.

(2) No person may allow a vessel to be moored with unraveled or frayed lines or other defective or worn mooring.

(3) No person may moor barges side to side unless they are secured to each other from fittings as close to each corner of abutting sides as practicable.

(4) No person may moor barges end to end unless they are secured to each other from fittings as close to each corner of abutting ends as practicable.

(5) A vessel may be moored to mooring devices if both ends of that vessel are secured to mooring devices.

(6) Barges may be moored in tiers if each shoreward barge is secured to mooring devices at each end.

(7) A vessel must be secured as near as practicable to each abutting corner by:

(i) Three parts of wire rope of at least 1¼ inch diameter with an eye at each end of the rope passed around the timberhead, caval, or button;

(ii) A mooring of natural or synthetic fiber rope that has at least the breaking strength of three parts of 1¼ inch diameter wire rope; or

(iii) Fixed rigging that is at least equivalent to three parts of 1¼ inch diameter wire rope.

(8) The person in charge shall ensure that all mooring devices, wires, chains, lines and connecting gear are of sufficient strength and in sufficient number to withstand forces that may be exerted on them by moored vessels/barges.

(g) *Towboat Requirements.* The person in charge of a fleeting or mooring facility must ensure:

(1) Each facility consisting of eight or more vessels that are not under their own power must be attended by at least one radar-equipped towboat for every 50 vessels.

(2) Each towboat required must be:

(i) Able to secure any breakaways;

(ii) Capable of safely withdrawing or moving any vessel at the fleeting or mooring facility;

(iii) Immediately operational;

(iv) Radio-equipped;

(v) No less than 800 horsepower;

(vi) Within 500 yards of the vessels.

(3) The person in charge of each towboat required must maintain a continuous guard on the frequency specified by current Federal Communications Commission regulations found in 47 CFR part 83; a continuous watch on the vessels moored at facility; and report any breakaway as soon as possible to the COTP via telephone, radio or other means of rapid communication.

(h) Transient vessels will not be permitted to seek safe haven in the RNA except in accordance with a prearranged agreement between the vessel and a facility within the RNA.

(i) *Penalties.* Failure to comply with this section may result in civil or criminal penalties pursuant to the Ports and Waterways Safety Act, 33 U.S.C. 1221 *et seq.*

Dated: April 1, 2014.

K.S. Cook,

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

[FR Doc. 2014–08265 Filed 4–14–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2013–0672; FRL–9909–43-Region 7]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the State Implementation Plan (SIP) submitted by the State of Missouri for the purpose of incorporating administrative changes to the Missouri rule entitled ''Municipal Solid Waste Landfills''. EPA is approving this SIP revision based on EPA's finding that the rule is as stringent as the rule it replaces and fulfills the requirements of the Clean Air Act (CAA or Act) for the protection of the ozone National Ambient Air Quality Standards (NAAQS) in St. Louis.

DATES: This direct final rule will be effective June 16, 2014, without further notice, unless EPA receives adverse comment by May 15, 2014. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2013–0672, by one of the following methods:

1. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email: Bernstein.craig@epa.gov.*

3. *Mail or Hand Delivery:* Craig Bernstein, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2013–0672. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Craig Bernstein, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913–551–7688, or by email at *Bernstein.craig@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' refer to EPA. This section provides additional information by addressing the following:

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP revision been met?
III. What action is EPA taking?

I. What is being addressed in this document?

EPA is approving a revision to the State Implementation Plan (SIP) submitted by the State of Missouri for the purpose of incorporating administrative changes to the Missouri rule entitled ''Municipal Solid Waste Landfills'' rule, 10 CSR 10–5.490. This revision updates the rule to maintain consistency with the Federal requirements, corrects typographical errors, includes formatting changes, and corrects inconsistencies from previous final rule actions. Missouri's request to move definitions to rule 10 CSR 10–6.020 ''Definitions and Common Reference Tables'' will be addressed in a separate rulemaking action.

Specifically, the State of Missouri made the following changes in rule 10 CSR 10–5.490 ''Municipal Solid Waste Landfills''. Subsections (1)(B) and (1)(C) were amended to add and correct legal citations. Subsection (1)(D) was added to match the text of 40 CFR 60, subpart Cc. Section (2) was amended to move all definitions to Missouri rule 10 CSR 10–6.020 which will be addressed in a separate action. Section (3) was amended and sections (4) through (7) were amended and renumbered to match the format of rule 10 CSR 10–6.310 ''Restriction of Emissions from Municipal Solid Waste Landfills'' and text of 40 CFR 60, subpart WWW, and correct legal citations. Subpart (3)(C) was added to incorporate by reference parts of the Code of Federal Regulations. Section (4) was added to match rule 10 CSR 10–6.310 and the most current 40 CFR 60, subpart WWW. Sections (9) and (10) were added to match rule 10 CSR 10–6.310 and the text of 40 CFR 60, subpart WWW.

In a separate action being published in today's **Federal Register**, EPA is taking action to approve Missouri's state plan for designated facilities for Municipal Solid Waste Landfills under CAA 111(d) authority. This separate action pertains to Missouri rules 10 CSR 10–5.490 and 10 CSR 10–6.310.

II. Have the requirements for approval of a SIP revision been met?

The Missouri Air Conservation Commission adopted these actions on February 12, 2012, after considering comments received at public hearing. The rule became effective on May 30, 2012. The commission has full legal authority to develop rules pursuant to Section 643.050 of the Missouri Air Conservation Law. The state followed all applicable administrative procedures in proposing and adopting the rule actions.

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfies the completeness criteria of 40 CFR part 51, appendix V. In addition the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What action is EPA taking?

EPA is approving the revision to the SIP submitted by the State of Missouri for the purpose of incorporating administrative changes to the ''Municipal Solid Waste Landfills'' rule 10 CSR 10–5.490. EPA is approving this SIP revision based on EPA's finding that the rule is as stringent as the rule it replaces and fulfills the requirements of the CAA.

EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment because the revisions are administrative and consistent with Federal regulations. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve the SIP revision. If EPA receives adverse comments on this direct final rule, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

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. 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 action 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. 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 16, 2014. Filing a petition for reconsideration by the Administrator of this direct 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 3, 2014.

Karl Brooks,

Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart AA—Missouri

■ 2. In § 52.1320 the table in paragraph (c) is amended by revising the entry for 10–5.490 as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA Approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area				
*	*	*	*	*
10–5.490	Municipal Solid Waste Landfills. ..	5/30/12	4/15/14 *insert* FEDERAL REGISTER *page number where the document begins*].	
*	*	*	*	*

* * * * *

[FR Doc. 2014–08338 Filed 4–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2014–0145; FRL–9909–53–Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Clean Data Determination for the Baton Rouge Area for the 2008 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) has determined that the Baton Rouge, Louisiana marginal 2008 8-hour ozone nonattainment area is currently attaining the 2008 8-hour National Ambient Air Quality Standard (NAAQS) for ozone. This determination is based upon complete, quality assured, certified ambient air monitoring data that show the area has monitored attainment of the 2008 8-hour ozone NAAQS during the 2011–2013 monitoring period, and continues to

monitor attainment of the NAAQS based on preliminary 2014 data.

DATES: This rule is effective on June 16, 2014 without further notice, unless EPA receives relevant adverse comment by May 15, 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 No. EPA–R06–OAR–2014–0145, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions.
- Email: Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Mail or delivery: Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2014–0145. 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: Ms. Ellen Belk, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733, telephone (214) 665–2164, fax (214) 665–6762, email address *belk.ellen@epa.gov.*

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

Table of Contents

I. Background
II. EPA's Evaluation
III. Final Action
IV. Statutory and Executive Order Reviews

I. Background

On May 21, 2012 (77 FR 30088), effective July 20, 2012, EPA designated as nonattainment any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008–2010) of air quality data. The Baton Rouge area (specifically, Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes) was designated as a marginal ozone nonattainment area. Recent air quality data indicate that the Baton Rouge area is now attaining the 2008 8-hour ozone standard.

EPA is taking direct final action in determining that the Baton Rouge, Louisiana marginal 2008 8-hour ozone nonattainment area (hereafter the Baton Rouge area) has attained the 2008 8-hour NAAQS for ozone. This determination is based upon complete, quality assured and certified ambient air monitoring data that show the area has monitored attainment of the ozone NAAQS during the 2011–2013 monitoring period. Data entered into EPA's Air Quality System database (AQS) for 2014, but not yet certified also show that the area continues to attain the standard.

This clean data determination for the Baton Rouge area is being taken at the request of the State of Louisiana [1] and in accordance with our Clean Data Policy.[2] This Clean Data Determination serves as notice to the public that the nonattainment area's air quality meets the 2008 ozone NAAQS.[3]

To clarify, this action does not constitute a redesignation to attainment under CAA section 107(d)(3)(E)(i). This is because we do not yet have an approved maintenance plan for the area as required under section 175A of the CAA, nor have we found that the area has met the other applicable requirements for redesignation. The classification and designation status of the area will remain marginal nonattainment for the 2008 8-hour ozone NAAQS, and will be subject to marginal nonattainment applicable requirements including a nonattainment NSR SIP and an EI, until such time as EPA determines that the area meets all the CAA applicable requirements for redesignation to attainment. This finding means the area will have met one important requirement for redesignation, that is, having air quality that meets the standard. EPA expects that Louisiana will be providing the remaining elements necessary for redesignation in a SIP revision. Also, this action does not constitute a Determination of Attainment by an Area's Attainment Date under CAA section 179(c), 181(b)(2) and 188(b)(2).

II. EPA's Evaluation

For ozone, an area may be considered to be attaining the 2008 8-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. Under EPA regulations at 40 CFR Part 50, the 2008 8-hour ozone standard is

[1] See Louisiana's letter from Secretary Peggy Hatch to Mr. Ron Curry, dated January 23, 2014 in the docket for this action.

[2] Our Clean Data Policy is set forth in a May 10, 1995, EPA memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard.'' This policy is included in the docket for this action.

[3] See Memorandum from Janet McCabe, Deputy Assistant Administrator, Office of Air & Radiation, to Regional Administrators, Region I–X, dated April 6, 2011, entitled, ''Regional consistency for the Administrative Requirements of State Implementation Plan Submittals and the use of ''Letter Notices'', ''Attachment C—Determinations of Attainment by an Area's attainment Date v. Clean Data Determinations & Redesignation Requests and Maintenance Plans'' (p. 9) in the docket for this action.

attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at an ozone monitor is less than or equal to 0.075 parts per million (ppm) (i.e., 0.075 ppm, based on the truncating conventions in 40 CFR part 50, Appendix P). This 3-year average is referred to as the design value. When the design value is less than or equal to 0.075 ppm at each monitor within the area, then the area is meeting the NAAQS. Also, the data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than or equal to 90%, and no single year has less than 75% data completeness as determined in Appendix P of 40 CFR Part 50. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the EPA Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment. For ease of communication, many reports of ozone concentrations are given in parts per billion (ppb); ppb = ppm × 1,000. Thus, 0.075 ppm equals 75 ppb.

EPA reviewed the Baton Rouge area ozone monitoring data from ambient ozone monitoring stations for the ozone seasons 2011 through 2013, as well as data for the 2014 ozone in AQS but not yet certified. The 2011–2013 ozone season data for all the ozone monitors in the Baton Rouge area have been quality assured and certified by EPA. The design value for 2011–2013 is 0.075 ppm, and is not changed by the preliminary data for 2014 (at this time of this writing, March 7, 2014, preliminary data available in AQS included data for the month of January, 2014). The data for the three ozone seasons 2011–2013, and preliminary data for 2014, show that the Baton Rouge area is attaining the 2008 8-hour ozone NAAQS.

Table 1 shows the fourth-highest daily maximum 8-hour average ozone concentrations for the Baton Rouge, Louisiana nonattainment area monitors for the years 2011–2013. (To find the overall design value for the area for a given year, simply find the highest design value from any of the eight monitors for that year.) The location of each monitoring site in the Baton Rouge area is shown on the map entitled, ''Baton Rouge ozone and ozone precursor monitoring network'' included in the docket associated with this action.

TABLE 1—BATON ROUGE AREA FOURTH HIGH 8-HOUR OZONE AVERAGE CONCENTRATIONS AND DESIGN VALUES (PPM) [1] [2]

Site	4th Highest daily max			Design values three year averages
	2011	2012	2013	2011–2013
Plaquemine (22–047–0009)	0.079	0.074	0.061	0.071
Carville (22–047–0012)	0.084	0.073	0.068	0.075
Dutchtown (22–005–0004)	0.080	0.071	0.062	0.071
LSU (22–033–0003)	0.083	0.075	0.067	0.075
Port Allen (22–121–0001)	0.074	0.070	0.060	0.068
Pride (22–033–0013)	0.075	0.070	0.062	0.069
French Settlement (22–063–0002)	0.077	0.071	0.069	0.072
Capitol (22–033–0009)	0.080	0.072	0.066	0.072

[1] Unlike for the 1-hour ozone standard, design value calculations for the 2008 8-hour ozone standard are based on a rolling three-year average of the annual 4th highest values. This is the same as design value calculations for the 1997 8-hour ozone standard. (40 CFR Part 50, Appendix I).

[2] The Baker and Grosse Tete ozone monitoring sites were shut down after 2010; no data from these sites was used in the design values included in this table.

The 8-hour ozone design value for the Baton Rouge area based on monitoring data for 2011 through 2013 is provided in Table 2:

TABLE 2—BATON ROUGE AREA 8-HOUR OZONE DESIGN VALUE (PPM)

Baton Rouge area overall	Design value three year average
	2011–2013
	0.075

As shown in Table 2, the 8-hour ozone design value for 2011–2013, which is based on a three-year average of the fourth-highest daily maximum average ozone concentration at the monitor recording the highest concentrations, is 0.075 ppm, which meets the 2008 8-hour ozone NAAQS. Data through 2013 have been quality assured, as recorded in AQS. Data for 2014 not yet certified also indicate that the area continues to attain the 2008 8-hour NAAQS. In summary, monitoring data for Baton Rouge for the three years 2011 through 2013, as well as preliminary monitoring data for 2014, show continued attainment of the 2008 8-hour ozone standard. Preliminary data for Baton Rouge for 2014 are included in the docket.

EPA's review of these data confirms that the Baton Rouge ozone nonattainment area has met and continues to meet the 2008 8-hour ozone NAAQS. Data for 2011–2013, show the area continues to attain the 2008 8-hour ozone NAAQS. Preliminary data available to date for the 2014 ozone season are consistent with continued attainment.

III. Final Action

We are taking direct final action to find that the Baton Rouge, Louisiana marginal 2008 8-hour ozone nonattainment area has attained the 2008 8-hour NAAQS for ozone. This action is based on complete, quality assured data for 2011–2013 indicating attainment as well as on preliminary data for the 2014 ozone season available to date which are consistent with continued attainment. As provided in 40 CFR Section 51.918, this action provides formal acknowledgement that the Baton Rouge area air quality data for 2011–2013, including preliminary data for 2014, meet the applicable requirements of EPA's Clean Data Policy for the 2008 8-hour ozone standard.

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 16, 2014 without further notice unless we receive relevant adverse comments by May 15, 2014. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments 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 a relevant 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

This action makes a determination based on air quality data. 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 it merely makes a determination based on air quality data.

The Congressional Review Act, 5 U.S.C. 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. 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 16, 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, Ozone, Incorporation by reference.

Dated: April 1, 2014.

Samuel Coleman,

Acting 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 T—Louisiana

■ 2. Amend § 52.977 to add a new paragraph (e) to read as follows:

§ 52.977 Control strategy and regulations: Ozone.

* * * * *

(e) *Clean Data Determination.* Effective June 16, 2014 EPA has determined that the Baton Rouge, Louisiana, marginal 2008 8-hour ozone nonattainment area is currently attaining the 2008 8-hour NAAQS for ozone.

[FR Doc. 2014–08369 Filed 4–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2011–0500; FRL–9909–57–Region–6]

Approval and Promulgation of Implementation Plans; Louisiana; Interstate Transport of Fine Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a portion of a State Implementation Plan (SIP) submittal, and technical supplement from the State of Louisiana to address Clean Air Act (CAA) requirements in section 110(a)(2)(D)(i)(I) that prohibit air emissions which will contribute significantly to nonattainment or interfere with maintenance in any other state for the 2006 fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS). EPA has determined that the existing SIP for Louisiana contains adequate provisions to prohibit air pollutant emissions from significantly contributing to nonattainment or interfering with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS (2006 $PM_{2.5}$ NAAQS) in any other state as required by section 110(a)(2)(D)(i)(I) of the CAA.

DATES: This final rule is effective on May 15, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2011–0500. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L),

Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment.

FOR FURTHER INFORMATION CONTACT: Carl Young, (214) 665–6645, *young.carl@epa.gov*.

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

Table of Contents

I. Background
II. Final Action
III. Statutory and Executive Order Reviews

I. Background

The background for today's action is discussed in detail in our January 28, 2014 proposal (79 FR 4436). In that notice, we proposed to approve a portion of a Louisiana SIP submittal that the state submitted on May 16, 2011, and the technical supplement submitted on May 21, 2013, that determined the existing SIP for Louisiana contains adequate provisions to prohibit air emissions from contributing significantly to nonattainment or interfering with maintenance of the 2006 $PM_{2.5}$ NAAQS in any other state as required by CAA section 110(a)(2)(D)(i)(I). We did not receive any comments regarding our proposal.

II. Final Action

We are approving a portion of a SIP submittal for the State of Louisiana submitted on May 16, 2011, and the technical supplement submitted on May 21, 2013, to address interstate transport for the 2006 $PM_{2.5}$ NAAQS. Based on our evaluation, we approve the portion of the SIP submittal and technical supplement determining the existing SIP for Louisiana contains adequate provisions to prohibit air emissions from contributing significantly to nonattainment or interfering with maintenance of the 2006 $PM_{2.5}$ NAAQS in any other state as required by CAA section 110(a)(2)(D)(i)(I). This action is being taken under section 110 of the CAA.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 (Public Law 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. 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 action 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. 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 16, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed 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, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 1, 2014.

Samuel Coleman,

Acting 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 T—Louisiana

■ 2. In § 52.970(e) the second table entitled ''EPA Approved Louisiana Nonregulatory Provisions and Quasi-Regulatory Measures'' is amended by adding an entry at the end for ''Interstate transport for the 2006 $PM_{2.5}$ NAAQS (contribute to nonattainment or interfere with maintenance)''. The addition reads as follows:

§ 52.970 Identification of plan.

* * * * *

(e) * * *

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EPA-APPROVED LOUISIANA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/effective date	EPA approval date	Explanation
* *	*	*	*	* *
Interstate transport for the 2006 $PM_{2.5}$ NAAQS (contribute to nonattainment or interfere with maintenance).	Statewide	5/16/2011 5/21/2013	4/15/2014 [Insert FR page number where document begins].	SIP submission dated 5/16/2011, technical supplement dated 5/21/2013.

[FR Doc. 2014–08484 Filed 4–14–14; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2012–0100; FRL–9909–51–Region 6]

Approval and Promulgation of Implementation Plans; Texas; Reasonably Available Control Technology for the 1997 8-Hour Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing its proposal to approve revisions to the Texas State Implementation Plan (SIP) for the Houston/Galveston/Brazoria (HGB) 1997 8-Hour ozone nonattainment Area (Area). The HGB Area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller counties. Specifically, we are finalizing our proposed approval of portions of two revisions to the Texas SIP submitted by the Texas Commission on Environmental Quality (TCEQ) as meeting certain Reasonably Available Control Technology (RACT) requirements for Volatile Organic Compounds (VOC) in the HGB Area. This action is in accordance with section 110 of the federal Clean Air Act (the Act, CAA).

DATES: This rule will be effective on May 15, 2014.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2012–0100. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Shar (6PD–L), telephone (214) 665–2164, email *shar.alan@epa.gov*.

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

Outline

I. Background
A. What actions are we finalizing?
1. The June 13, 2007 Submittal
2. The April 6, 2010 Submittal
B. When did the public comment period expire?
II. Evaluation
A. What are the public comments and EPA's response to them?
B. What is TCEQ's approach and analysis to RACT?
C. What source categories are we addressing in this action?
D. Are there any negative declarations associated with the VOC source categories in the HGB Area?
E. Is Texas' approach to RACT determination for VOC sources based on the June 13, 2007 and April 6, 2010 submittals acceptable?
III. Final Action
IV. Statutory and Executive Order Reviews

I. Background

A. What actions are we finalizing?

We are finalizing our January 9, 2014 (79 FR 1612) proposal to approve portions of revisions to the Texas SIP submitted to EPA with two separate letters dated June 13, 2007 and April 6, 2010 from TCEQ. These two separate submittals are described below.

1. The June 13, 2007 Submittal

The June 13, 2007 submittal concerns revisions to 30 TAC, Chapter 115 Control of Air Pollution from Volatile Organic Compounds. In addition, the June 13, 2007 submittal included an analysis intended to demonstrate RACT was being implemented in the HGB Area as required by the CAA (Appendix D of the submittal). We approved selected revisions as meeting RACT under the 8-hour ozone NAAQS for some, but not all of the submitted industry source categories in the HGB Area, on April 2, 2013 at 78 FR 19599. In our January 9, 2014 (79 FR 1612) proposal, we addressed additional source categories covered in this SIP submittal.

2. The April 6, 2010 Submittal

In conjunction with the June 13, 2007 submittal, we are also finalizing our proposal to approve a part of the April 6, 2010 revision to the Texas SIP for VOC RACT purposes. Specifically, we find that Texas has met certain RACT requirements under section 182(b). For more information on RACT evaluation for the HGB Area see section B of the January 9, 2014 (79 FR 1612) proposal.

B. When did the public comment period expire?

The public comment period for the January 9, 2014 (79 FR 1612) proposal expired on February 10, 2014.

II. Evaluation

A. What are the public comments and EPA's response to them?

Comment: An individual commented that pollution has to stop at the source, there should be zero waste, and the polluter has to pay.

Response: EPA is not aware of a reasonably available and technologically feasible method to achieve zero waste for the source categories identified in Table 1 of the January 9, 2014 (79 FR 1612) proposal. The commenter did not provide any information to this effect, and no contact information was made available by the commenter in order for EPA to pursue an inquiry regarding

existence of such control technology. Furthermore, section 113 of the CAA provides for the enforcement and compliance of applicable emission requirements with which a source will need to comply.

No change to the proposal is made as a result of this comment.

B. What is TCEQ's approach and analysis to RACT?

As stated in the January 9, 2014 (79 FR 1612) proposal, under sections 182(b)(2)(A) and (B) states must ensure RACT is in place for each source category for which EPA issued a Control Techniques Guidelines (CTG), and for any major source not covered by a CTG. As a part of its June 13, 2007 submittal, TCEQ conducted a RACT analysis to demonstrate that the RACT requirements for CTG sources in the HGB 8-Hour ozone nonattainment Area have been fulfilled. The TCEQ revised and supplemented this analysis in its April 6, 2010 submittal. The TCEQ conducted its analysis by: (1) Identifying all categories of CTG and major non-CTG sources of VOC emissions within the HGB Area; (2) Listing the state regulation that implements or exceeds RACT requirements for that CTG or non-CTG category; (3) Detailing the basis for concluding that these regulations fulfill RACT through comparison with established RACT requirements described in the CTG guidance documents and rules developed by other state and local agencies; and (4) Submitting negative declarations when there are no CTG or major Non-CTG sources of VOC emissions within the HGB Area.

C. What source categories are we addressing in this action?

Table 1 of the January 9, 2014 (79 FR 1612) proposal contained a list of VOC source categories and their corresponding sections of 30 TAC Chapter 115 to fulfill the applicable RACT requirements under section 182(b) of the Act.

TABLE 1—CTG SOURCE CATEGORIES AND THEIR CORRESPONDING TEXAS VOC RACT RULES

Source category in HGB area	CTG reference document	Chapter 115, fulfilling RACT
Aerospace	Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations.	§§ 115.420–429.
Surface coating for insulation of magnets.	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume IV: Surface Coating of Insulation of Magnet Wire.	§§ 115.420–429.
Surface coating of coils	Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks	§§ 115.420–429.
Surface coating of fabrics	Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks	§§ 115.420–429.
Surface coating of cans	Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks	§§ 115.420–429.
Use of cutback asphalt	Control of Volatile Organic Emissions from Use of Cutback Asphalt	§§ 115.510–519.
Wood furniture	Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations.	§§ 115.420–429.
Large petroleum dry cleaners	Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners	§§ 115.552–559.

D. Are there any negative declarations associated with the VOC source categories in the HGB Area?

Yes, Texas has declared that there are no Fiberglass Boat Manufacturing Materials Operations, Leather Tanning and Finishing Operations, Surface Coating for Flat Wood Paneling Operations, Letterpress Printing, Automobile and Light-Duty Truck Assembly Coating Operations, and Vegetable Oil Manufacturing Operations that are major sources in the HGB Area. Previously, we have approved a negative declaration for the Rubber Tire Manufacturing Operations in the HGB Area. As such, TCEQ does not have to adopt VOC regulations relevant to these source categories at this time for the HGB Area.

E. Is Texas' approach to RACT determination for VOC sources based on the June 13, 2007 and April 6, 2010 submittals acceptable?

Yes. The purpose of 30 TAC Chapter 115 rules for the HGB Area is to establish reasonable controls on the emissions of ozone precursors. Texas has reviewed its VOC rules and has certified that its rules satisfy RACT requirements. We find the Texas RACT determination to be acceptable. Based upon our evaluation, we find that Texas has RACT-level controls in place for all required sources for the HGB Area under the 1997 8-Hour ozone standard.

III. Final Action

Today, we are approving the proposal to find that with respect to the VOC source categories identified in Table 1 of the January 9, 2014 (79 FR 1612) proposal, Texas has RACT-level controls in place for the HGB Area under the 1997 8-Hour ozone standard. We are also approving the negative declarations as explained in section II(D) of this action. The EPA had previously approved RACT for VOC and NO_X into Texas' SIP under the 1-Hour ozone standard.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. If a portion of the plan revision meets all the applicable requirements of this chapter and Federal regulations, the Administrator may approve the plan revision in part. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices that meet the criteria of the Act, and to disapprove state choices that do not meet the criteria of the Act. Accordingly, this proposed action approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 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 Clean Air Act;

• 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); and

• 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.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 1, 2014.

Samuel Coleman,

Acting Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 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 Section 52.2270, the second table in paragraph (e) entitled ''EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP'' is amended by adding two entries at the end to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/effective date	EPA Approval date	Comments
*	* *	*	* *	*
VOC RACT negative declaration for Fiberglass Boat Manufacturing Materials, Leather Tanning and Finishing, Surface Coating for Flat Wood Paneling, Letterpress Printing, Automobile and Light-Duty Truck Assembly Coating, Rubber Tire Manufacturing, and Vegetable Oil Manufacturing Operations.	Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller Counties, TX.	April 6, 2010.		
VOC RACT finding for the 1997 8-hour ozone NAAQS, except for the 2006–2010 EPA-issued CTG series.	Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery and Waller Counties, TX.	April 6, 2010	April 15, 2014 [Insert FR page number where document begins].	

[FR Doc. 2014–08331 Filed 4–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R07–OAR–2013–0692; FRL–9909–45–Region 7]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Air Emissions From Existing Municipal Solid Waste Landfills; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the state section 111 plan for Municipal Solid Waste (MSW) Landfills submitted by the State of Missouri Department of Natural Resources. This plan contains state rules ''Municipal Solid Waste Landfills'' and ''Restriction of Emissions from Municipal Solid Waste Landfills'' that were updated as a result of amendments to the Federal Emission Guidelines (EG) published April 10, 2000; October 17, 2000; and September 21, 2006. The plan also corrects typographical and administrative changes in the Missouri Rules. This approval means that EPA finds the State Plan meets applicable Clean Air Act (CAA) requirements.

DATES: This direct final rule will be effective June 16, 2014, without further notice, unless EPA receives adverse comments by May 15, 2014. If EPA receives adverse comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2013–0692, by one of the following methods:

1. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

2. *Email: Bernstein.craig@epa.gov*.

3. *Mail or Hand Delivery:* Craig Bernstein, Environmental Protection Agency, Air Planning and Development

Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2013–0692. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Craig Bernstein, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913–551–7688, or by email at *Bernstein.craig@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' refer to EPA. This section provides additional information by addressing the following:

I. Background
II. Have the requirements for approval of a section 111(d) plan revision been met?
III. What action is EPA taking?

I. Background

Standards and guidelines for new and existing MSW landfills are promulgated under the authority of section 111 of the CAA. These standards can be found at 40 CFR part 60, subpart WWW, new source performance standards (NSPS) for new MSW landfills, and subpart Cc, emission guidelines (EG) for existing MSW landfills. The final NSPS and EG were published in the **Federal Register** on March 12, 1996 (49 FR 9905). We first approved Missouri's section 111(d) plan for MSW landfills on April 24, 1998 (63 FR 20320). The state's plan consists primarily of two state rules which adopt the Federal landfill requirements. These rules are 10 CSR 10–6.310 ''Restriction of Emissions from Municipal Solid Waste Landfills'' (which covers all areas of Missouri except St. Louis) and 10 CSR 10–5.490 ''Municipal Solid Waste Landfills'' (which covers the St. Louis area).

Since Missouri last amended both of these state rules, EPA has published in the **Federal Register** three final rules that update the requirements for municipal solid waste landfills. The dates and **Federal Register** citations are: April 10, 2000 (65 FR 18906); October 17, 2000 (65 FR 61744), and September 21, 2006 (71 FR 55127). Missouri updated rules 10 CSR 10–5.490 ''Municipal Solid Waste Landfills'' and 10 CSR 10–6.310 ''Restriction of Emissions from Municipal Solid Waste Landfills'' to incorporate EPA's recent amendments, to correct typographical errors, to include formatting changes, and to correct inconsistencies. Missouri's request to move definitions from 10 CSR 10–5.490 and 10 CSR 10–6.310 to rule 10 CSR 10–6.020 ''Definitions and Common Reference Tables'' has been addressed in a separate rulemaking action. In a separate action being published in today's **Federal Register,** EPA is taking action to approve rule 10 CSR 10–5.490 ''Municipal Solid Waste Landfills'' into Missouri's SIP as well.

II. Have the requirements for approval of a section 111(d) plan revision been met?

The Missouri Air Conservation Commission adopted rule amendments to 10 CSR 10–5.490 and 10 CSR 10–6.310 on February 2, 2012, after considering comments received at a public hearing. The Missouri Air Conservation Commission has full legal authority to develop rules pursuant to section 643.050 of the Missouri Air Conservation Law. The State followed all applicable administrative procedures in proposing and adopting the rule actions. After publication by the Missouri Secretary of State in the Code of State Regulations, the amendments became effective May 30, 2012. The State of Missouri has incorporated these rule amendments into its revised section 111(d) plan and submitted the plan and rules to us for approval pursuant to section 111(d). We have evaluated the state plan revision against criteria in the EG and against the plan approval criteria at 40 CFR 60.23 through 40 CFR 60.26, subpart B ''Adoption and Submittal of State Plans for Designated Facilities.'' The state plan meets all of the applicable requirements of 40 CFR part 60, subpart B and subpart Cc.

III. What action is EPA taking?

EPA is approving the revisions to the Missouri section 111(d) plan submitted by the State of Missouri for MSW landfills, which incorporates the recent EPA updated rules. We are publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment because the revisions are administrative and consistent with Federal regulations. However, in the ''Proposed Rules'' section of today's **Federal Register,** we are publishing a separate document that will serve as the proposed rule to approve the section 111(d) revision. If EPA receives adverse comments on this direct final rule, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211,

''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). This rule also does not have tribal implications because it will 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing section 111(d) plan submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a section 111(d) plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a section 111(d) plan submission, to use VCS in place of a section 111(d) plan submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 12, 2013. 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 approving Missouri's section 111(d) plan revision for SSI sources may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

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

Dated: April 3, 2014.

Karl Brooks,

Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

■ 1. The authority citation for part 62 continues to read as follows:

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

Subpart AA—Missouri

■ 2. Section 62.6357 is amended by adding paragraph (e) to read as follows:

§ 62.6357 Identification of plan.

* * * * *

(e) Amended plan for the control of air emissions from Municipal Solid Waste Landfills submitted by the Missouri Department of Natural Resources on February 9, 2012. The effective date of the amended plan is May 30, 2012.

[FR Doc. 2014–08340 Filed 4–14–14; 8:45 am]

BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Part 1613

Restrictions on Legal Assistance With Respect to Criminal Proceedings

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: This final rule updates the Legal Services Corporation (LSC or Corporation) regulation on legal assistance with respect to criminal proceedings. The Tribal Law and Order Act of 2010 (TLOA) amended the LSC Act to authorize LSC funds to be used for representation of persons charged with any criminal offense in tribal courts. This proposed rule will bring the regulations into alignment with the amended provisions of the LSC Act. The proposed rule will also revise the conditions under which LSC recipients can accept or decline court appointments to represent defendants in criminal proceedings.

DATES: The effective date of this rule is May 15, 2014.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007, (202) 295–1563 (phone), (202) 337–6519 (fax), *sdavis@lsc.gov.*

SUPPLEMENTARY INFORMATION:

I. General Authorities and Impetus for Rulemaking

The Corporation first issued 45 CFR part 1613 in 1976 to implement a statutory prohibition on the use of LSC

funds to provide legal assistance in criminal cases. Section 1007 of the LSC Act prohibited the use of LSC funds to provide legal assistance ''with respect to any criminal proceeding.'' Sec. 1007(b)(2), Public Law 93–355, 88 Stat. 383 (42 U.S.C. 2996f(b)(2)). The original section 1613.2 defined ''criminal proceeding'' as

> the adversary judicial proceeding prosecuted by a public officer and initiated by a formal complaint, information, or indictment charging a person with an offense denominated 'criminal' by applicable law and punishable by death, imprisonment, or a jail sentence. A misdemeanor or lesser offense tried in an Indian tribal court is not a 'criminal proceeding.'

41 FR 38506, Sept. 10, 1976.

The following year, Congress amended section 1007(b)(2) of the LSC Act to codify the Corporation's exemption of minor crimes in tribal courts from the types of criminal proceedings for which LSC funds could not be used. Sec. 10(b), Public Law 95–222, 91 Stat. 1620–1623. Congress made no further adjustments to the criminal prohibition provision until it enacted the Tribal Law and Order Act (TLOA) in 2010.

The TLOA amended section 1007(b)(2) of the LSC Act to authorize the use of LSC funds to provide representation in all criminal proceedings before tribal courts. Sec. 235(d), Public Law 111–211, Tit. II, Subtitle C, 124 Stat. 2282 (42 U.S.C. 2996f(b)(2)). The TLOA also had two major effects on tribal criminal jurisdiction. First, it authorized tribal courts to impose longer sentences, increasing the maximum duration from up to one year to a total of nine years for multiple charges. Sec. 234(a), Public Law 111–211, Tit. II, Subtitle C, 124 Stat. 2280 (25 U.S.C. 1302(c)(2)). Second, it required tribes exercising the expanded sentencing authority ''at the expense of the tribal government, [to] provide an indigent defendant the assistance of a defense attorney.'' Sec. 234(c)(2), Public Law 111–211, Tit. II, Subtitle C, 124 Stat. 2280.

Congress further expanded tribal court jurisdiction in 2013. Through the Violence Against Women Reauthorization Act of 2013 (2013 VAWA), Congress amended the Indian Civil Rights Act of 1968 to authorize tribal courts to exercise special criminal jurisdiction over domestic violence cases. Sec. 904(b)(1), Public Law 113–4, 127 Stat. 120–121 (25 U.S.C. 1304(a)). This ''special domestic violence criminal jurisdiction'' is exercised concurrently with state or Federal jurisdiction, or both, as applicable. Sec. 904(b)(2), Public Law 113–4, 127 Stat. 121 (25 U.S.C. 1304(b)(2)). Unlike prior congressional enactments, the 2013 VAWA explicitly authorizes tribes to exercise jurisdiction over both Indian and non-Indian defendants in certain circumstances. Sec. 904(b)(4), Public Law 113–4, 127 Stat. 121–22 (25 U.S.C. 1304(b)(4)).

In order for the tribe to assert special domestic violence criminal jurisdiction, the alleged act must have occurred within Indian country. Sec. 904(c), Public Law 113–4, 127 Stat. 122 (25 U.S.C. 1304(c)). ''Indian country'' is a term of art defined in 18 U.S.C. 1151. If neither the victim nor the accused is Indian, the court may not exercise jurisdiction. Sec. 904(b)(4)(A)(i), Public Law 113–4, 127 Stat. 121 (25 U.S.C. 1304(b)(4)(A)(i)). If only the accused is a non-Indian, the court may exercise jurisdiction only if the accused resides in the Indian country over which the tribe has jurisdiction; is employed in the Indian country of the tribe; or is a spouse, intimate partner, or dating partner of a member of the tribe or an Indian who resides in the Indian country of the tribe. Sec. 904(b)(4)(B), Public Law 113–4, 127 Stat. 122 (25 U.S.C. 1304(b)(4)(B)).

The 2013 VAWA also introduced another set of crimes in Indian country for which defendants are entitled to counsel at the tribal government's expense. Section 904(d)(2) states that if a sentence of any length of time may be imposed, the defendant is entitled to all of the rights set forth in section 202(c) of the Indian Civil Rights Act. Sec. 904(d)(2), Public Law 113–4, 127 Stat. 122 (25 U.S.C. 1304(d)(2)). The TLOA previously amended section 202(c) to require tribes exercising expanded criminal sentencing authority to provide counsel to defendants facing total terms of imprisonment that would exceed one year. Sec. 234(a), Public Law 111–211, 124 Stat. 2280 (25 U.S.C. 1302(c)(2)).

In summary, the TLOA and the 2013 VAWA amended the Indian Civil Rights Act to expand both the sentencing authority and the jurisdiction of tribal criminal courts. The TLOA also amended the LSC Act to allow the use of LSC funds for representation of criminal defendants in tribal courts facing sentences of more than a year. LSC grant recipients now have the option of using their LSC funds to provide criminal representation. Additionally, because tribes must provide defendants with counsel at tribal government expense in certain circumstances, LSC recipients may be faced with increasing numbers of judicial requests for appointments to represent criminal defendants.

II. Procedural Background

On January 25, 2013, the Operations and Regulations Committee (Committee) of the LSC Board of Directors (Board) voted to recommend that the Board authorize rulemaking to conform Part 1613 to the amendments to the LSC Act and to address recipients' concerns regarding criminal appointments. On January 26, 2013, the Board authorized the initiation of rulemaking.

In response to the statutory changes described above, LSC sought input from experts in tribal law, including tribal court officials and practitioners, and the public to determine whether the Corporation needed to amend its regulations. LSC published a Request for Information (RFI) regarding the restrictions on legal assistance with respect to criminal proceedings in tribal courts. 78 FR 27341, May 10, 2013. Additionally, during its July 22, 2013 meeting of the Board of Directors, the Committee heard from a panel of five experts in tribal law representing a variety of perspectives.

Pursuant to the LSC Rulemaking Protocol, LSC staff prepared a proposed rule amending Part 1613 with an explanatory rulemaking options paper. On October 22, 2013, the Board approved the proposed rule for publication in the **Federal Register** for notice and comment. The NPRM was published in the **Federal Register** on November 4, 2013. 78 FR 65933, Nov. 4, 2013. The comment period remained open for thirty days and closed on December 4, 2013.

On April 7, 2014, the Committee considered the draft final rule and recommended that the Board approve its publication. On April 8, 2014, the Board approved the final rule for publication.

All of the comments and related memoranda submitted to the LSC Board regarding this rulemaking are available in the open rulemaking section of LSC's Web site at *http://www.lsc.gov/about/regulations-rules/open-rulemaking.* After the effective date of the rule, those materials will appear in the closed rulemaking section at *http://www.lsc.gov/about/regulations-rules/closed-rulemaking.*

III. Discussion of Comments and Regulatory Provisions

LSC received seven comments on the NPRM. Five comments were submitted by law students, one was submitted by the court clerk for the Snoqualmie Tribal Court, and one was submitted by Jonathan Asher, Executive Director of Colorado Legal Services, an LSC recipient.

Three of the commenters supported the revisions to part 1613. One commenter opposed the revisions, and the other three commenters provided comments without expressing support for or opposition to the revisions to part 1613. LSC will address only the substantive comments in this preamble. All of the comments received are posted on the rulemaking page of LSC's Web site: *www.lsc.gov/about/regulations-rules.*

Section-by-Section Discussion of Comments and the Final Rule

1613.1 Purpose.

The Corporation proposed to revise this section to state that LSC grant recipients may not represent individuals in criminal proceedings unless authorized by part 1613. The LSC Act has been amended twice to authorize criminal representation in tribal proceedings since the regulation was originally enacted in 1976, and the Corporation proposed to amend part 1613 to be consistent with those statutory amendments. LSC received no comments on this section of the proposed rule.

1613.2 Definition.

LSC proposed to amend the definition of ''criminal proceeding'' to remove the exclusion of misdemeanors or lesser offenses in Indian tribal courts from the definition. The Corporation received no comments on this section of the proposed rule.

1613.4 Authorized representation.

The Corporation proposed to revise § 1613.4(a) to allow recipients to undertake criminal appointments after a determination that such appointment ''will not impair the recipient's primary responsibility to provide civil legal services.'' Under the current rule, recipients must determine that accepting a criminal appointment will be ''consistent with'' its primary responsibility to provide civil legal services. The Corporation believed the current standard does not provide meaningful guidance because any representation of a defendant in a criminal case could be characterized as not ''consistent with'' a recipient's primary responsibility to provide civil legal services. The Corporation believed that changing the standard to impairment of the recipient's primary responsibility to provide civil legal services would provide more meaningful guidance by permitting recipients to consider the impact of accepting a criminal appointment on a recipient's financial and human resources.

Comments: The Executive Director of Colorado Legal Services expressed concern about the proposed change in the standard for declining a criminal appointment in both tribal and non-tribal courts. He stated that ''[c]hanging the standard from 'inconsistent' to 'impair' may inadvertently further limit and further complicate a grantee's ability to provide representation to defendants in criminal cases in Tribal Court rather than ease the decision . . . A decision to accept a criminal case, arguably, would always 'impair' the grantees' ability to provide civil legal assistance.'' He further stated that while the Corporation may expect that its interpretations and analysis would apply to the revised standard, ''it is inevitable that issues and new questions will arise and need to be addressed.'' He requested that LSC consider either eliminating the standard for exercising discretion to accept or decline court appointments in criminal cases or, alternatively, amend the regulation to require that recipients be able to document a ''rational basis'' for exercising their discretion.

One of the law student commenters suggested that the standard for accepting or declining a court appointment in a criminal case should turn not on whether acceptance would impinge upon a recipient's ability to provide civil legal services, but whether acceptance is necessary to avoid injustice. The commenter asserted that the proposed change to the standard ''encumbers'' the goal of promoting equal access to justice ''because [it does] not contemplate equal access to justice as being a relevant factor for a recipient to consider in determining whether to represent a criminal defendant in Indian tribal court.'' The commenter proposed that recipients should consider many factors in deciding whether to accept a criminal appointment, including the availability of other competent counsel to defend the accused, the necessity of a background in Tribal criminal law, the complexity of the case, expertise in criminal law, the financial resources of the accused, and whether the accused is out on bond or being held in pretrial detention.

Response: LSC will retain the language from the proposed rule. LSC continues to believe that the revised standard would provide more meaningful guidance by permitting recipients to consider the impact of accepting a criminal appointment on a recipient's financial and human resources. The revised standard is not intended to impose greater limitations on recipients' decisions regarding court appointments. To the contrary, the Corporation intends the revised standard to create greater flexibility to exercise discretion. Nothing in the proposed rule prevents recipients from considering any of the factors noted by the student commenter, including whether representation is necessary to promote equal justice, when deciding whether to accept or decline a court appointment to represent a criminal defendant.

1613.5 Criminal representation in Indian tribal courts.

The comments discussed in § 1613.4 immediately preceding (addressing representation in criminal proceedings generally) were also applicable by their terms to proposed § 1613.5. For the reasons stated in the preceding discussion, LSC is retaining the language from the proposed rule in § 1613.5.

List of Subjects in 45 CFR Part 1613

Crime, Grant programs—law, Legal services, Tribal.

For the reasons stated in the preamble, and under the authority of 42 U.S.C. 2996g(e), the Legal Services Corporation amends 45 CFR part 1613 as follows:

PART 1613—RESTRICTIONS ON LEGAL ASSISTANCE WITH RESPECT TO CRIMINAL PROCEEDINGS

■ 1. The authority citation for part 1613 is revised to read as follows:

Authority: Sec. 234(d), Public Law 111–211, 124. Stat. 2282; 42 U.S.C. 2996f(b)(2); 42 U.S.C. 2996g(e).

■ 2. Section 1613.1 is revised to read as follows:

§ 1613.1 Purpose.

This part is designed to ensure that Corporation funds will not be used to provide legal assistance with respect to criminal proceedings unless such assistance is authorized by this part.

■ 3. Section 1613.2 is revised to read as follows:

§ 1613.2 Definition.

Criminal proceeding means the adversary judicial process prosecuted by a public officer and initiated by a formal complaint, information, or indictment charging a person with an offense denominated ''criminal'' by applicable law and punishable by death, imprisonment, or a jail sentence.

■ 4. In § 1613.4, paragraph (a) is revised to read as follows:

§ 1613.4 Authorized representation.

* * *

(a) Pursuant to a court appointment made under a statute or a court rule of equal applicability to all attorneys in the jurisdiction, if authorized by the recipient after a determination that acceptance of the appointment would not impair the recipient's primary responsibility to provide legal assistance to eligible clients in civil matters.

* * * * *

■ 5. Section 1613.5 is added to read as follows:

§ 1613.5 Criminal representation in Indian tribal courts.

(a) Legal assistance may be provided with Corporation funds to a person charged with a criminal offense in an Indian tribal court who is otherwise eligible.

(b) Legal assistance may be provided in a criminal proceeding in an Indian tribal court pursuant to a court appointment only if the appointment is made under a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction, and is authorized by the recipient after a determination that acceptance of the appointment would not impair the recipient's primary responsibility to provide legal assistance to eligible clients in civil matters.

Dated: April 10, 2014.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2014–08504 Filed 4–14–14; 8:45 am]

BILLING CODE 7050–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 130925836–4174–02]

RIN 0648–XD236

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 620 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the B season allowance of the 2014 total allowable catch of pollock for Statistical Area 620 in the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 10, 2014, through 1200 hrs, A.l.t., June 1, 2014.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

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

The B season allowance of the 2014 total allowable catch (TAC) of pollock in Statistical Area 620 of the GOA is 30,963 metric tons (mt) as established by the final 2014 and 2015 harvest specifications for groundfish of the GOA (79 FR 12890, March 6, 2014).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the B season allowance of the 2014 TAC of pollock in Statistical Area 620 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 30,463 mt and is setting aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and § 679.25(c)(1)(ii) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for pollock in Statistical Area 620 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 9, 2014.

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

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

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

Dated: April 10, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–08529 Filed 4–10–14; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 130925836–4320–03]

RIN 0648–XC895

Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Final 2014 and 2015 Harvest Specifications for Groundfish; Correction

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

ACTION: Final rule; harvest specifications and closures; correction.

SUMMARY: The National Marine Fisheries Service (NMFS) is correcting a final rule that published on March 6, 2014, implementing the final 2014 and 2015 harvest specifications and prohibited species catch allowances for the groundfish fishery of the Gulf of Alaska. One table in the document contained errors.

DATES: Effective April 15, 2014.

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

SUPPLEMENTARY INFORMATION:

Need for Correction

NMFS published the Gulf of Alaska (GOA) final 2014 and 2015 harvest specifications in the **Federal Register** on March 6, 2014 (79 FR 12890). A table providing information about the 2014 GOA non-exempt American Fisheries Act (AFA) catcher vessel (CV) halibut prohibited species catch (PSC) limits by season and fishery (Table 24) contained

incorrect amounts in the columns titled ''2014 PSC Limit'' and ''2014 Non-exempt AFA CV PSC limit,'' respectively. In Table 24 on page 12910, NMFS inadvertently included the 2014 PSC limits and 2014 non-exempt AFA CV PSC limits that were included in the proposed 2014 and 2015 harvest specifications (see Table 15, 78 FR 74094, December 10, 2013). These halibut PSC limits were reduced by Amendment 95 to the Fishery Management Plan for Groundfish of the GOA (Amendment 95) (79 FR 9625, February 20, 2014).

The corrections to the halibut PSC limits in Table 24 that will be made by this action incorporate a 7 percent reduction from the halibut PSC limits that were in effect in 2013. Specifically, the shallow-water fishery's seasonal halibut PSC limits are reduced to 416 metric tons (mt), 92 mt, 185 mt, and 139 mt from 444 mt, 99 mt, 197 mt, and 148 mt, respectively. The corresponding non-exempt AFA CV PSC limits are reduced to 141 mt, 31 mt, 63 mt, and 47 mt from 151 mt, 34 mt, 67 mt, and 50 mt, respectively. The deep-water fishery's seasonal halibut PSC limits are reduced to 92 mt, 277 mt, and 370 mt from 99 mt, 296 mt, and 395 mt, respectively. The corresponding non-exempt AFA CV PSC limits are reduced to 6 mt, 19 mt, and 26 mt from 7 mt, 21 mt, and 28 mt, respectively. The fifth season halibut PSC limit, which is not apportioned by shallow-water or deep-water target fishery, is reduced to 277 mt from 296 mt. The corresponding non-exempt AFA CV PSC limit is reduced to 57 mt from 61 mt.

NMFS anticipates that this correction will not affect the fishing operations of the non-exempt AFA CVs that are subject to these halibut PSC limits. This is because of the relatively low amount of halibut PSC caught by non-exempt AFA CV's in 2013, and the small amount of halibut PSC caught by these vessel through March 2014. The unintended omission of halibut PSC reductions in Table 24 was an error resulting from a regulatory reorganization involving two separate final rules. These corrections are necessary to provide the correct 2014 halibut PSC limits and non-exempt AFA CV halibut PSC limits and eliminate potential confusion among participants in the GOA groundfish fisheries.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This correcting amendment makes changes to correct the unintentional omission of the halibut PSC reductions in Table 24, as described above, and does not change operating practices in the fisheries. If this correction is delayed to allow for notice and comment, it would result in confusion for participants in the fisheries, given that the final rule implementing Amendment 95 is effective. Therefore, in order to avoid any negative consequences that could result from this error, the AA finds good cause to waive the requirement to provide prior notice and opportunity for public comment.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This correcting amendment makes only minor changes to correct the unintentional omission of the halibut PSC reductions in Table 24, and does not change operating practices in the fisheries. This correction would also avoid any confusion for participants in the fisheries, given that the final rule implementing Amendment 95 is effective. For these reasons, the AA finds good cause to waive the 30-day delay in the effective date of this action.

Authority: 16 U.S.C. 773 et seq.; 16 U.S.C. 1540(f), 1801 et seq.; 16 U.S.C. 3631 et seq.; Pub. L. 105–277; Pub. L. 106–31; Pub. L. 106–554; Pub. L. 108–199; Pub. L. 108–447; Pub. L. 109–241; Pub. L 109–479.

Correction

In the final rule published on March 6, 2014 (79 FR 12890), the following corrections are made to Table 24:

On page 12910, in Table 24, columns 5 and 6 are corrected to incorporate the correct amounts for 2014 PSC limits and 2014 non-exempt AFA CV PSC limits, respectively.

Table 24 is corrected and reprinted in its entirety to read as follows:

TABLE 24—FINAL 2014 NON-EXEMPT AFA CV HALIBUT PROHIBITED SPECIES CATCH (PSC) LIMITS FOR VESSELS USING TRAWL GEAR IN THE GOA

[Values are rounded to nearest metric ton]

Season	Season dates	Target fishery	Ratio of 1995–1997 non-exempt AFA CV retained catch to total retained catch	2014 PSC limit	2014 non-exempt AFA CV PSC limit
1	January 20	shallow-water	0.340	416	141
	April 1	deep-water	0.070	92	6
2	April 1	shallow-water	0.340	92	31
	July 1	deep-water	0.070	277	19
3	July 1	shallow-water	0.340	185	63
	September 1	deep-water	0.070	370	26
4	September 1	shallow-water	0.340	139	47
	October 1	deep-water	0.070	0	0
5	October 1	all targets	0.205	277	57
	December 31.				

Dated: April 9, 2014.

Samuel D. Rauch III,

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

[FR Doc. 2014–08391 Filed 4–14–14; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 72
Tuesday, April 15, 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

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2013–0018]

RIN 0579–AD80

Importation of Mangoes From Jamaica Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations concerning the importation of fruits and vegetables to allow the importation of fresh mangoes from Jamaica into the continental United States. As a condition of entry, the mangoes would have to be produced in accordance with a systems approach employing a combination of mitigation measures for certain fruit flies, soft scale insects, and diseases and would have to be inspected prior to exportation from Jamaica and found free of these pests and diseases. The mangoes would have to be imported in commercial consignments only and would have to be treated to mitigate the risk of fruit flies. The mangoes would also have to be accompanied by a phytosanitary certificate. This action would allow the importation of mangoes from Jamaica while continuing to protect against the introduction of plant pests into the United States.

DATES: We will consider all comments that we receive on or before June 16, 2014.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0018*.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0018, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0018* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Román, Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 851–2242.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–66, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

The national plant protection organization (NPPO) of Jamaica has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow fresh mangoes from Jamaica to be imported into the continental United States.

In order to assess the risks associated with the importation of mangoes from Jamaica, we have prepared a pest risk assessment (PRA), titled ''Importation of Mango Fruit, *Mangifera indica,* from Jamaica into the Continental United States'' (March 2013). The PRA identified five pests of quarantine significance present in Jamaica that could be introduced into the continental United States through the importation of mangoes:

Fruit Flies

- West Indian fruit fly (*Anastrepha obliqua*)
- Caribbean fruit fly (*Anastrepha suspensa*)

Scale

- Moestus soft scale (*Coccus moestus*)

Fungus

- *Phomopsis mangiferae*

Bacterium

- *Xanthomonas campestris* pv. *mangiferaeindicae*

For pests rated high risk (*A. obliqua* and *A. suspensa*), specific phytosanitary measures beyond standard port-of-entry inspection are strongly recommended. For pests rated medium risk (*C. moestus, P. mangiferae,* and *X. campestris* pv. *mangiferaeindicae*), specific phytosanitary measures beyond standard port-of-entry inspection may be necessary. To recommend specific measures to mitigate the risk posed by the pests identified in the PRA, we prepared a risk management document (RMD). Copies of the PRA and RMD may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Based on the recommendations of the RMD, we are proposing to allow the importation of mangoes from Jamaica into the continental United States only if they are produced in accordance with a systems approach. The systems approach we are proposing would require that mangoes be imported under the conditions described below. These conditions would be added to the regulations in a new § 319.56–67.

General Requirements

Paragraph (a) of § 319.56–67 would set out general requirements for the NPPO of Jamaica and for growers and packers producing mangoes for export to the continental United States.

Paragraph (a)(1) would require the NPPO of Jamaica to provide an operational workplan to APHIS that details activities that the NPPO of Jamaica, subject to APHIS' approval of the workplan, will carry out to meet the requirements of proposed § 319.56–67. The implementation of a systems approach typically requires an operational workplan to be developed. An operational workplan is an agreement between APHIS' Plant Protection and Quarantine program, officials of the NPPO of a foreign government, and, when necessary, foreign commercial entities that specifies in detail the phytosanitary measures that will comply with our regulations governing the import or export of a specific commodity. Operational workplans apply only to the

signatory parties and establish detailed procedures and guidance for the day-to-day operations of specific export programs. Workplans also establish how specific phytosanitary issues are dealt with in the exporting country and make clear who is responsible for dealing with those issues.

Paragraph (a)(2) would require mangoes to be grown at places of production that are registered with the NPPO of Jamaica and that meet the agreed upon specifications detailed in the workplan. Registering places of production would allow APHIS and the NPPO of Jamaica to trace consignments of mangoes back to the orchard of origin if a pest or disease of concern is detected. If a pest or disease is detected at the port of entry in the United States, the consignment of mangoes would be prohibited entry into the United States and further shipments from the place of production where the mangoes were grown will be prohibited until an investigation is conducted and APHIS and the NPPO of Jamaica agree that the risk has been mitigated.

Paragraph (a)(3) would require the mangoes to be imported in commercial consignments only. Produce grown commercially is less likely to be infested with plant pests than noncommercial shipments. Noncommercial shipments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control. Commercial consignments, as defined in § 319.56–2, are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer.

Treatment

Paragraph (b) would require the mangoes to be treated for *Anastrepha* spp. fruit flies in accordance with 7 CFR part 305. The mangoes could be treated with a hot water immersion for fruit flies. Hot water immersion treatment T102–a has been used to treat mangoes for fruit flies since 1987. Many countries in Central and South America export mangoes to the United States using hot water immersion treatment, almost all those exporting countries have used T102–a. Hot water dip, although not an APHIS-approved method for mitigating the risk of scales, kills scales on the surface of mangoes. This treatment, in conjunction with other safeguards that would be required by the regulations for mangoes from Jamaica, would reduce the likelihood that mangoes will introduce *C. moestus* and *Anastrepha* spp. fruit flies.

Additionally, the Plant Protection and Quarantine Treatment Manual, found online at *http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf*, lists minimum absorbed irradiation doses for plant pests and classes of plant pests, and includes a 150-gray dose for fruit flies, including *Anastrepha* spp. Irradiation has been used successfully to treat fruits and vegetables imported from other countries as well as moving fruit interstate from Hawaii.

Within part 305, § 305.9 contains a number of other requirements for irradiation treatment, including monitoring by APHIS inspectors and safeguarding of the fruit. Section 305.9 also provides that the irradiation treatment could be conducted at an approved facility in Jamaica or in the United States. If irradiation is to be applied in the United States, each consignment of fruit would have to be inspected by a Jamaican inspector prior to departure and accompanied by a phytosanitary certificate issued by the NPPO of Jamaica.

Packaging

Paragraph (c) would require that the mangoes be safeguarded from exposure to fruit flies from the time of treatment to export, including packaging that prevents access by fruit flies and other injurious insect pests. This safeguarding may include tarps, insect-proof boxes or containers, and double-door entrances to packinghouses or other facilities. The package containing the mangoes could not contain any other fruit, including mangoes not qualified for importation into the United States. Safeguarding movement of fruit from the field to the packinghouse, and subsequently to the place of export, is standard procedure for export programs in countries where fruit flies occur.

Inspection for Scale Insects

Paragraph (d) would require that mangoes be inspected by the NPPO of Jamaica for *C. moestus. C. moestus* infestations produce spots and discoloration on the surface of the fruit, often at the stem end of the fruit. Therefore, inspection prior to export from Jamaica would effectively remove this pest of concern from the pathway.

Plant Pathogens

Paragraph (e) would require that *P. mangiferae* and *X. campestris* pv. *mangiferaeindicae,* which we consider to be of medium risk of introduction and dissemination within the continental United States, be addressed in one of the following ways:

- The mangoes would be treated with a broad-spectrum pre- or post-harvest fungicidal application, or
- The mangoes would be inspected during preclearance activities and found free of *P. mangiferae* and *X. campestris* pv. *mangiferaeindicae.*

Pre- or post-harvest fungicidal applications have proven to be successful to mitigate fungal disease for mangoes imported from other countries. In addition, symptoms of *P. mangiferae* and *X. campestris* pv. *mangiferaeindicae* and can be easily seen and detected in the field on mango leaves and fruit during pre-harvest inspection. *X. campestris* pv. *mangiferaeindicae* infection on mango fruit results in lesions that develop into water-soaked halos that become raised, blacken, and crack open. These conspicuous lesions usually produce gummy exudates and are discernible with the naked eye. Therefore, inspection prior to export from Jamaica would effectively remove these pathogens of concern from the pathway.

Phytosanitary Certificate

Paragraph (f) would require each consignment of fruit to be accompanied by a phytosanitary certificate issued by the NPPO of Jamaica. For mangoes that were subject to treatment in Jamaica, the phytosanitary certificate would have to bear an additional declaration confirming that the mangoes were subjected to treatment in accordance with 7 CFR part 305 for *Anastrepha* spp. fruit flies and that the mangoes were inspected and found free of *C. moestus* and were either treated with a pre- or post-harvest fungicidal application or were inspected prior to export and found free of *P. mangiferae* and *X. campestris* pv. *mangiferaeindicae.* If the mangoes are to be treated for *Anastrepha* spp. fruit flies upon arrival in the United States, the additional declaration must state that the mangoes were inspected and found free of *C. moestus* and were either treated with pre- or post-harvest fungicidal application or they were inspected prior to export and found free of *P. mangiferae* and *X. campestris* pv. *mangiferaeindicae.*

Mangoes imported from Jamaica into the United States would also be subject to inspection at the U.S. port of entry.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the

purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

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

The annual quantity that Jamaica expects to export to the United States, 261 metric tons, represents less than 0.08 percent of U.S. mango imports (349,692 metric tons in 2012, primarily from Mexico, Peru, Ecuador, Brazil, and Guatemala). While mangoes are grown in Florida and Hawaii, and in smaller quantities in California and Texas, U.S. annual production totals only about 3,000 metric tons. The additional mango imports from Jamaica would not cause a significant decrease in mango prices or otherwise substantially affect the market. U.S. importers may benefit marginally in having Jamaica as another source of fresh mangoes.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule would allow mangoes to be imported into the continental United States from Jamaica. If this proposed rule is adopted, State and local laws and regulations regarding mangoes imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2013–0018. Please send a copy of your comments to: (1) APHIS, using one of the methods described under **ADDRESSES** at the beginning of this document, and (2) Clearance Officer, OCIO, USDA, Room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would amend the fruits and vegetables regulations to allow the importation of mangoes from Jamaica into the continental United States. As a condition of entry, the mangoes would have to be produced under a systems approach employing a combination of mitigation measures for certain fruit flies, soft scale insects, and diseases and would have to be inspected prior to exportation from Jamaica and found free of these pests and diseases. The mangoes would have to be imported in commercial consignments only and would have to be treated to mitigate the risk of these pests and diseases. The mangoes would also have to be accompanied by a phytosanitary certificate with an additional declaration confirming that the specified conditions for importation have been met. Implementing this rulemaking would require an operational workplan, registration of places of production, and the completion of phytosanitary certificates.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 1.581 hours per response.

Respondents: NPPO of Jamaica, mango producers in Jamaica, and U.S. importers.

Estimated annual number of respondents: 2.

Estimated annual number of responses per respondent: 37.

Estimated annual number of responses: 74.

Estimated total annual burden on respondents: 117 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 7 CFR Part 319

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

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319–FOREIGN QUARANTINE NOTICES

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

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

■ 2. Section 319.56–67 is added to read as follows:

§ 319.56–67 Mangoes from Jamaica.

Mangoes (*Mangifera indica*) may be imported into the continental United States from Jamaica only under the following conditions:

(a) *General requirements.* (1) The national plant protection organization (NPPO) of Jamaica must provide an operational workplan to APHIS that

details the activities that the NPPO of Jamaica, subject to APHIS' approval of the workplan, will carry out to meet the requirements of this section.

(2) The mangoes must be grown at places of production that are registered with the NPPO of Jamaica and that meet the specifications detailed in the workplan. If a pest or disease is detected at the port of entry in the United States, the consignment of mangoes would be prohibited entry into the United States and further shipments from the place of production where the mangoes were grown will be prohibited until an investigation is conducted and APHIS and the NPPO of Jamaica agree that the risk has been mitigated.

(3) The mangoes may be imported in commercial consignments only.

(b) *Treatment.* The mangoes must be treated for *Anastrepha* spp. fruit flies in accordance with part 305 of this chapter.

(c) *Packaging.* The mangoes must be safeguarded from exposure to fruit flies from the time of treatment to export, including packaging that prevents access by fruit flies and other injurious insect pests. The package containing the mangoes could not contain any other fruit, including mangoes not qualified for importation into the United States.

(d) *Inspection.* The mangoes must be inspected by the NPPO of Jamaica and found free of *Coccus moestus.*

(e) *Plant pathogens.* The risks presented by *Phomopsis mangiferae* and *Xanthomonas campestris* pv. *mangiferaeindicae* must be addressed in one of the following ways:

(1) The mangoes are treated with a broad-spectrum pre- or post-harvest fungicidal application; or

(2) The mangoes are inspected prior to export from Jamaica and found free of *P. mangiferae* and *X. campestris* pv. *mangiferaeindicae.*

(f) *Phytosanitary certificate.* Each consignment of fruit must be inspected by the NPPO of Jamaica and accompanied by a phytosanitary certificate issued by the NPPO of Jamaica with one of the following additional declarations.

(1) For mangoes that were subject to treatment for *Anastrepha* spp. fruit flies in Jamaica, the additional declaration must state that the mangoes were subjected to treatment in accordance with 7 CFR part 305 for *Anastrepha* spp. fruit flies; that the mangoes were inspected and found free of *C. moestus;* and that the mangoes were either treated with a pre- or post-harvest fungicidal application or they were inspected prior to export and found free of *P. mangiferae* and *X. campestris* pv. *mangiferaeindicae.*

(2) If the mangoes are to be treated for *Anastrepha* spp. fruit flies upon arrival in the United States, the additional declaration must state that the mangoes were inspected and found free of *C. moestus* and were either treated with a pre- or post-harvest fungicidal application or inspected prior to export and found free of *P. mangiferae* and *X. campestris* pv. *mangiferaeindicae.*

Done in Washington, DC, this 9th day of April 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–08480 Filed 4–14–14; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2013–0271]

RIN 3150–AJ31

List of Approved Spent Fuel Storage Casks: Transnuclear, Inc. Standardized Advanced NUHOMS® Horizontal Modular Storage System; Amendment No. 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations by revising the Transnuclear, Inc. Standardized Advanced NUHOMS® Horizontal Modular Storage System (NUHOMS® Storage System) within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 3 to Certificate of Compliance (CoC) No. 1029. Amendment No. 3 adds a new transportable dry shielded canister (DSC), 32PTH2, to the NUHOMS® Storage System; and makes editorial corrections.

DATES: Submit comments by May 15, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any one 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–2013–0271. Address questions about NRC dockets to Carol Gallagher, telephone: 301–287–3422, email: *Carol.Gallagher@nrc.gov*. For technical questions, please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Email comments to: Rulemaking.Comments@nrc.gov*. If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.

• *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

• *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

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: Naiem S. Tanious, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6103, email: *Naiem.Tanious@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID–NRC–2013–0271 when contacting the NRC about the availability of information for this proposed rule. You may access publicly-available information related to this proposed rulemaking by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID–NRC–2013–0271.

• NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly-available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The proposed CoC, proposed technical specifications (TSs), and preliminary Safety Evaluation Report (SER) are available in ADAMS under Accession Nos.

ML13290A176, ML13290A182, and ML13290A205, respectively.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID–NRC–2013–0271 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 in comment submissions that you do not want to be publicly disclosed. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS, and 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 in their comment submissions that they do not want to be publicly disclosed. 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. Procedural Background

This proposed rule is limited to the changes contained in Amendment No. 3 to CoC No. 1029 and does not include other aspects of the NUHOMS® Storage System design. Because the NRC considers this action noncontroversial and routine, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. Adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on June 30, 2014. However, if the NRC receives significant adverse comments on this proposed rule by May 15, 2014, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to these proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or TSs.

For additional procedural information including the regulatory analysis, and the availability of the environmental assessment and the finding of no significant impact, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

III. Background

Section 218(a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended, requires that ''the Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that [the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in part 72 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste,'' which added a new subpart K within 10 CFR part 72 entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L within 10 CFR part 72 entitled, ''Approval of Spent Fuel Storage Casks,'' which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule (68 FR 463; January 6, 2003) that approved the NUHOMS® Storage System design and added it to the list of NRC-approved cask designs in 10 CFR 72.214 ''List of approved spent fuel storage casks,'' as CoC No. 1029.

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner that also follows other best practices appropriate to the subject or field and the intended audience. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH–LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 is revised to read as follows:

Authority: Atomic Energy Act secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2239, 2273, 2282, 2021); Energy Reorganization Act secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act sec. 102 (42 U.S.C. 4332); Nuclear Waste Policy Act secs. 131, 132, 133, 135, 137, 141, 148 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 549 (2005).

Section 72.44(g) also issued under Nuclear Waste Policy Act secs.142(b) and 148(c), (d) (42 U.S.C. 10162(b), 10168(c), (d)).

Section 72.46 also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239); Nuclear Waste Policy Act sec. 134 (42 U.S.C. 10154).

Section 72.96(d) also issued under Nuclear Waste Policy Act sec. 145(g) (42 U.S.C. 10165(g)).

Subpart J also issued under Nuclear Waste Policy Act secs. 117(a), 141(h) (42 U.S.C. 10137(a), 10161(h)).

Subpart K also issued under sec. 218(a) (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance 1029 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1029.

Initial Certificate Effective Date: February 5, 2003.

Amendment Number 1 Effective Date: May 16, 2005.

Amendment Number 2 Effective Date: Amendment not issued by the NRC.

Amendment Number 3 Effective Date: June 30, 2014.

SAR Submitted by: Transnuclear, Inc.

SAR Title: Final Safety Analysis Report for the Standardized Advanced NUHOMS® Horizontal Modular Storage System for Irradiated Nuclear Fuel.

Docket Number: 72–1029.

Certificate Expiration Date: February 5, 2023.

Model Number: Standardized Advanced NUHOMS® –24PT1, –24PT4, and –32PTH2.

* * * * *

Dated at Rockville, Maryland, this 28th day of March, 2014. For the Nuclear Regulatory Commission.

Darren B. Ash,

Acting Executive Director for Operations.

[FR Doc. 2014–08345 Filed 4–14–14; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0231; Directorate Identifier 2013–NM–163–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2B16 (CL–604 Variant) airplanes. This proposed AD was prompted by reports of loose, broken, or backed out spur gear bolts on the horizontal stabilizer trim actuator (HSTA). This proposed AD would require a revision to the airplane flight manual, a revision to the maintenance or inspection program, and replacement of HSTAs having certain part numbers. We are proposing this AD to detect and correct loose spur gear bolts on the HSTA, which, if combined with the failure of the primary load path, could lead to failure of the HSTA and subsequent loss of control of the airplane.

DATES: We must receive comments on this proposed AD by May 30, 2014.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0231; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ricardo Garcia, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (516) 228–7331; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0231; Directorate Identifier 2013–NM–163–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2013–18, dated July 16, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the

MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2B16 (CL–604 Variant) airplanes. The MCAI states:

> There have been a number of reports where the HSTA [horizontal stabilizer trim actuator] spur gear bolts were found loose, broken or backed out. Investigation revealed that the root cause of the bolt loosening is due to incorrect bending of the anti-rotation tab washer and the improper application of Loctite glue during installation. Loose bolt(s) on the HSTA spur gear combined with the failure of the primary load path, could lead to failure of the HSTA and subsequent loss of the aeroplane.
>
> Bombardier Aerospace has introduced a modified HSTA [part number] P/N 604–92305–5 (vendor P/N 8454–2) to rectify the loose bolt problem. However, this modified HSTA has several quality control problems which could affect safety.
>
> This [Canadian] AD is issued to mandate the replacement of the affected HSTA with the new HSTA P/N 604–92305–7 (vendor P/N 8454–3).

In addition to replacing any HSTA having the affected part number, this proposed AD would require revising both the airplane flight manual and airplane maintenance or inspection program.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0231.

Relevant Service Information

Bombardier, Inc. has issued the service information specified below. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

- Bombardier Temporary Revision 604/37, dated May 21, 2013, to the Bombardier CL–604 Airplane Flight Manual, PSP 604–1.
- Bombardier Temporary Revision 605/18, dated May 21, 2013, to the Bombardier CL–605 Airplane Flight Manual, PSP 605–1.
- Bombardier Revision Submission RS–CL604–055, dated April 27, 2012, to the Bombardier CL–604 Airplane Flight Manual, PSP 604–1.
- Bombardier Revision Submission RS–CL605–030, dated April 27, 2012, to the Bombardier CL–605 Airplane Flight Manual, PSP 605–1.
- Bombardier Service Bulletin 604–27–032, dated September 10, 2012.
- Bombardier Service Bulletin 605–27–002, dated September 10, 2012.

Clarification of Document Date

Canadian Airworthiness Directive CF–2013–18, dated July 16, 2013, states that Bombardier Revision Submissions RS–CL604–055 and RS–CL605–030 are dated April 30, 2012; however, the date that appears on those documents is April 27, 2012. We contacted Bombardier and verified that the dates on the documents are correct.

FAA's Determination and Requirements of this Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (e.g., inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to the procedure specified in paragraph (l)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Costs of Compliance

We estimate that this proposed AD affects 125 airplanes of U.S. registry.

We also estimate that it would take about 21 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $223,125, or $1,785 per product.

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2014–0231; Directorate Identifier 2013–NM–163–AD.

(a) Comments Due Date

We must receive comments by May 30, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2B16 (CL–604 Variant) airplanes, certificated in any category, serial numbers 5301 and subsequent, equipped with horizontal stabilizer trim actuator (HSTA) part number (P/N) 604–92305–3 (vendor P/N 8454–1) or P/N 604–92305–5 (vendor P/N 8454–2).

(d) Subject

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

(e) Reason

This AD was prompted by reports of loose, broken, or backed out spur gear bolts on the HSTA. We are issuing this AD to detect and correct loose spur gear bolts on the HSTA, which, if combined with the failure of the primary load path, could lead to failure of the HSTA and subsequent loss of control of the airplane.

(f) Compliance

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

(g) Airplane Flight Manual (AFM) Revision

Within 30 days after the effective date of this AD, revise the Normal Procedures section of the applicable Bombardier AFM to include the information in the applicable temporary revision (TR) specified in paragraph (g)(1) or (g)(2) of this AD. The TRs introduce revised procedures for the stabilizer trim system check. Operate the airplane according to the limitations and procedures in the applicable TR. The revision may be done by inserting copies of the applicable TR specified in paragraph (g)(1) or (g)(2) of this AD in the AFM. When the TR has been included in the general revisions of the AFM, the general revisions may be inserted in the AFM, provided the relevant information in the general revision is identical to that in the applicable TR and the TR may be removed.

(1) Bombardier TR 604/37, dated May 21, 2013, to the Bombardier CL–604 AFM, PSP 604–1.

(2) Bombardier TR 605/18, dated May 21, 2013, to the Bombardier CL–605 AFM, PSP 605–1.

(h) Maintenance or Inspection Program Revision

Within 30 days after the effective date of this AD: Revise the maintenance or inspection program, as applicable, by incorporating Task 27–41–00–101, Operational Test (BITE) of the Horizontal-Stabilizer Trim-control System (HSTCS), specified in the applicable revision submission (RS) specified in paragraph (h)(1) or (h)(2) of this AD. The initial compliance time for the operational test is within 100 flight hours after the effective date of this AD. The maintenance or inspection program revision may be done by inserting a copy of the applicable RS specified in paragraph (h)(1) or (h)(2) of this AD into the applicable time limits/maintenance checks (TLMC) manual. When the RS has been included in the general revisions of the TLMC manual, the general revisions may be inserted in the TLMC manual, provided the relevant information in the general revision is identical to that in the applicable RS, and the RS may be removed.

(1) Task 27–41–00–101, Operational Test (BITE) of the Horizontal-Stabilizer Trim-control System (HSTCS), specified in Bombardier Revision Submission RS–CL604–055, dated April 27, 2012, to Section 5–10–40, Certification Maintenance Requirements, of Chapter 5 of the Bombardier CL–604 Time Limits/Maintenance Checks (TLMC) Manual.

(2) Task 27–41–00–101, Operational Test (BITE) of the Horizontal-Stabilizer Trim-control System (HSTCS), specified in Bombardier Revision Submission RS–CL605–030, dated April 27, 2012, to Section 5–10–40, Certification Maintenance Requirements, of Chapter 5 of the Bombardier CL–605 TLMC Manual.

(i) No Alternative Actions or Intervals

After the maintenance or inspection program has been revised, as required by paragraph (h) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (l)(1) of this AD.

(j) HSTA Replacement

For airplanes equipped with an HSTA having P/N 604–92305–3 (vendor P/N 8454–1) or P/N 604–92305–5 (vendor P/N 8454–2): Within 3,000 flight hours or 26 months after the effective date of this AD, whichever occurs first, replace any HSTA having P/N 604–92305–3 (vendor P/N 8454–1) or P/N 604–92305–5 (vendor P/N 8454–2) with an HSTA having P/N 604–92305–7 (vendor P/N 8454–3), in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 604–27–032, dated September 10, 2012; or 605–27–002, dated September 10, 2012; as applicable.

(k) Parts Installation Prohibition

As of the effective date of this AD, no person may install any HSTA having P/N 604–92305–3 (vendor P/N 8454–1) or P/N 604–92305–5 (vendor P/N 8454–2) on any airplane.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or by the Design Approval Holder with a State of Design Authority's design organization approval, as applicable). You are required to ensure the product is airworthy before it is returned to service.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2013–18, dated July 16, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0231.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA.

Issued in Renton, Washington, on April 1, 2014.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–08463 Filed 4–14–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0234; Directorate Identifier 2013–NM–220–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ airplanes. This proposed AD was prompted by reports of failure of the bolts that connect the cockpit windshield center-post to the forward fuselage. This proposed AD would require repetitive detailed inspections to detect discrepancies on the attaching parts of the cockpit windshield center-post; checking whether the bolts are tightened, if applicable; and modifying parts, including inspecting for and repairing damage. The modification would terminate the repetitive inspections. We are proposing this AD to prevent failed bolts and failed attaching parts of the cockpit windshield center-post, which could lead to loss of structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by May 30, 2014.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Fax: (202) 493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet *http://www.flyembraer.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0234; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0234; Directorate Identifier 2013–NM–220–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The Agência Nacional de Aviação Civil, which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2013–10–02, dated October 23, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> This [Brazilian] AD was prompted by reports of failure of the bolts that connect the lower eyelet fitting of the cockpit windshield center-post to the forward fuselage. We are issuing this [Brazilian] AD to detect failed bolts and correct the attaching parts of the lower eyelet fitting of the cockpit windshield center-post, which could lead to loss of structural integrity of the airplane.

Required actions include repetitive detailed inspections for discrepancies on the attaching parts of the lower eyelet fitting of the cockpit windshield center-post; a bolt check, if applicable; and modification of the attaching parts of the lower eyelet fitting of the cockpit windshield center-post, including a general visual inspection for damage of the specified lower eyelet fitting and repair of the damage. The modification would terminate the repetitive detailed inspections. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0234.

Relevant Service Information

EMBRAER has issued Service Bulletin 145LEG–53–A032, Revision 1, dated September 24, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

In many FAA transport ADs, when the service information specifies to contact the manufacturer for further instructions if certain discrepancies are found, we typically include in the AD a requirement to accomplish the action using a method approved by either the FAA or the State of Design Authority (or its delegated agent).

We have recently been notified that certain laws in other countries do not allow such delegation of authority, but some countries do recognize design approval organizations. In addition, we have become aware that some U.S. operators have used repair instructions that were previously approved by a State of Design Authority or a Design Approval Holder (DAH) as a method of compliance with this provision in FAA ADs. Frequently, in these cases, the previously approved repair instructions come from the airplane structural repair manual or the DAH repair approval statements that were not specifically developed to address the unsafe condition corrected by the AD. Using repair instructions that were not specifically approved for a particular AD creates the potential for doing repairs that were not developed to address the unsafe condition identified by the MCAI AD, the FAA AD, or the applicable service information, which

could result in the unsafe condition not being fully corrected.

To prevent the use of repairs that were not specifically developed to correct the unsafe condition, this proposed AD would require that the repair approval specifically refer to the FAA AD. This change is intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we use the phrase ''its delegated agent, or the DAH with State of Design Authority design organization approval, as applicable'' in this proposed AD to refer to a DAH authorized to approve required repairs for this proposed AD.

Clarification of Requirements

Brazilian Airworthiness Directive 2013–10–02, dated October 23, 2013, specifies that for those airplanes identified in Group 1 of EMBRAER Service Bulletin 145LEG–53–A032, Revision 01, dated September 24, 2013, that have done certain actions specified in EMBRAER Service Bulletin 145LEG–53–0021, dated June 8, 2005, and EMBRAER Service Bulletin 145LEG–53–0021, Revision 01, dated July 13, 2007, to do those actions at certain compliance times. For those actions, this AD specifies the affected airplanes as airplanes identified in Group 1 of EMBRAER Service Bulletin 145LEG–53–A032, Revision 01, dated September 24, 2013, that have done the actions specified in any revision of EMBRAER Service Bulletin 145LEG–53–0021. This difference has been coordinated with the Agência Nacional de Aviação Civil.

Costs of Compliance

We estimate that this proposed AD affects 56 airplanes of U.S. registry.

We also estimate that it would take about 35 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $386 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $188,216, or $3,361 per product.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Empresa Brasileira de Aeronautica S.A. (Embraer): Docket No. FAA–2014–0234; Directorate Identifier 2013–NM–220–AD.

(a) Comments Due Date

We must receive comments by May 30, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ airplanes, certificated in any category, as identified in EMBRAER Service Bulletin 145LEG–53–A032, Revision 01, dated September 24, 2013.

(d) Subject

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

(e) Reason

This AD was prompted by reports of failure of the bolts that connect the cockpit windshield center-post to the forward fuselage. We are issuing this AD to prevent failed bolts and failed attaching parts of the cockpit windshield center-post, which could lead to loss of structural integrity of the airplane.

(f) Compliance

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

(g) Detailed Inspection

At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD, do a detailed inspection to detect discrepancies on the attaching parts of the lower eyelet fitting of the cockpit windshield center-post and, if applicable, check whether the bolts are tightened, in accordance with Part I of the Accomplishment Instructions of EMBRAER Service Bulletin 145LEG–53–A032, Revision 01, dated September 24, 2013. If any discrepancy is found or if any bolt is not tightened, do the actions specified in paragraph (h) of this AD before further flight. Repeat the detailed inspection thereafter at intervals not to exceed 50 flight cycles until the modification required by paragraph (h) of this AD is done.

(1) For airplanes identified as Group 1 in EMBRAER Service Bulletin 145LEG–53–A032, Revision 01, dated September 24, 2013, on which the actions of EMBRAER Service Bulletin 145LEG–53–0021, has been done: Do the detailed inspection within 3,000 flight cycles after accomplishment of the actions of EMBRAER Service Bulletin 145LEG–53–0021, or within 50 flight cycles after the effective date of this AD, whichever occurs later.

(2) For airplanes identified as Group 2 airplanes in EMBRAER Service Bulletin 145LEG–53–A032, Revision 01, dated September 24, 2013: Do the detailed inspection before the accumulation of 3,000 total flight cycles, or within 50 flight cycles after the effective date of this AD, whichever occurs later.

(h) Modification

Except as required by paragraph (g) of this AD, at the applicable time specified in paragraphs (h)(1) or (h)(2) of this AD, modify the attaching parts of the lower eyelet fitting

of the cockpit windshield center-post, including a general visual inspection for any damage (cracks, dents, scratches) of the specified lower eyelet fitting, in accordance with Part II of the Accomplishment Instructions of EMBRAER Service Bulletin 145LEG–53–A032, Revision 01, dated September 24, 2013. If any damage is found during the general visual inspection, before further flight repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or The Agência Nacional de Aviação Civil (ANAC) (or its delegated agent, or the Design Approval Holder (DAH) with ANAC design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD. The modification terminates the repetitive inspections required by paragraph (g) of this AD.

(1) For airplanes identified as Group 1 in EMBRAER Service Bulletin 145LEG–53–A032, Revision 01, dated September 24, 2013, on which the actions specified in EMBRAER Service Bulletin 145LEG–53–0021, has been done: Do the modification before the accumulation of 3,000 flight cycles after doing the actions specified in EMBRAER Service Bulletin 145LEG–53–0021, or within 300 flight cycles after the effective date of this AD, whichever occurs later.

(2) For airplanes identified as Group 2 in EMBRAER Service Bulletin 145LEG–53–A032, Revision 01, dated September 24, 2013: Do the modification before the accumulation of 3,000 total flight cycles, or within 300 flight cycles after the effective date of this AD, whichever occurs later.

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using EMBRAER Service Bulletin 145LEG–53–A032, dated September 20, 2013, which is not incorporated by reference in this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1175; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or the DAH with a State of Design Authority's design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD. You are required to ensure the product is airworthy before it is returned to service.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Brazilian Airworthiness Directive 2013–10–02, dated October 23, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0234.

(2) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet *http://www.flyembraer.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on April 1, 2014.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–08460 Filed 4–14–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–144468–05]

RIN 1545–BE98

Disallowance of Partnership Loss Transfers, Mandatory Basis Adjustments, Basis Reduction in Stock of a Corporate Partner, Modification of Basis Allocation Rules for Substituted Basis Transactions, Miscellaneous Provisions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to a notice of proposed rulemaking and notice of public hearing (REG–144468–05) that was published in the **Federal Register** on Thursday, January 16, 2014. The proposed rules provide guidance on certain provisions of the American Jobs Creation Act of 2004 and conform the regulations to statutory changes in the Taxpayer Relief Act of 1997.

DATES: Written or electronic comments and requests for a public hearing for the notice of proposed rulemaking published at 79 FR 3042, January 16, 2014, are still being accepted and must be received by April 16, 2014.

FOR FURTHER INFORMATION CONTACT: Benjamin Weaver or Wendy Kribell at (202) 317–6850 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking and notice of public hearing (REG–144468–05) that is the subject of these corrections is under sections 704, 732, 734, 743, 755, and 1502 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking and notice of public hearing (REG–144468–05) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the notice of proposed rulemaking and notice of public hearing (REG–144468–05), that was the subject of FR Doc. 2014–00649, is corrected as follows:

1. On page 3042, in the preamble, third column, thirty-third line from the top of the page, the language ''3,600.'' is corrected to read ''3,600 hours.''.

2. On page 3042, in the preamble, third column, fortieth line from the top of the page, the language ''burden: 2,700.'' is corrected to read ''burden: 2,700 hours.''.

3. On page 3046, in the preamble, second column, twenty-fifth line of the first full paragraph, the language ''1(b)(2)(iv)(*f*) (''reverse section 704(c)'' is corrected to read ''1(b)(2)(iv)(*f*) or § 1.704–1(b)(2)(iv)(*s*) (''reverse section 704(c)''.

4. On page 3052, in the preamble, second column, tenth line from the bottom of the page, the language ''Questions have been raised whether the'' is corrected to read ''Questions have been raised regarding whether the''.

5. On page 3054, in the preamble, second column, seventh line from the top of the page, the language ''by differences in the property's adjusted'' is corrected to read ''by decreases in the

difference between the property's adjusted''.

6. On page 3054, in the preamble, second column, sixteenth line from the top of the page, the language ''1(b)(2)(iv)(*f*). Thus, for example, under'' is corrected to read ''1(b)(2)(iv)(*f*) or § 1.704–1(b)(2)(iv)(*s*). Thus, for example, under''.

§ 1.704–3 [Corrected]

7. On page 3055, third column, the second sentence of paragraph (a)(3)(ii) should read ''The built-in gain is thereafter reduced by decreases in the difference between the property's book value and adjusted tax basis (other than decreases to the property's book value pursuant to § 1.704–1(b)(2)(iv)(*f*) or § 1.704–1(b)(2)(iv)(*s*)).''.

8. On page 3056, first column, the fourth sentence of paragraph (a)(3)(ii) should read ''The built-in loss is thereafter reduced by decreases in the difference between the property's adjusted tax basis and book value (other than increases to the property's book value pursuant to § 1.704–1(b)(2)(iv)(*f*) or § 1.704–1(b)(2)(iv)(*s*)).''.

9. On page 3056, first column, the first sentence of paragraph (a)(6)(i) should read ''The principles of this section apply with respect to property for which differences between book value and adjusted tax basis are created when a partnership revalues partnership property pursuant to § 1.704–1(b)(2)(iv)(*f*) or § 1.704–1(b)(2)(iv)(*s*) (reverse section 704(c) allocations).''.

10. On page 3056, second column, the second sentence of paragraph (f)(2)(i) should read ''Section 704(c)(1)(C) property does not include a § 1.752–7 liability (within the meaning of § 1.752–7(b)(3)) or property for which differences between book value and adjusted tax basis are created when a partnership revalues property pursuant to § 1.704–1(b)(2)(iv)(*f*) or § 1.704–1(b)(2)(iv)(*s*).''.

11. On page 3057, second column, the third sentence of paragraph (f)(3)(iii)(B)(*1*) should read ''Regardless of whether a section 754 election is in effect or a substantial built in loss exists with respect to the transfer, the amount of any section 704(c)(1)(C) basis adjustment with respect to section 704(c)(1)(C) property to which the transferee succeeds shall be decreased by the amount of any negative section 743(b) adjustment that would be allocated to the section 704(c)(1)(C) property pursuant to the provisions of § 1.755–1 if the partnership had a section 754 election in effect upon the transfer.''.

§ 1.734–2 [Corrected]

12. On page 3062, third column, the first sentence of paragraph (c)(3) *Example 2.* (ii) should read ''A is unable to take into account A's section 704(c)(1)(C) basis adjustment in Property 1 upon the distribution of the cash as described in paragraph (c)(2) of this section because A cannot increase the basis of cash under § 1.704–3(f)(3)(v)(C).''.

§ 1.755–1 [Corrected]

13. On page 3068, third column, paragraph (b)(5)(iv) *Example 4.* (i) should read ''A is a one-third partner in LTP. The three partners in LTP have equal interests in the capital and profits of LTP. LTP has two assets: accounts receivable with an adjusted basis of $300 and a fair market value of $240 and a nondepreciable capital asset with an adjusted basis of $60 and a fair market value of $240. A contributes its interest in LTP to UTP in a transaction described in section 721. At the time of the transfer, A's basis in its LTP interest is $90. Under section 723, UTP's basis in its interest in LTP is $90. LTP makes an election under section 754 in connection with the transfer.''.

14. On page 3068, third column, the first sentence of paragraph (b)(5)(iv) *Example 4.* (ii) should read ''The amount of the basis adjustment under section 743(b) is the difference between UTP's $90 basis in its LTP interest and UTP's share of the adjusted basis to LTP of LTP's property.''

15. On page 3068, third column, paragraph (e)(1)(A) is redesignated as paragraph (e)(1)(i).

16. On page 3069, first column, paragraph (e)(1)(B) is redesignated as paragraph (e)(1)(ii).

17. On page 3069, first column, paragraph (e)(2), the language ''(e)(1)(B) ''should read ''(e)(1)(ii)'' wherever it appears.

18. On page 3069, first column, paragraph ''*(3) Example*.'' Is corrected to read ''(3) *Example*.''.

19. On page 3069, first and second column, paragraph (e)(3) should read ''*Example.* A, B, and C are equal partners in PRS, a partnership. C is a corporation. The adjusted basis and fair market value for A's interests in PRS is $100. PRS owns Capital Asset 1 with an adjusted basis of $0 and a fair market value of $100, Capital Asset 2 with an adjusted basis of $150 and a fair market value of $50, and stock in Corp, a corporation that is related to C under section 267(b), with an adjusted basis of $250 and fair market value of $150. PRS has a section 754 election in effect. PRS distributes Capital Asset 1 to A in liquidation of A's interest in PRS. PRS will reduce the basis of its remaining assets under section 734(b) by $100, to be allocated under section 755. Pursuant to the general rule of paragraph (c) of this section, PRS would reduce the basis of Capital Asset 2 by $50 and the stock of Corp by $50. However, pursuant to paragraph (e)(1)(i) of this section, the basis of the Corp stock is not adjusted. Thus, the basis of Capital Asset 2 is reduced by $100 from $150 to $50.''.

Martin V. Franks,

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

[FR Doc. 2014–08360 Filed 4–14–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket ID–OSHA–2007–0066]

RIN 1218–AC86

Cranes and Derricks in Construction: Operator Certification

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Notice of informal public hearing.

SUMMARY: This notice schedules an informal public hearing on OSHA's proposed extension of the crane-operator certification deadline and the separate existing employer duty to ensure that their crane operators are competent. The Agency proposed three-year extensions for both, from November 10, 2014, to November 10, 2017.

DATES: *Informal public hearing:* The informal public hearing will be held on Monday, May 19, 2014, at 9:30 a.m. in the auditorium of the U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Notice of intention to appear: Each person who wishes to testify at the hearing must submit a notice of intention to appear by April 25, 2014. Each person who files a notice of intention to appear may submit a written copy of additional comments to the record before or during the hearing for inclusion in the hearing record. Organizations may submit a single notice of intention to appear regarding multiple members of that organization, but the notice must list the name, occupational title, and position of each

individual who plans to testify. In addition, all notices must also include the following information:

(1) An email address or other contact information for receiving additional information about the hearing;

(2) Name of the establishment or organization, if any, that each individual represents;

(3) A brief summary of any documentary evidence each individual plans to present.

ADDRESSES: Submit a notice of intention to appear and written testimony by any of the following methods:

Electronically: Submit a notice of intention to appear and written testimony electronically at *http://www.regulations.gov,* which is the Federal e-Rulemaking Portal. Follow the instructions online for submitting comments.

Fax: If your written submission does not exceed 10 pages, including attachments, you may fax it to the OSHA Docket Office at (202) 693–1648.

Regular mail, express delivery, hand delivery, or messenger (courier) service: Submit your materials to the OSHA Docket Office, Docket No. OSHA–2007–0066, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2350, (TTY number (877) 889–5627). The OSHA Docket Office accepts deliveries (express mail, hand delivery, and messenger (courier) service during its normal hours of operation, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and docket number for this rulemaking (i.e., OSHA Docket No. OSHA–2007–0066). OSHA will place all submissions, including any personal information, in the public docket without change and make them available online at *http://www.regulations.gov.* Therefore, OSHA cautions you about submitting personal information, such as Social Security numbers and birthdates. Because of security-related procedures, the use of regular mail may cause a significant delay in receipt of your submissions. For information about security-related procedures for submitting materials by express delivery, hand delivery, or messenger (courier) service, contact the OSHA Docket Office.

If you submit scientific or technical studies or other results of scientific research, OSHA requests (but is not requiring) that you also provide the following information when it is available: (1) Identification of the funding source(s) and sponsoring organization(s) of the research; (2) the extent to which a potentially affected party reviewed the research findings prior to publication or submission to the docket, and identification of any such parties; and (3) the type of financial relationships (e.g., consulting agreements, expert witness support, or research funding), if any, between investigators who conducted the research and any organization(s) or entities having an interest in the rulemaking. If you are submitting comments or testimony on the Agency's scientific and technical analyses, OSHA requests that you disclose: (1) The type of financial relationships you may have, if any, with any organization(s) or entities having an interest in the rulemaking; and (2) the extent to which an interested party reviewed your comments or testimony prior to its submission. Disclosure of such information promotes transparency and scientific integrity of data and technical information submitted to the record.

This request is consistent with Executive Order 13563, issued on January 18, 2011, which instructs agencies to ensure the objectivity of any scientific and technological information used to support their regulatory actions. OSHA emphasizes that it will consider all material submitted to the rulemaking record to develop the final rule and supporting analyses.

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries: Mr. Frank Meilinger, Office of Communications, Room N–3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.Francis2@dol.gov.*

Technical inquiries: Mr. Vernon Preston, Directorate of Construction, Room N–3468, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2020; fax: (202) 693–1689; email: *Preston.Vernon@dol.gov.*

SUPPLEMENTARY INFORMATION: On August 9, 2010, OSHA issued a final standard establishing requirements for cranes and derricks used in construction work. The standard requires employers to ensure that crane operators are certified by November 10, 2014. Until that date, employers also have added duties under the standard to ensure that crane operators are trained and competent to operate the crane safely. On February 10, 2014, OSHA issued a Notice of Proposed Rulemaking (NPRM) proposing to extend the deadline for operator certification by three years to November 10, 2017, and to extend the existing employer duties for the same period. The public had 30 days to submit comments on this issue. The comment period closed on March 12, 2014.

In response to the NPRM, OSHA received over 60 comments from the public. Only one comment, from Crane Institute Certification (CIC), requested or implied a hearing request (OSHA–2007–0066–0495). OSHA spoke with Ms. Deborah Dickinson of CIC to clarify whether the organization was requesting a hearing, and Ms. Dickinson confirmed that it was.

The purpose of a hearing is to gather information not already in the record, and to develop a clear, accurate, and complete record. This hearing will be an informal administrative proceeding rather than an adjudicative one; therefore, the technical rules of evidence will not apply. Conduct of the hearing will conform to 29 CFR 1911.15. In addition, the Assistant Secretary may, on reasonable notice, issue additional or alternative procedures to expedite the proceedings, to provide greater procedural protections to interested persons, or to further any other good cause consistent with applicable law (29 CFR 1911.4).

This hearing will be held to develop the record on the proposed extensions presented in OSHA's February 10, 2014, NPRM. While the Agency recognizes that there are several potentially controversial issues surrounding crane operator certification/qualification, the Agency requests that testimony and questions be focused and related to the proposed time extensions to preserve adequate time for all persons to be heard on the issues in the proposal.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210, authorized the preparation of this notice. OSHA is issuing this proposed rule under the following authorities: 29 U.S.C. 653 and 655; 40 U.S.C. 3701 et seq.; 5 U.S.C. 553; Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012); and 29 CFR part 1911.

Signed at Washington, DC, on April 9, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–08512 Filed 4–14–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0178]

RIN 1625–AA00

Safety Zone; Ellie's Wedding Fireworks Display; Long Island Sound; Greenwich, CT.

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone on the navigable waters of Long Island Sound near Greenwich, CT for the Ellie's Wedding fireworks display. This action is necessary to provide for the safety of life on navigable waters during the event. The safety zone will facilitate public notification of the event and provide protective measures for the maritime public and event participants from the hazards associated with these events. Entering into, transiting through, remaining, anchoring or mooring within this regulated area would be prohibited unless authorized by the Captain of the Port (COTP) Sector Long Island Sound.

DATES: Comments and related material must be received by the Coast Guard on or before May 15, 2014.

Requests for public meetings must be received by the Coast Guard on or before April 22, 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 Petty Officer Scott Baumgartner, Prevention Department, Coast Guard Sector Long Island Sound, (203) 468–4559, *Scott.A.Baumgartner@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP Captain of the Port
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–2014–0178] 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–2014–0178) 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** on or before April 22, 2014. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

This is a first time event with no regulatory history.

C. Basis and Purpose

The legal basis for this temporary rule is 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; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1 which collectively authorize the Coast Guard to define regulatory safety zones.

This temporary rule is necessary to promote the safety of life on navigable waterways during the Ellie's Wedding fireworks display in Long Island Sound near Greenwich, CT.

D. Discussion of Proposed Rule

This temporary rule proposes to establish a safety zone for the Ellie's Wedding fireworks display. This

proposed regulated area includes all waters of Long Island Sound within a 600 foot radius of the fireworks barge located approximate 1.5 miles south of Greenwich Point Park in Greenwich, CT.

This rule will be effective and enforced on June 27, 2014 from 6:30 p.m. through 10:30 p.m.

Because spectator vessels are expected to congregate around the location of the fireworks display, this regulated area is necessary to protect both spectators and participants from the hazards created by unexpected pyrotechnics detonation, and burning debris. This proposed rule would temporarily establish a regulated area to restrict vessel movement on the navigable waters around the location of the fireworks display to reduce the safety risks associated with it.

Public notifications may be made to the local maritime community prior to the event through the Local Notice to Mariners, and Broadcast Notice to Mariners.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

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

The Coast Guard determined that this rulemaking would not be a significant regulatory action for the following reasons: The regulated area will be of limited duration, the area covers only a small portion of the navigable waterways and waterway users may transit around the area. Also, mariners may request permission from the COTP Sector Long Island Sound or the designated representative to transit the zone.

Advanced public notifications will also be made to the local maritime community through the Local Notice to Mariners as well as Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit, anchor or moor within the regulated area during the effective period. The temporary safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The regulated area will be of limited size and of short duration and mariners may request permission from the COTP Sector Long Island Sound or the designated representative to transit the zone. Notifications will be made to the maritime community through the Local Notice to Mariners and Broadcast Notice to Mariners well in advance of the event.

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 establishing a safety zone. This rule may be 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 is 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 AREA 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, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0178 to read as follows:

§ 165.T01–0178 Safety Zone; Ellie's Wedding Fireworks Display; Long Island Sound; Greenwich, CT.

(a) *Location.* The following area is a safety zone: All waters of Long Island Sound within a 600-foot radius of the fireworks barge located about 1.5 miles south of Greenwich Point Park, Greenwich, CT in approximate position 40°58′53.76″N, 073°34′47.95″W North American Datum 1983.

(b) *Enforcement Period.* This rule will be enforced on June 27, 2014 from 6:30 p.m. until 10:30 p.m.

(c) *Regulations.* The general regulations contained in 33 CFR 165.23 apply. During the enforcement period, entering into, transiting through, remaining, mooring or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port (COTP) or the designated representatives.

(1) Definitions. The following definitions apply to this section:

(i) Designated Representative. A ''designated representative'' is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the COTP, Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(ii) Official Patrol Vessels. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Sector Long Island Sound.

(iii) Spectators. All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(2) Spectators desiring to enter or operate within the regulated area should contact the COTP Sector Long Island Sound at 203–468–4401 (Sector Long Island Sound command center) or the designated representative via VHF channel 16 to obtain permission to do so. Spectators given permission to enter or operate in the regulated area must comply with all directions given to them by the COTP Sector Long Island Sound or the designated on-scene representative.

(3) Upon being hailed by an official patrol vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(4) Fireworks barges used in this location will have a sign on their port and starboard side labeled ''FIREWORKS—STAY AWAY''. This sign will consist of 10 inch high by 1.5 inch wide red lettering on a white background.

Dated: March 25, 2014.

E.J. Cubanski, III,

Captain, U.S. Coast Guard, Captain of the Port Sector Long Island Sound.

[FR Doc. 2014–08220 Filed 4–14–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2014–OSERS–0012]

Proposed Priorities—National Institute on Disability and Rehabilitation Research—Rehabilitation Research and Training Centers

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

ACTION: Proposed priorities.

[CFDA Numbers: 84.133B–6 and B–7.]

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes two priorities for the Rehabilitation Research and Training Center (RRTC) Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). Specifically, this notice proposes priorities for an RRTC on Transition to Employment for Youth and Young Adults with Serious Mental Health Conditions and Community Living and Participation of Youth and Young Adults with Serious Mental Health Conditions. This RRTC will be jointly funded by NIDRR and the Substance Abuse Mental Health Services Administration (SAMHSA). We take this action to focus research attention on an area of national need. We intend these priorities to contribute to improved outcomes in the transition to employment and in community living and participation of youth and young adults with serious mental health conditions and psychiatric disabilities.

DATES: We must receive your comments on or before May 15, 2014.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Are you new to the site?''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these proposed regulations, address them to Patricia Barrett, U.S. Department of Education, 400 Maryland Avenue SW., Room 5142, Potomac Center Plaza (PCP), Washington, DC 20202–2700.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Patricia Barrett, U.S. Department of Education, 400 Maryland Avenue SW., Room 5142, PCP, Washington, DC 20202–2700. Telephone: (202) 245–6211 or by email: *patricia.barrett@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: These proposed priorities are in concert with NIDRR's currently approved Long-Range Plan (Plan). The Plan, which was published in the **Federal Register** on April 4, 2013 (78 FR 20299), can be accessed on the Internet at the following site: *www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of research findings, expertise, and other information to advance knowledge and understanding of the needs of individuals with disabilities and their family members, including those from among traditionally underserved populations; (3) determine effective practices, programs, and policies to improve community living and participation, employment, and health and function outcomes for individuals with disabilities of all ages; (4) identify research gaps and areas for promising research investments; (5) identify and promote effective mechanisms for integrating research and practice; and (6) disseminate research findings to all major stakeholder groups, including individuals with disabilities and their families in formats that are appropriate and meaningful to them.

This notice proposes two priorities that NIDRR intends to use for one or more competitions in FY 2014 and possibly later years. NIDRR is under no obligation to make an award under these priorities. The decision to make an award will be based on the quality of applications received and available funding. NIDRR may publish additional priorities, as needed.

Invitation to Comment: We invite you to submit comments regarding these priorities. To ensure that your comments have maximum effect in developing the final priorities, we urge you to identify clearly the specific topic that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from these proposed priorities. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the programs.

During and after the comment period, you may inspect all public comments about these proposed priorities in Room 5142, 550 12th Street SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Rehabilitation Research and Training Centers

The purpose of the RRTCs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to achieve the goals of, and improve the effectiveness of, services authorized under the Rehabilitation Act through well-designed research, training, technical assistance, and dissemination activities in important topical areas as specified by NIDRR. These activities are designed to benefit rehabilitation service providers, individuals with disabilities, family members, policymakers and other research stakeholders. Additional information on the RRTC program can be found at: *http://www2.ed.gov/programs/rrtc/index.html.*

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Program Regulations: 34 CFR part 350.

Proposed Priorities

This notice contains two proposed priorities:

Background

The estimated prevalence of serious mental health conditions (SMHC) in young adults ages 18 to 26 ranges from 6 percent to 8 percent (U.S. Government Accountability Office [GAO], 2008; Substance Abuse and Mental Health Services Administration [SAMHSA], 2012a). In addition, the prevalence of serious emotional disturbance in youth ages 13 to 17 has been estimated to be about 8 percent (Kessler et. al., 2012). Some youth and young adults are at particularly high risk for challenges associated with SMHC, including youth with multiple diagnoses, those who are or have been involved in foster care, those involved in the justice system, and those who experience psychosis (GAO, 2008; Institute of Medicine [IOM], 2013). They also include those who reside in poverty and low service access communities, those who experience socioeconomic disadvantage,

and those from underserved cultural communities (Alegria et al., 2010).

Youth and young adults with SMHC face serious challenges to achieving successful employment outcomes, including challenges in completing postsecondary education or training (IOM, 2013; Woolsey & Katz-Leavy, 2008), as well as challenges in community living and participation (Kaplan et al., 2012; Seo et al., 2013). One key to facing these challenges may be improved self-determination (Seo et al., 2013). Self-determination is a personal characteristic that leads individuals to make their own choices and decisions, to monitor and regulate their own actions and to be goal-oriented and self-directing (National Gateway to Self-Determination, *www.ngsd.org/everyone/what-self-determination*). It is also reflected in SAMHSA's definition of recovery from mental disorders (SAMHSA, 2012b).

Youth and young adults with SMHC are more likely to suffer negative outcomes in high school completion, short- and long-term unemployment, and other employment related variables (Bradley et al, 2008; Wagner et al., 2005). For example, they are less likely than their peers with other disabilities (e.g., learning disabilities) to be employed, and have marked difficulty in maintaining employment. There is a need for evidence-based and effective interventions, systems, and policies designed to improve employment and employment-related outcomes for youth and young adults with SMHC. Because evidence suggests that the effectiveness of interventions depends on the age of the participant (Burke-Miller et al., 2012), employment-related interventions should be developmentally appropriate for youth and young adults.

In addition, because educational attainment is a consistent predictor of later employment achievements (Burke-Miller et al., 2012; Ellison, et al., 2008; Tsang et al., 2000) it is important to develop effective supports for academic success, retention, and post-secondary participation for youth and young adults with SMHC (Rogers, et al., 2010).

As in the case for employment, there is a need for evidence-based and effective interventions, systems, and policies designed to improve community living and participation for youth and young adults with SMHC. This population is more likely than their peers without SMHC to have been involved with the justice system, to have defaulted on a financial obligation, and to be involved in a violent relationship (IOM, 2013; Newman et al., 2011). In addition, youth and young adults with SMHC frequently encounter stigma in their community (Gulliver et al., 2010; Walker, 2010), and experience challenges in the area of social skills (Wagner et al., 2005). As a result of the challenges associated with SMHC, youth and young adults with SMHC are frequently at a disadvantage in establishing the relationships and connections that contribute to community living and participation (Kaplan et al., 2012).

Improving employment and community living and participation outcomes for youth and young adults depends not just on improvements in interventions and services but also on improvements in policies and systems established to deliver those interventions and services. Such improvements might include increased coordination across types of services, increased coordination between the child and adult mental health system, and increasing the developmental appropriateness of services for young adults in adult systems (GAO, 2008, 2012; Osgood et al., 2010; Plotner et al., 2012; Pottick et al., 2007).

In sum, youth and young adults with SMHC frequently experience challenges in employment and in community living and participation. There is a need for more evidence-based and effective interventions, systems change and coordination, and policies to improve outcomes in these areas for these individuals, particularly those who face the greatest challenges.

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Definitions

The research that is proposed under this priority must be focused on one or more stages of research. If the RRTC is to conduct research that can be categorized under more than one research stage, or research that progresses from one stage to another, those research stages must be clearly specified. For purposes of this priority, the stages of research are from the notice of final priorities and definitions published in the **Federal Register** on May 7, 2013 (78 FR 26513).

(i) *Exploration and discovery* means the stage of research that generates hypotheses or theories by conducting new and refined analyses of data, producing observational findings, and creating other sources of research-based information. This research stage may include identifying or describing the barriers to and facilitators of improved outcomes of individuals with disabilities, as well as identifying or describing existing practices, programs, or policies that are associated with important aspects of the lives of individuals with disabilities. Results achieved under this stage of research may inform the development of interventions or lead to evaluations of interventions or policies. The results of the exploration and discovery stage of research may also be used to inform decisions or priorities;

(ii) *Intervention development* means the stage of research that focuses on generating and testing interventions that have the potential to improve outcomes for individuals with disabilities. Intervention development involves determining the active components of possible interventions, developing measures that would be required to illustrate outcomes, specifying target populations, conducting field tests, and assessing the feasibility of conducting a well-designed intervention study. Results from this stage of research may be used to inform the design of a study to test the efficacy of an intervention;

(iii) *Intervention efficacy* means the stage of research during which a project evaluates and tests whether an intervention is feasible, practical, and has the potential to yield positive outcomes for individuals with disabilities. Efficacy research may assess the strength of the relationships between an intervention and outcomes, and may identify factors or individual characteristics that affect the relationship between the intervention and outcomes. Efficacy research can inform decisions about whether there is sufficient evidence to support ''scaling-up'' an intervention to other sites and contexts. This stage of research can include assessing the training needed for wide-scale implementation of the intervention, and approaches to evaluation of the intervention in real world applications; and

(iv) *Scale-Up evaluation* means the stage of research during which a project analyzes whether an intervention is effective in producing improved outcomes for individuals with disabilities when implemented in a real-world setting. During this stage of research, a project tests the outcomes of an evidence-based intervention in different settings. It examines the challenges to successful replication of the intervention, and the circumstances and activities that contribute to successful adoption of the intervention in real-world settings. This stage of research may also include well-designed studies of an intervention that has been widely adopted in practice, but that lacks a sufficient evidence-base to demonstrate its effectiveness.

Proposed Priorities

Proposed Priority 1—Transition to Employment for Youth and Young Adults With Serious Mental Health Conditions

The Acting Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for a Rehabilitation Research and Training Center (RRTC) on Transition to Employment for Youth and Young Adults with Serious Mental Health Conditions (SMHC). This RRTC must conduct research that contributes to improved employment outcomes (e.g., obtaining employment, retention, and earnings) and employment-related outcomes (e.g., postsecondary education, training and career development activities) for youth and young adults with SMHC.

For purposes of this priority, the term ''youth and young adults with SMHC'' refers to individuals between the ages of 14 and 30, inclusive, who have been diagnosed either with a serious emotional disturbance (for individuals under the age of 18 years) or a serious mental illness (for those 18 years of age or older). Under this priority, the RRTC must contribute to the following outcomes:

(a) More effective and developmentally appropriate interventions that improve employment outcomes and increase capacity to use self-determination skills and strategies for youth and young adults with SMHC. The RRTC must contribute to this outcome by:

(i) Identifying or developing, and then evaluating, innovative interventions that meet the needs of youth and young adults with SMHC;

(ii) Involving youth and young adults with SMHC, and their families or family surrogates, in the processes of identifying or developing, and then evaluating interventions; and

(iii) Including youth and young adults with SMHC who are at particular risk for less favorable employment outcomes, (e.g., unemployment and difficulty maintaining employment). Applicants must identify the specific at-risk group or groups of youth and young adults with SMHC they propose to study, provide evidence that the selected population or populations are at risk for poor employment outcomes, and explain how the proposed practices are expected to address the needs of the identified population.

(b) Increased knowledge about workforce participation of youth and young adults with SMHC, as well as the service systems and evidence-based supported practices that enhance

positive educational and vocational development. In generating this new knowledge, applicants should identify one or more specific stages of research. If the RRTC is to conduct research that can be categorized under more than one of the research stages, or research that progresses from one stage to another, those stages should be clearly specified. (These research stages and their definitions are provided in the *Definitions* section of this notice.)

(c) Increased capacity of organizations, State agencies, and other service providers for youth and young adults with SMHC to improve their educational and employment outcomes. The RRTC will provide training and technical assistance to service providers who work with youth and young adults with SMHC.

(d) New knowledge regarding changes in systems and policies that could improve education, career development, and employment for youth and young adults with SMHC.

(e) Serving as a national resource center to:

(i) Provide information and technical assistance to youth and young adults with SMHC and their representatives, and other key stakeholders;

(ii) Provide training (including graduate, pre-service, and in-service training) and technical assistance to vocational rehabilitation providers and other disability service providers to facilitate more effective delivery of services to youth and young adults with SMHC. This training may be provided through conferences, workshops, public education programs, in-service training programs, and similar activities;

(iii) Disseminate research-based information and materials related to employment of youth and young adults with SMHC; and

(iv) Involve key stakeholder groups in the activities conducted under paragraph (a) in order to maximize the relevance and usability of the new knowledge generated by the RRTC.

Priority 2—Community Living and Participation for Youth and Young Adults With Serious Mental Health Conditions

The Acting Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for a Rehabilitation Research and Training Center (RRTC) on Community Living and Participation of Youth and Young Adults with Serious Mental Health Conditions (SMHC). This RRTC must conduct research that contributes to improved community participation for youth and young adults with SMHC.

For purposes of this priority, the term ''youth and young adults with SMHC'' refers to individuals between the ages of 14 and 30, inclusive, who have been diagnosed either with serious emotional disturbance (for individuals under the age of 18 years) or a serious mental illness (for those 18 years of age or older). Under this priority, the RRTC must contribute to the following outcomes:

(a) More effective and developmentally appropriate interventions that improve community living and participation outcomes and increase capacity to use self-determinations skills and strategies for youth and young adults with SMHC. The RRTC must contribute to this outcome by:

(i) Identifying or developing and then evaluating innovative interventions that meet the needs of youth and young adults with SMHC;

(ii) Involving youth and young adults with SMHC, and their families or family surrogates, in the processes of identifying or developing and then evaluating interventions; and

(iii) Ensuring that samples include youth and young adults with SMHC who are at particular risk for less favorable community living and participation outcomes, including, but not limited to those with justice system involvement, those in foster care, and those with multiple diagnoses. Applicants must identify the specific at-risk group or groups of youth and young adults with SMHC they propose to study, provide evidence that the selected population or populations are at risk for less favorable community living and participation outcomes, and explain how the proposed practices are expected to address the needs of the identified population.

(b) Increased capacity of organizations and service providers for youth and young adults with SMHC to promote the social and self-determination skills of youth and young adults with SMHC and help them build connections with positive individuals and organizations in their communities. The RRTC will provide training and technical assistance to service providers who work with youth and young adults with SMHC.

(c) New knowledge about key systems and policy issues that influence decisions about eligibility, effectiveness, structure, implementation and funding for programs and initiatives that support community living and participation and self-determination in youth and young adults with SMHC. In generating this new knowledge, applicants should identify one or more specific stages of research. If the RRTC is to conduct research that can be categorized under more than one of the research stages, or research that progresses from one stage to another, those stages should be clearly specified. (These research stages and their definitions are provided in the *Definitions* section of this notice.)

(d) Serving as a national resource center related to community participation and self-determination of youth and young adults with SMHC by:

(i) Providing information and technical assistance to youth and young adults with SMHC and their representatives, and other key stakeholders;

(ii) Providing training (including graduate, pre-service, and in-service training) and technical assistance service providers, to facilitate more effective delivery of services to youth and young adults with SMHC. This training may be provided through conferences, workshops, public education programs, in-service training programs, and similar activities;

(iii) Disseminating research-based information and materials related to community living and participation and self-determination of youth and young adults with SMHC; and

(iv) Involving key stakeholder groups in the activities conducted under paragraph (a) in order to maximize the relevance and usability of the new knowledge generated by the RRTC.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priorities

We will announce the final priorities in a notice in the **Federal Register**. We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use one or more of these priorities, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

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

(3) Materially alter the budgetary impacts of entitlement 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 stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select 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 the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these proposed priorities only upon a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that these proposed priorities are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years. Projects similar to the RRTCs have been completed successfully, and the proposed priorities will generate new knowledge through research. The new RRTCs will generate, disseminate, and promote the use of new information that would improve outcomes for individuals with disabilities in the areas of community living and participation, employment, and health and function.

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

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or TTY, call the FRS, toll free, at 1–800–877–8339.

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You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 10, 2014.

Michael K. Yudin,

Acting Assistant, Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–08556 Filed 4–14–14; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0649; FRL–9909–59–Region–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Section 110(a)(2) Infrastructure Requirements for the 2010 Nitrogen Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Maryland pursuant to the Clean Air Act (CAA). Whenever new or revised National Ambient Air Quality Standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements, including, but not limited to regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. The State of Maryland has made a submittal addressing the infrastructure requirements for the 2010 nitrogen dioxide (NO_2) NAAQS.

DATES: Written comments must be received on or before May 15, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2013–0649 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *Email: fernandez.cristina@epa.gov*.

C. *Mail:* EPA–R03–OAR–2013–0649, Cristina Fernandez, Associate Director, Office of Air Program Planning, Air Protection Division, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2013–0649. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Ruth Knapp, (215) 814–2191, or by email at *knapp.ruth@epa.gov*.

SUPPLEMENTARY INFORMATION: On August 14, 2013, the Maryland Department of the Environment (MDE) submitted a revision to its SIP to satisfy the requirements of section 110(a)(2) of the CAA for the 2010 NO_2 NAAQS.

I. Background

On February 9, 2010 (75 FR 6474), EPA established a new 1-hour primary NAAQS for NO_2 at a level of 100 parts per billion (ppb), based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS. Specifically, 110(a)(1) requires states to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe, and section 110(a)(2) requires states to address specific elements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the newly established or revised NAAQS.

The contents of a SIP submission may vary depending upon the data and analytical tools available to the state, as well as the provisions already contained in the state's SIP at the time in which the state develops and submits the submission for a new or revised NAAQS. States were required to submit such SIPs for the 2010 NO_2 NAAQS to EPA no later than January 2013.

II. Summary of SIP Revision

On August 14, 2013, MDE provided a SIP revision to satisfy the requirements of section 110(a)(2) of the CAA for the 2010 NO_2 NAAQS. This revision addresses the following infrastructure elements, which EPA is proposing to approve: Section 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M), or portions thereof. This action does not include any proposed action on section 110(a)(2)(I) of the CAA which pertains to the nonattainment requirements of part D, Title I of the CAA, because this element is not required to be submitted by the 3-year submission deadline of CAA section 110(a)(1), and will be addressed in a separate process if necessary. A detailed summary of EPA's review and rationale for approving Maryland's submittal may be found in the Technical Support Document (TSD) for this proposed rulemaking action, which is available online at *www.regulations.gov,* Docket number EPA–R03–OAR–2013–0649.

III. EPA's Approach To Review Infrastructure SIPs

EPA is acting upon the SIP submission from MDE that addresses the infrastructure requirements of CAA section 110(a)(1) and (2) for the 2010 NO_2 NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the

submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA section 110(a)(1) and (2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA, ''regional haze SIP'' submissions required by EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review permit program submissions to address the permit requirements of CAA, title I, part D.

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions and section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[1] EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submission must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the CAA, which specifically address nonattainment SIP requirements.[2] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years or in some cases three years, for such designations to be promulgated.[3] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within section 110(a)(1) and (2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit ''a plan'' to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[4] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[5]

Ambiguities within section 110(a)(1) and (2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The states' attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants, for example because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[6]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions. For example, section 172(c)(7) requires that attainment plan SIP submissions required by part D have to meet the ''applicable requirements'' of section 110(a)(2). Thus, for example, attainment

[1] For example: Section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

[2] *See, e.g.,* ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_X SIP Call; Final Rule,'' 70 FR 25162, at 25163—25165, May 12, 2005, (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[3] EPA notes that this ambiguity within section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submission of certain types of SIP submissions in designated nonattainment areas for various pollutants. Note, e.g., that section 182(a)(1) provides specific dates for submission of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

[4] *See, e.g.,* ''Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Permitting,'' 78 FR 4339, January 22, 2013 (EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA's 2008 $PM_{2.5}$ NSR rule), and ''Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 $PM_{2.5}$ NAAQS,'' 78 FR 4337, January 22, 2013 (EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS).

[5] On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). EPA proposed action for infrastructure SIP elements (C) and (J) on January 23, 2012 (77 FR 3213) and took final action on March 14, 2012 (77 FR 14976). On April 16, 2012 (77 FR 22533) and July 23, 2012 (77 FR 42997), EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007 submittal.

[6] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

plan SIP submissions must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the Prevention of Significant Deterioration (PSD) program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submission may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submission. In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submissions against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements.[7] EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Guidance).[8] EPA developed this document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions.[9] The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets section 110(a)(1) and (2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

As an example, section 110(a)(2)(E)(ii) is a required element of section 110(a)(2) for infrastructure SIP submissions. Under this element, a state must meet the substantive requirements of section 128, which pertain to state boards that approve permits or enforcement orders and heads of executive agencies with similar powers. Thus, EPA reviews infrastructure SIP submissions to ensure that the state's SIP appropriately addresses the requirements of section 110(a)(2)(E)(ii) and section 128. The 2013 Guidance explains EPA's interpretation that there may be a variety of ways by which states can appropriately address these substantive statutory requirements, depending on the structure of an individual state's permitting or enforcement program (*e.g.,* whether permits and enforcement orders are approved by a multi-member board or by a head of an executive agency). However they are addressed by the state, the substantive requirements of section 128 are necessarily included in EPA's evaluation of infrastructure SIP submissions because section 110(a)(2)(E)(ii) explicitly requires that the state satisfy the provisions of section 128.

As another example, EPA's review of infrastructure SIP submissions with respect to the PSD program requirements in section 110(a)(2)(C), (D)(i)(II), and (J) focuses upon the structural PSD program requirements contained in part C and EPA's PSD regulations. Structural PSD program requirements include provisions necessary for the PSD program to address all regulated sources and NSR pollutants, including Green House Gases (GHGs). By contrast, structural PSD program requirements do not include provisions that are not required under EPA's regulations at 40 CFR 51.166 but are merely available as an option for the state, such as the option to provide grandfathering of complete permit applications with respect to the 2012 $PM_{2.5}$ NAAQS. Accordingly, the latter optional provisions are types of provisions EPA considers irrelevant in the context of an infrastructure SIP action.

For other section 110(a)(2) elements, however, EPA's review of a state's infrastructure SIP submission focuses on assuring that the state's SIP meets basic structural requirements. For example, section 110(a)(2)(C) includes, *inter alia,* the requirement that states have a program to regulate minor new sources. Thus, EPA evaluates whether the state has an EPA-approved minor new source review program and whether the program addresses the pollutants relevant to that NAAQS. In the context of acting on an infrastructure SIP submission, however, EPA does not think it is necessary to conduct a review of each and every provision of a state's existing minor source program (*i.e.,* already in the existing SIP) for compliance with the requirements of the CAA and EPA's regulations that pertain to such programs.

With respect to certain other issues, EPA does not believe that an action on a state's infrastructure SIP submission is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) Existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction that may be contrary to the CAA and EPA's policies addressing such excess emissions (SSM); (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that may be contrary to the CAA because they purport to allow revisions to SIP-approved emissions limits while limiting public process or not requiring further approval by EPA; and (iii) existing provisions for PSD programs that may be inconsistent with

[7] EPA notes, however, that nothing in the CAA requires EPA to provide guidance or to promulgate regulations for infrastructure SIP submissions. The CAA directly applies to states and requires the submission of infrastructure SIP submissions, regardless of whether or not EPA provides guidance or regulations pertaining to such submissions. EPA elects to issue such guidance in order to assist states, as appropriate.

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

[9] EPA's September 13, 2013, guidance did not make recommendations with respect to infrastructure SIP submissions to address section 110(a)(2)(D)(i)(I). EPA issued the guidance shortly after the U.S. Supreme Court agreed to review the D.C. Circuit decision in *EME Homer City,* 696 F.3d 7 (D.C. Cir. 2012) which had interpreted the requirements of section 110(a)(2)(D)(i)(I). In light of the uncertainty created by ongoing litigation, EPA elected not to provide additional guidance on the requirements of section 110(a)(2)(D)(i)(I) at that time. As the guidance is neither binding nor required by statute, whether EPA elects to provide guidance on a particular section has no impact on a state's CAA obligations.

current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186, December 31, 2002, as amended by 72 FR 32526, June 13, 2007 (''NSR Reform''). Thus, EPA believes it may approve an infrastructure SIP submission without scrutinizing the totality of the existing SIP for such potentially deficient provisions and may approve the submission even if it is aware of such existing provisions.[10] It is important to note that EPA's approval of a state's infrastructure SIP submission should not be construed as explicit or implicit re-approval of any existing potentially deficient provisions that relate to the three specific issues just described.

EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submission. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

For example, EPA's 2013 Guidance gives simpler recommendations with respect to carbon monoxide than other NAAQS pollutants to meet the visibility requirements of section 110(a)(2)(D)(i)(II), because carbon monoxide does not affect visibility. As a result, an infrastructure SIP submission for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II).

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of section 110(a)(1) and (2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[11] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[12] Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[13]

[10] By contrast, EPA notes that if a state were to include a new provision in an infrastructure SIP submission that contained a legal deficiency, such as a new exemption for excess emissions during SSM events, then EPA would need to evaluate that provision for compliance against the rubric of applicable CAA requirements in the context of the action on the infrastructure SIP.

[11] For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions,'' 74 FR 21639, April 18, 2011.

[12] EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. See ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536, December 30, 2010. EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, e.g., 61 FR 38664, July 25, 1996 and 62 FR 34641, June 27, 1997 (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062, November 16, 2004 (corrections to California SIP); and 74 FR 57051, November 3, 2009 (corrections to Arizona and Nevada SIPs).

[13] *See, e.g.,* EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). *See, e.g.,* 75 FR 42342 at 42344, July 21, 2010 (proposed disapproval of director's discretion provisions); 76 FR 4540, January 26, 2011 (final disapproval of such provisions).

IV. Proposed Action

EPA is proposing to approve the following infrastructure elements or portions thereof of Maryland's August 14, 2013 SIP revision: Section 110(a)(2)(A), (B), (C), (D), (E), (F), (G), (H), (J), (K), (L), and (M). Maryland's SIP revision provides the basic program elements specified in section 110(a)(2) necessary to implement, maintain, and enforce the 2010 NO_2 NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 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 proposed rule, which satisfies certain infrastructure requirements of section 110(a)(2) of the CAA for the 2010 NO_2 NAAQS for the State of Maryland, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Reporting and recordkeeping requirements.

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

Dated: April 4, 2014.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2014–08490 Filed 4–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2013–0672; FRL–9909–42–Region 7]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing action to approve a revision to the State Implementation Plan (SIP) submitted by the State of Missouri for the purpose of incorporating administrative changes to the Missouri rule entitled, ''Municipal Solid Waste Landfills''. EPA is proposing to approve this SIP revision based on EPA's finding that the rule is as stringent as the rule it replaces and fulfills the requirements of the Clean Air Act (CAA or Act) for the protection of the ozone National Ambient Air Quality Standards (NAAQS) in St. Louis.

DATES: Comments on this proposed action must be received in writing by May 15, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2013–0672, by mail to Craig Bernstein, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. 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: Craig Bernstein, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; at 913–551–7688; or by email at *Bernstein.craig@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no relevant adverse comments because the revisions are administrative and consistent with Federal regulations. 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 in relation to this action. 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 action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: April 3, 2014.

Karl Brooks,

Regional Administrator, Region 7.

[FR Doc. 2014–08339 Filed 4–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2014–0145; FRL–9909–52–Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Clean Data Determination for the Baton Rouge Area for the 2008 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to find that the Baton Rouge, Louisiana marginal 2008 8-hour ozone nonattainment area is currently attaining the 2008 8-hour National Ambient Air Quality Standard (NAAQS) for ozone. This proposed clean data determination is based upon complete, quality assured, certified ambient air monitoring data that show the area has monitored attainment of the 2008 8-hour ozone NAAQS during the 2011–2013 monitoring period, and continues to monitor attainment of the NAAQS based on preliminary 2014 data.

DATES: Written comments should be received on or before May 15, 2014.

ADDRESSES: Comments may be mailed to Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), 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: Ms. Ellen Belk, Air Planning Section (6PD–L); telephone (214) 665–2164; email address: *belk.ellen@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 a 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: April 1, 2014.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2014–08373 Filed 4–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2011–0715, FRL–9909–54–Region–10]

Approval and Promulgation of Implementation Plans; Idaho: Infrastructure Requirements for the 1997 and 2006 Fine Particulate Matter and 2008 Ozone National Ambient Air Quality Standards; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; correction.

SUMMARY: On March 26, 2014, the EPA published a proposed rule finding that the Idaho State Implementation Plan (SIP) meets the infrastructure requirements of the Clean Air Act (CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated for fine particulate matter ($PM_{2.5}$) on July 18, 1997 and October 17, 2006, and for ozone on March 12, 2008, in addition to the interstate transport requirements of the CAA related to prevention of significant deterioration and visibility for the 2006 $PM_{2.5}$ and 2008 ozone NAAQS. In that publication, we supplied an incorrect docket number for commenters to use when they send us comments. The correct docket number is EPA–R10–OAR–2011–0715. If commenters have already submitted comments, they need not resubmit them, because they will be routed to the correct docket.

DATES: Comments must be received on or before April 25, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2011–0715, by any of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: R10-Public_Comments@epa.gov.*
- *Mail:* Kristin Hall, EPA Region 10, Office of Air, Waste and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle WA, 98101.
- *Hand Delivery/Courier:*

List of Subjects

EPA Region 10 Mailroom, 9th floor, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101. Attention: Kristin Hall, Office of Air, Waste and Toxics, AWT—107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2011–0715. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which 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 the 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 the 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which 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. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle WA, 98101.

FOR FURTHER INFORMATION CONTACT: Kristin Hall at (206) 553–6357, *hall.kristin@epa.gov.*

SUPPLEMENTARY INFORMATION:

Correction

On March 26, 2014 (79 FR 16711), we, the EPA, published a proposed rule finding that the Idaho SIP meets the infrastructure requirements of the CAA for the 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, and 2008 ozone NAAQS, in addition to the interstate transport requirements of the CAA related to prevention of significant deterioration and visibility for the 2006 $PM_{2.5}$ and 2008 ozone NAAQS. In that publication, we supplied an incorrect docket number for commenters to use when they submit comments. We are publishing this notice to clarify that the correct docket number is EPA–R10–OAR–2011–0715. However, if you already submitted a comment, you need not resubmit it, because it will be routed to the correct docket. For details on the proposed rule, please see our original **Federal Register** publication at 79 FR 16711.

Dated: March 28, 2014.

Michelle Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2014–08499 Filed 4–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2010–0890; FRL–9909–39–Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Control of Air Pollution From Motor Vehicles, Vehicle Inspection and Maintenance and Locally Enforced Motor Vehicle Idling Limitations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Texas State Implementation Plan (SIP). The revisions to the Texas Administrative Code (TAC) were submitted in 2002, 2005, 2006, 2008, 2010, 2011 and 2012. These revisions are related to the implementation of the state's motor vehicle emissions Inspection and Maintenance (I/M) program and the Locally Enforced Motor Vehicle Idling Limitations. The EPA is proposing to

approve these revisions pursuant to the Clean Air Act (CAA).

DATES: Comments must be received on or before May 15, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2010–0890, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions.
- Email: Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT**section below.
- Mail or Delivery: Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2010–0890. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index 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. John Walser (6PD–L), Air Planning Section, telephone (214) 665–7128, fax (214) 665–6762, email: *walser.john@epa.gov.*

The State submittal is also available for public inspection during official business hours, by appointment at the Texas Commission on Environmental Quality (TCEQ), Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

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

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I. Background

A. What is a SIP?

Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that air quality meets the National Ambient Air Quality Standards (NAAQS) established by EPA. The NAAQS are established under section 109 of the CAA and currently address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. A SIP is a set of air pollution regulations, control strategies, other means or techniques, and technical analyses developed by the state, to ensure that air quality in the state meets the NAAQS. It is required by section 110 and other provisions of the CAA. A SIP protects air quality primarily by addressing air pollution at its point of origin. SIPs can be extensive, containing state regulations or other enforceable documents, and supporting information such as emissions inventories, monitoring networks, and modeling demonstrations. Each state must submit regulations and control strategies to EPA for approval and incorporation into the federally-enforceable SIP.

The Texas SIP includes a variety of control strategies, including the regulations that control air pollution from motor vehicles such as the Inspection and Maintenance (I/M) program and Locally Enforced Motor Vehicle Idling Limitations.

B. What is vehicle inspection and maintenance?

The Clean Air Act required ozone nonattainment areas classified moderate and higher to have vehicle inspection and maintenance programs to ensure that emission controls on vehicles are properly maintained. The Texas vehicle I/M program, which is referred to as the Texas Motorist Choice (TMC) Program, was approved by EPA in the **Federal Register** on November 14, 2001 (66 FR 57261).[1] [2]

The State's TMC program requires that gasoline powered light-duty vehicles, and light and heavy-duty trucks between two and twenty-four years old, that are registered or required to be registered in the I/M program area, including fleets, are subject to annual inspection and testing. Vehicles in Dallas, Tarrant, Collin, Denton, Ellis, Johnson, Kaufman, Parker, and Rockwall counties in the DFW area, and Harris, Galveston, Brazoria, Fort Bend, and Montgomery in the HGB nonattainment area that are 1995 and older are subject to an ASM–2 tailpipe test. Vehicles in those counties that are 1996 and newer receive the On-Board Diagnostic (OBD) test in place of the tailpipe test.

Currently, all I/M program vehicles in El Paso County are subject to the two-

[1] On November 14, 2001 we approved the Texas Motorist Choice (TMC) Vehicle I/M program (66 FR 57261). We neglected to update table (e) in 40 CFR 52.2270 titled ''*EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP*'' to reflect this approval. While we note that this oversight created a flaw in the codification of the Texas SIP, a technical correction to the SIP is not needed at this time. Upon our approval of the State's revisions to the renamed I/M Program, the TMC Vehicle I/M program will appropriately address the correction in 40 CFR 52.2770(e), and will remedy the previous flaw.

[2] Previous actions taken toward full approval of the TMC I/M program include: A proposed conditional interim approval proposed on October 3, 1996 (61 FR 51651); an interim final conditional approval published on July 11, 1997 (62 FR 37138); and a direct final action on April 23, 1999 (64 FR 19910) to remove the conditions.

speed idle tailpipe test if they are model year 1995 or older, or an OBD test if they are model year 1996 or newer.

Vehicles in all program areas are also currently subject to a gas cap pressure check and an anti-tampering inspection as part of the statewide annual safety inspection.

C. What are the Texas Motor Vehicle Idling Limitations?

Texas idling rules implement idling limits for gasoline and diesel-powered engines in heavy-duty motor vehicles within the jurisdiction of any local government in the State that has signed a Memorandum of Agreement (MOA) with TCEQ. The Texas Motor Vehicle Idling Limits were approved by EPA into the SIP on April 11, 2005 (70 FR 18308), and revisions to the rule were approved by EPA on April 9, 2010 (75 FR 18061). The local government that signs the MOA is delegated the authority to enforce the rule within its jurisdiction. Participation in the vehicle idling program is voluntary and thus far, numerous cities and counties in the Central Texas Area (CTA) and North Central Texas Area (NCTA) have entered into this agreement.[3] The vehicle idling program provides local governments the option of implementing the rules when additional control measures are needed to achieve or maintain attainment of the ozone NAAQS.

II. Overview of the State Submittals

A. The August 16, 2002 Submittal

On August 16, 2002, the TCEQ submitted SIP revisions to EPA that amended rules related to the implementation of the state's motor vehicle emissions I/M program. These revisions modified the testing network design, emission test fees, incentives to inspection stations for early participation in the I/M program, equipment specifications and requirements related to vehicle waivers and test on resale. Additionally, the TCEQ repealed the provisions for waivers and extensions for inspection requirements because the rules are duplicative of Department of Public Safety (DPS) waiver rules in 37 TAC § 23.93. As discussed further in Section III of this proposal, Texas subsequently submitted the DPS waiver rules for SIP approval.

[3] For a current list of areas implementing idling restrictions in the NCTA, visit *http://www.nctcog.org/trans/air/programs/idling/index.asp*. For a current list of areas implementing idling restrictions in the CTA, visit *http://www.tceq.state.tx.us/implementation/air/sip/vehicleidling.html.*

B. The December 30, 2002 Submittal and January 20, 2006 Update

On December 30, 2002, the State submitted SIP revisions that further amend the vehicle I/M program and the Accelerated Vehicle Retirement Program. These revisions include the continuation of two-speed idle (TSI) testing in the El Paso program area; the removal of requirements for OBD testing; the addition of a contingency measure that the El Paso program area will implement OBD testing should the Commission publish notice in the Texas Register of a determination that contingency measures are necessary in order to maintain attainment of the NAAQS; and the deletion of the requirement that all emissions inspection stations offer both TSI and OBD tests until the contingency measure is triggered. The State submitted to EPA supplemental technical clarification information in a letter dated January 20, 2006 and officially withdrew from EPA's consideration the revisions in the December 30, 2002 submittal that moved OBD testing to a contingency measure (please see Docket I.D. EPA–R06–OAR–2011–0890). Prior to the December 30, 2002 rule revisions and I/M SIP revision, TSI was to continue and OBD testing was scheduled to commence in El Paso in 2003. The 2005 SIP revisions (see November 14, 2005 submittal below) require TSI testing to continue and OBD testing to commence in El Paso in January 2007. Therefore, the State indicated in the January 2006 letter that the 2002 revisions that establish OBD as a contingency measure were no longer necessary. Based on the State's January 20, 2006 letter, the only remaining provisions that the State did not withdraw were changes to 114.50(a) and (b) concerning vehicle emission inspection requirements.

C. The November 14, 2005 Submittal

On November 14, 2005, the State submitted SIP revisions to the existing vehicle I/M program. These revisions amended the I/M program for all gasoline-powered motor vehicles two through twenty four years old that are registered and primarily operated in El Paso County. The amendments require implementation of OBD testing on all OBD-equipped 1996 and newer model year vehicles, and continue TSI testing of pre-1996 model year vehicles. The amendments require all emissions test stations in the El Paso program area to offer both TSI testing and OBD testing to the public beginning January 1, 2007. Additionally, the amendments update the vehicle emissions testing equipment specifications used in all Texas I/M program areas to include a United States Environmental Protection Agency OBD communication component, known as a controller area network (CAN).

D. The May 15, 2006 Submittal

On April 26, 2006, the State adopted and on May 15, 2006, submitted to EPA for approval into the SIP revisions to 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles; Subchapter J, Operational Controls for Motor Vehicles; Division 2, Locally Enforced Motor Vehicle Idling Limitations. On April 9, 2010, EPA approved these revisions to the motor vehicle idling limits into the SIP, with the exception of one revision to section 114.512 and one revision to section 115.517 (75 FR 18061). The revision to section 114.512 added a provision that expired on September 1, 2007, prohibiting drivers using a vehicle's sleeper berth from idling in a school zone or within 1,000 feet of public school during its hours of operation. The revision to section 114.517 added an exemption from the motor vehicle idling limits for a motor vehicle when idling is necessary to power heating and air conditioning during a government-mandated rest period. EPA is now taking action on these remaining revisions from the May 15, 2006 submittal.

E. The February 28, 2008 Submittal

On January 30, 2008, the State adopted and on May 15, 2006, submitted further revisions to the Locally Enforced Motor Vehicle Idling Limitations. On April 9, 2010, EPA approved these revisions to the motor vehicle idling limits into the SIP, with the exception of one further revision to section 114.512 and section 114.517. The revision to section 114.512 expanded the prohibition on drivers using a vehicle's sleeper berth to idle in a school zone or within 1,000 feet of a public school to also apply in a residential area or within 1,000 feet of a hospital, and also extended the prohibition's expiration date to September 1, 2009. The revision to section 114.517 narrowed the exemption for a motor vehicle when idling to power heating or air conditioning during a government mandated rest period such that the exemption applies only when the motor vehicle is not within two miles of a facility offering external heating and air conditioning connections at a time when those connections are available, and extended the exemption's expiration date to September 1, 2009. EPA is now taking action on these

remaining revisions from the February 28, 2008 submittal.

F. The December 22, 2010 Submittal

On December 22, 2010, the State submitted SIP revisions concerning the requirements for low-volume vehicle emissions inspection stations and the vehicle emissions inspection analyzer specifications. The revisions streamline the process for implementing minor non-programmatic modifications to the vehicle emissions inspection analyzer specifications and include various non-substantive changes to apply appropriate and consistent use of acronyms, section references, structure, formatting and certain terminology.

G. The August 30, 2011 Submittal

On August 30, 2011, the State submitted SIP revisions concerning the requirements for Locally Enforced Motor Vehicle Idling Limitations. The revisions allow enforcement of heavy-duty vehicle idling year round; removes the expired prohibition for drivers using sleeper berths to idle in residential areas, school zones, and near hospitals; removes expiration dates that are no longer applicable, removes the duplicative exemption for a motor vehicle that has a gross vehicle weight rating of 14,000 pounds or less and replaces it with a new exemption for armored vehicles; and retains the exemption for a motor vehicle when idling for heating or air conditioning while a driver is using the vehicles sleeper berth for a government-mandated rest period, and is not within two miles of a facility offering external heating or air conditioning. As noted above, this expired date was removed from the exemption.

H. The August 31, 2012 Submittal

On August 31, 2012, the State submitted SIP revisions that further amend the requirements for Locally Enforced Motor Vehicle Idling Limitations. The revisions create a new exemption for motor vehicles that have a gross vehicle weight rating greater than 14,000 pounds and are equipped with a 2008 or subsequent model year heavy-duty diesel engine or liquefied or compressed natural gas engine that has been certified by the EPA or another state environmental agency to emit no more than 30 grams of nitrogen oxides emissions per hour when idling.

III. EPA's Evaluation of the Submittals

The revisions proposed to be approved address 30 TAC 114, Subchapter A (Control of Air Pollution from Motor Vehicles), Subchapter C (Vehicle Inspection and Maintenance), and Subchapter J, (Operational Controls for Motor Vehicles). We have prepared a Technical Support Document (TSD) for this proposal which details our evaluation. Our TSD may be accessed on-line at *http:www.regulations.gov,* Docket No. EPA–R06–OAR–2010–0890.

Our primary consideration for determining the approvability of the TCEQ's submittals is whether these proposed actions comply with section 110(l) of the Act. Section 110(l) of the Act provides that a SIP revision must be adopted by a State after reasonable notice and public hearing. Additionally, CAA § 110(l) states that the EPA cannot approve a SIP revision if that revision would interfere with any applicable requirement regarding attainment, reasonable further progress (RFP) or any requirement established in the CAA. In the case of the I/M revisions, we must also consider whether these revisions comply with our inspection and maintenance requirements at 40 CFR part 51, Subpart S and 40 CFR 85.2222 (Federal I/M Rules). Our evaluation of the submittals found that the SIP revisions were adopted by the State after reasonable notice and public hearing, and that approval of the revisions would not interfere with any CAA requirement.

A. The August 16, 2002 Submittal

The State adopted revisions to 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter A, Definitions, Section 114.2; and Subchapter C, Vehicle Inspection and Maintenance, Sections 114.50—114.53. The SIP revisions contain a revised narrative, rules, and supporting documentation as outlined in the requirements of the Federal I/M rules.

Section 114.2 identifies and defines the terms used in the I/M program. Sections 114.2(3)–(13) are renumbered to account for the addition of 114.2(3) which adds a definition for low volume emissions inspection station. There is no federal definition of the term ''low volume emissions inspection station.'' We propose to find this term approvable because it does not conflict with any federal requirement. Section 114.2(5), previously 114.2(4), is modified to add new text ''all references to OBD should be interpreted to mean the second generation of this equipment, sometime referred to as OBDII.'' This text ensures that the most recent technology is available for testing and consistent with federal requirements.

These revisions are ministerial and or add clarification and we therefore propose that they are approvable.

Section 114.50 establishes vehicle emissions inspection requirements. Section 114.50(a)(2)(A), (a)(3)(A), (a)(4)(A), (a)(4)(D), (a)(4)(F), and (a)(5)(A) are modified to delete the qualifier ''If OBD data cannot be collected from the vehicle, an EPA-approved tailpipe emissions test will be used.'' These revisions cover the DFW area, DFW extended area, and the HGA areas. Throughout Section 114.50, that statement is deleted because it is rare that OBD data cannot be collected from vehicles. In those instances, the station will check the OBD malfunction indicator light (MIL), one of the primary pass/fail criteria for OBD inspections. This provision is discretionary and its removal will not have a significant impact on the effectiveness of the program because TCEQ estimates that less than 1.0% of the testable OBD fleet will be unable to process data to the OBD analyzer. We propose to find that this revision is approvable because it will not interfere with attainment and reasonable further progress or any other applicable requirement.

Section 114.50(a)(2)(C), 114.50(a)(3)(C) and 114.50(a)(4)(C) add new text indicating that all emissions inspection stations in affected program areas shall offer both the ASM–2 test and the OBD test to the public, except low volume emissions inspection stations. The phrase ''if OBD data cannot be collected from the vehicle, an EPA-approved tailpipe emissions test will be used'' was essentially moved from 114.50(a)(2)(A), (B), and (C) and included in sections 114.50(a)(2)(C), 3(C) and 4(C) language stating that the inspection stations shall offer both the ASM–2 test and the OBD test. We propose to find that these revisions are approvable because the language does not conflict with any federal requirements. Section 114.50(a)(5)(C) is new text stating that ''all vehicle emissions inspection stations in the El Paso program area shall offer both the TSI test and the OBD test to the public.'' [4] This revision ensures that inspections stations in El Paso are able to comply with the federal requirement to conduct OBD testing on model year 1996 and newer light-duty vehicles (40 CFR Part 51, Subpart S and 40 CFR 85.2222). Section 114.50(b)(5) is modified to delete the minimum expenditure waiver and parts

[4] This language was repealed in the December 30, 2002 submittal when Texas made OBD testing in the El Paso area a contingency measure, as discussed in Section III.B of this proposal. However, this concept was reinstated at 114.50(a)(4)(D) in the November 14, 2005 submittal when Texas added OBD testing back into the SIP for 1996 and newer vehicles in the El Paso area starting in 2007, as discussed in Section III.C of this proposal.

availability time extension and adds documentation requirements for waivers or time extension. Section 114.50(b)(6) is modified to add the phrase ''or in any county adjacent to a program area'' to the section. The proposed revision extends the current remote sensing program to include vehicles commuting into the area from neighboring counties. We propose to find that this revision is also approvable because it increases required participation in the program beyond the federal requirements.

Section 114.50(b)(7) is a new section adding new requirements for vehicles resold into a program area from areas not in an I/M program area. The revision adds a test-on-resale component to the I/M program and requires proof that the vehicle has passed an emissions inspection within 90 days before transfer in order to be eligible for title receipt or registration. The provision provides an exception for all 1996 and newer vehicles with less than 50,000 miles. This revision captures the requirement to test those vehicles that are registered in a county without the I/M program that may be resold into a program area. We propose to approve this revision because we believe it should result in additional emission reductions by ensuring vehicles sold within the nonattainment areas have passed an emissions test. Other revisions to Section 114.50 are ministerial in nature and include renumbering.

Section 114.51 identifies the equipment evaluation procedures for vehicle exhaust gas analyzers. Section 114.51(a) is modified to update the vehicle analyzer specification date from November 1, 2000 to June 15, 2001.

Section 114.52, Waivers and Extensions for Inspection Requirement is repealed because the requirements are duplicative in DPS rules, 37 TAC 23.93, relating to vehicle emission inspection and maintenance requirements. The state submitted those rules in the November 14, 2005, submittal discussed further in Section III.C of this proposal. The state also proposed a new Section 114.52, Early Participation Incentive Program (EPIP). More detail on each of these revisions is in the Technical Support Document (TSD), which is provided in the docket for this rulemaking. Based on the subsequent submittal of the equivalent rules at 37 TAC 23.93, we propose to find that the repeal of Section 114.52 is approvable.

New Section 114.52 established the Early Participation Incentive Program, its purpose, eligibility, program acceptance, enrollment and other program requirements to ensure an adequate number of emissions inspection stations were open to the public during the early implementation of the program. The incentive program would be available to the first 1,000 eligible emissions inspection stations in Dallas, Tarrant, Denton, Collin, and Harris Counties or adjacent counties. The program would provide emissions inspection station owners or operators with a financial assurance if ASM–2 testing were to be terminated within three years of the program start date on May 1, 2002. These changes enhanced the program, provided financial assurance and increased the availability of inspection stations to the public. Because the I/M program was fully implemented, this section was repealed by TCEQ in a future adoption (November 18, 2010). Please see the discussion of the December 22, 2010 submittal in Section III of this proposal and in Section C6 of the TSD for more detail.

Section 114.53 establishes inspection and maintenance fees. Section 114.53(a)(2) is modified to change the amount of fees collected by the inspection stations in El Paso County and specifies the amount remitted to Department of Public Safety (DPS), depending on the county adoption of a resolution regarding Low Income Repair Assistance Program (LIRAP) participation. Section 114.53(a)(3) is modified to update the amount of fees collected by the inspection stations in the Dallas/Ft Worth (DFW) Program area. Section 114.53(a)(4) is modified to update the amount of fees collected by the inspection stations in the Houston/Galveston/Brazoria (HGB) program area.

This submittal was adopted consistent with the public notice SIP requirements of CAA § 110(l). We propose to find that these revisions are approvable because they add specificity to the program. Further, these revisions do not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement, are consistent with EPA's rules for I/M programs at 40 CFR part 51, Subpart S and 40 CFR 85.2222, and do not result in emissions increases.

B. The December 30, 2002 Submittal and January 20, 2006 Update

On December 4, 2002, the State adopted revisions to 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter C, Vehicle Inspection and Maintenance and Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program, Division 1, Vehicle I/M program and Section 114.50. The amendments include the continuation of TSI testing in the El Paso area, and instead of requiring OBD testing of 1996 and newer cars to commence, made OBD testing in the El Paso area a contingency measure to be implemented if the area violated the ozone standard.

The State later submitted to EPA supplemental technical clarification information in a letter dated January 20, 2006 and withdrew from EPA consideration the revisions in the December 30, 2002 submittal that moved OBD testing to a contingency measure (please see Docket I.D. EPA–R06–OAR–2010–0890). The 2005 SIP revisions (see section below) require TSI testing to continue on older cars and OBD testing to commence in El Paso in January 2007 for 1996 and newer cars. Therefore, the State indicated that the 2002 revisions are no longer necessary.

EPA's evaluation of the December 30, 2002 submittal is limited to the provisions in that submittal that the State did not withdraw, which are 114.50(a) and (b) concerning vehicle emissions inspection requirements. Section 114.50(a) is revised to clarify that program areas are defined in section § 114.2. Other changes to Section 114.50 are ministerial and or offer clarifying language.

The SIP revision contains a revised narrative, rules, and supporting documentation as outlined in the requirements of the Federal I/M Rules. This submittal was adopted consistent with the public notice SIP requirements of CAA § 110(l). We propose to find that these revisions are approvable because they either clarify the requirement or are non-substantive in nature. The revisions in this submittal do not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement and are consistent with EPA's rules for I/M programs at 40 CFR part 51, Subpart S and 40 CFR 85.2222. Additional details are available in the TSD for the rulemaking.

C. The November 14, 2005 Submittal

The State adopted revisions to 30 TAC Chapter 114, Sections 114.2, 114.50, 114.51 and 114.53. The amendments revise the existing I/M program for all covered gasoline-powered motor vehicles in El Paso County. The revisions require implementation of OBD testing of all OBD-equipped 1996 and newer model year vehicles, and continue TSI testing of pre-1996 model year vehicles. Also, the revisions require all emissions test stations in the El Paso program area to offer both TSI testing and OBD testing to the public beginning January 1, 2007. Additionally, the revisions update the vehicle emissions testing specification

used in all Texas I/M program areas to include an EPA OBD communication component, known as controller area network (CAN) and other changes to improve the enforceability of the program. A detailed discussion of the changes is contained in the TSD.

It is worth pointing out that in section 114.50(b)(2) there are several non-substantive editorial changes. However, section 114.50(b)(2) should not be part of the approved SIP because it deals with federal facilities, so we are not acting on this revision at this time.[5]

In addition to the changes to the I/M rules, corresponding changes to the SIP narrative are included in the SIP submittal. This includes Attachment A, ''Technical Supplement, Inspection/Maintenance (I/M) Performance Standards for Low-Enhanced Program Areas (EPA Flexibility Amendments), October 26, 2005, Rule Project No. 2005–026–114–EN, Technical Supplement.'' The submittal also includes revisions to Appendix K ''Specification for Vehicle Gas Analyzer Systems for Use in the Texas Vehicle Emissions Testing Program''; Appendix G ''Specifications for On-Board Diagnostics II (OBD–II) Analyzer for Use in the Texas Vehicle Emissions Testing Program''; and Appendix I ''Rules and Regulations for Official Vehicle Inspection Stations and Certified Inspectors, Texas Department of Public Safety, dated January 1, 2003.'' Appendix I includes the DPS rules for waiver and extensions for inspection requirements that were repealed from Section 114.52 in Texas's August 16, 2002 submittal, as previously discussed in Section III.A of this proposal. The State repealed those requirements because they are duplicative of those contained in DPS rules 37 TAC § 23.93. In a comment letter dated September 19, 2001, EPA requested that Texas submit the waiver rules in 37 TAC § 23.93 to replace the repealed 114.52 in the SIP. In a clarification letter from TCEQ on January 22, 2014, TCEQ explained that the DPS rules contained in Appendix I of the November 14 2005, submittal fully replace the waiver requirements that TCEQ repealed from 114.52 in the August 16, 2002 submittal (please see Docket I.D. EPA–R06–OAR–2011–0890). Texas's submittal of the DPS rules in Appendix I on the November 14, 2005, meets the requirement for a SIP submittal. These appendices are included in this rulemaking for proposed approval.

The SIP revision contains a revised narrative, rules, and supporting documentation as outlined in the requirements of the Federal I/M Rules. This submittal primarily replaces the two speed idle test with the OBD testing for 1996 and newer vehicles in the El Paso area starting in 2007. OBD testing is more effective for newer vehicles. This submittal was adopted consistent with the public notice SIP requirements of CAA § 110(l). We propose to find that these revisions are approvable because they either make the program more effective or are non-substantive in nature. Further, these revisions do not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement and are consistent with EPA's rules for I/M programs at 40 CFR part 51, Subpart S and 40 CFR 85.2222.

D. The December 22, 2010 Submittal

This submission includes a revision to the I/M program to improve implementation. The revisions to the I/M program, as detailed below do not change the effectiveness of the program but ease implementation. At the same time the State adopted changes to the Low Income Repair Assistance Program. The changes to the LIRAP program were not included as part of the SIP revision, however, and thus are not being addressed in this action.

The revision to Section 114.2(4) changes the definition of low-volume emission inspection station to add the condition that the station ''meets all criteria for obtaining a low-volume waiver from the Texas Department of Public Safety'' and deletes the text ''performs on-board diagnostics (OBD) testing only and does not exceed 1,200 OBD tests per calendar year.'' This limit on tests per calendar year is contained in the Texas Department of Public Safety Manual entitled ''Vehicle Emissions Inspection & Maintenance Rules & Regulations Manual for Official Vehicle Inspection Stations and Certified Inspectors.''

The revisions to Section 114.51(a) removes the specific date of the version of the ''Specifications for Vehicle Exhaust Gas Analyzer Systems for Use in the Texas Vehicle Emissions Testing Program'' and replaces it with ''most recent version of the.'' Sections 114.51(a) and (b) contain additional non-substantive revisions.

This submission includes the repeal of the Early Participation Incentive Program. The program was meant to encourage owners and operators of emission inspection stations to participate early in the purchase of ASM–2 equipment to ensure an adequate number and distribution of stations would be available by the program start date. The EPIP expired in all I/M program areas on May 1, 2008. This incentive program is no longer needed and is not required by the EPA's I/M rules, and therefore, we propose to find that the repeal of the program is approvable.

The SIP revision contains a revised narrative, rules, and supporting documentation as outlined in the requirements of the Federal I/M Rules. This submittal was adopted consistent with the public notice SIP requirements of CAA § 110(l), and the revisions in this submittal do not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement. We propose to find that these revisions are approvable because they either clarify the requirement or are non-substantive in nature.

E. The August 30, 2011 Submittal (Including the May 15, 2006 and February 28, 2008 Submittals)

On July 20, 2011, the State adopted and on August 30, 2011, submitted revisions to 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles; Subchapter J, Operational Controls for Motor Vehicles; Division 2, Locally Enforced Motor Vehicle Idling Limitations. The SIP submittal revises sections 114.512 (Control Requirements for Motor Vehicle Idling) and 114.517 (Exemptions).

The submittal revises section 114.512(a) by removing the vehicle idling program's enforcement period of April 1 through October 31 of each calendar year to allow enforcement of the program year-round. The daily maximum 8-hour ozone average can reach moderate levels even outside of the ozone season in the areas currently participating in the vehicle idling program, and moderate ozone levels

[5] Texas revised its regulations to include EPA's Federal facilities reporting requirements found in 40 CFR 51.356(a)(4). This particular Federal regulation requires an approvable State I/M program to have Federal facilities operating vehicles in the I/M program areas(s) report certification of compliance to the State. This requirement appears to be different than those for other non-Federal groups of affected vehicles. EPA did not require the State to implement or adopt this reporting requirement dealing with Federal installation within I/M areas at the time of program approval. The Department of Justice recommended to EPA that this particular Federal regulation be revised because it appears to grant States authority to regulate Federal installations in circumstances where the Federal government has not waived sovereign immunity. It would not be appropriate to require compliance with this regulation or to require it for an approvable I/M program, if it is not constitutionally authorized. EPA intends to address this provision in the future and will review State I/M SIPs with respect to this issue whenever EPA finalizes a new rule. At this time, EPA will not approve or disapprove the specific requirements of 30 TAC 114.50(b)(2), which apply to Federal facilities, as part of the Texas I/M SIP.

may pose health concerns for certain sensitive groups. The EPA is proposing to approve this revision because year-round enforcement of the vehicle idling program is expected to result in emission reductions outside of the ozone season that will help provide additional protection from exposure to moderate ozone levels for sensitive groups in the local jurisdictions participating in the program. Further, year round applicability will likely improve program effectiveness as operators do not get out of the habit of idle reduction. The second revision to section 114.512 eliminates subsection (b), which expired on September 1, 2009. Subsection (b) prohibited drivers using a vehicle's sleeper berth from idling in a residential area, school zone, within 1,000 feet of a hospital, or within 1,000 feet of public school during hours of operation. As we explained in the April 9, 2010 (75 FR 18061) rulemaking in which EPA approved previous revisions to the vehicle idling limits into the SIP, EPA did not take action on the May 15, 2006 revision that added subsection (b) under section 114.512 or the February 28, 2008 revision that subsequently revised subsection (b), because at the time the EPA took action on the May 15, 2006 and February 28, 2008 submittals, the expiration date of September 1, 2009 associated with subsection (b) had already passed such that subsection (b) was no longer in effect. Therefore, the August 30, 2011 revision that eliminates subsection (b) and that is before us to take action on does not constitute a change to the currently approved SIP. We are now proposing to approve the State Rules into the SIP without subsection (b) as codified in the August 30, 2011 submission. This action addresses the May 15, 2006 revision that added subsection (b) under section 114.512; the February 28, 2008 revision that subsequently revised subsection (b) by expanding the prohibition and extending its expiration date; and the August 30, 2011 revision that eliminates subsection (b). Although the net effect of these revisions does not constitute a change to the currently approved SIP, we are making clear that these previous revisions are addressed by this action to avoid any potential future confusion that may result if we do not take action on these revisions at this time.

Section 114.517 (Exemptions) is also revised to eliminate language from paragraphs (1) and (2), which contain duplicative language.

The submittal also revises section 114.517 by adding a new exemption under paragraph (2) that applies to the primary propulsion engine of a motor vehicle being used to provide air conditioning or heating necessary for employee health or safety in an armored vehicle while the employee remains inside the vehicle to guard the contents or while the vehicle is being loaded or unloaded. Additionally, paragraph (12) under section 114.517 is revised to remove the expiration date of the exemption that applies to a motor vehicle when idling is necessary to power a heater or air conditioner while a driver is using the vehicle's sleeper berth for a government-mandated rest period and is not within two miles of a facility offering external heating and air conditioning connections at a time when those connections are available. This revision allows for the currently expired exemption under paragraph (12) to be retained. We note the exemption under paragraph (12) has not been approved into the Texas SIP because when EPA took action on the May 15, 2006 and February 28, 2008 SIP submittals that added and subsequently revised this exemption on April 9, 2010 (75 FR 18061), the exemption was no longer effective because the September 1, 2009 expiration date of the exemption had passed. We are now taking action on the May 15, 2006 and February 28, 2008 revisions that added and subsequently revised the exemption under current paragraph (12), and we are also taking action on the August 30, 2011 revision that further revises the exemption.

The August 30, 2011 submittal contains a technical analysis under CAA section 110(l) to demonstrate that approving into the SIP the new exemption for armored vehicles and the exemption for drivers using the vehicle's sleeper berth for a government-mandated rest period will not interfere with any applicable requirement concerning attainment and reasonable further progress in the Dallas/Fort Worth nonattainment area. The State's 110(l) analysis explains that the emissions increases that may be expected as a result of the new exemption for armored vehicles will not interfere with attainment or reasonable further progress in the SIP[6] because the revision to section 114.512 to allow year-round enforcement is expected to provide additional emissions reductions in the months that are currently not subject to enforcement and to offset the emissions increases due to the new exemption for armored vehicles. Additionally, the 110(l) analysis explains that the Locally Enforced Motor Vehicle Idling Limitations are part of the Voluntary Mobile Source Emission Reduction Program (VMEP) commitments in the Dallas-Fort Worth Attainment Demonstration SIP (DFW Attainment SIP) revision for the 1997 8-hour ozone NAAQS, and that based on the North Central Texas Council of Governments (NCTCOG) estimates, the DFW area exceeded the NO_x and VOC emission reductions required as part of the VMEP commitments.[7]

The Texas SIP also includes the locally enforced idling limits in the Austin area as part of the Early Action Compact SIP. The Austin area is currently meeting the 1997 and 2008 ozone standards even considering the exemption for armored vehicles has been in place at the State level since 2011 and the exemption for motor vehicles idling during a government mandated rest period has been in place since 2006.[8] Therefore, EPA believes it is reasonable to conclude that this additional exemption does not interfere with maintenance of the standard in the Austin Area. More detail is in the TSD, which is provided in the docket for this rulemaking. Thus, the 110(l) analysis demonstrates that any potential emissions increases resulting from the exemption for armored vehicles and the exemption for drivers using the vehicle's sleeper berth for a government-mandated rest period will be offset by the excess emissions reductions achieved by the overall VMEP.

Therefore, we are proposing to approve into the SIP the new exemption under paragraph (2) for armored vehicles. We are also proposing to approve into the SIP the following: (1)

[6] The Locally Enforced Motor Vehicle Idling Limits are included as an emission reduction measure in the Dallas-Fort Worth Attainment Demonstration SIP for the 1997 8-hour ozone NAAQS and the Austin Early Action Compact (EAC) SIP for the 1997 8-hour ozone NAAQS.

[7] The CAA section 110(l) demonstration makes reference to the NCTCOG's VMEP accounting for the Locally Enforced Idling Restrictions without providing documentation of this in the SIP submittal. However, this documentation was provided to EPA by TCEQ via email on March 25, 2011, in response to the comment letter provided by EPA during the State's public notice and comment period (please see the ''Written and Oral Testimony'' section of the August 30, 2011 SIP submittal—the reference number for EPA's written comments is W–123). The documentation consists of a report from the NCTCOG dated August 26, 2010. The report quantifies the emissions reductions benefits achieved by the VMEP and other local programs in the DFW Attainment SIP as of March 2009. The report quantifies the emissions reduction benefits achieved by the overall VMEP and by each component of the VMEP. A copy of the TCEQ's March 25, 2011 email to EPA and a copy of the NCTCOG's August 26, 2010 report can be found in the docket for this proposed rulemaking.

[8] The State first adopted the exemption for motor vehicles idling during a government mandated rest period in 2006, but the exemption eventually expired and in 2011 the State adopted revisions that eliminated the expiration date associated with the exemption.

The revision from the May 15, 2006 submittal that amended section 114.517 by adding the exemption for a motor vehicle when idling is necessary to power a heater or air conditioner while a driver is using the vehicle's sleeper berth for a government-mandated rest period; (2) the February 28, 2008 SIP revision that narrowed the exemption by adding language such that the exemption applies only when the motor vehicle is not within two miles of a facility offering external heating and air conditioning connections at a time when those connections are available; and (3) the August 30, 2011 revision that removes the September 1, 2009 expiration date of the exemption, effectively retaining the exemption.

This submittal was adopted consistent with the public notice SIP requirements of CAA § 110(l). We are proposing to approve these revisions to section 114.517 because the State has demonstrated that the approval of these exemptions into the SIP will not interfere with any applicable requirement concerning attainment and reasonable further progress. Any excess emissions reductions achieved in the DFW area that are used as substitute emissions reductions to offset any potential increase in emissions resulting from these new exemptions cannot be used as substitute emissions reductions to offset a shortfall in any other control measure in the SIP, or otherwise be used as a SIP credit for any other emissions reduction control measure.

F. The August 31, 2012 Submittal

This submittal adopted on August 8, 2012, provided further revisions to 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles; Subchapter J, Operational Controls for Motor Vehicles; Division 2, Locally Enforced Motor Vehicle Idling Limitations. The SIP submittal makes revisions to section 114.517 (Exemptions).

The submittal revises section 114.517 by adding a new exemption for a motor vehicle that has a gross vehicle weight rating greater than 14,000 pounds and that is equipped with a 2008 or subsequent model year heavy-duty diesel engine or liquefied or compressed natural gas engine that has been certified by the EPA or a state environmental agency to emit no more than 30 grams of NO_x per hour when idling. The SIP submittal also re-numbers the exemptions under section 114.517 to account for the new exemption.

Information provided in the submittal, along with additional technical analysis by EPA under CAA section 110(l) demonstrates that approval into the SIP of the new exemption for motor vehicles with a gross vehicle weight rating greater than 14,000 pounds and equipped with certain low NO_x emitting engines will not interfere with any applicable requirement concerning attainment and reasonable further progress. The State's analysis explains that engines certified to emit no more than 30 grams of NO_x per hour when idling are significantly cleaner than the uncontrolled vehicles currently in use that emit between 135 and 170 grams of NO_x per hour when idling. These ''clean idle engines'' emit lower NO_x emissions both while idling and while in transit. Model year 2008 and newer vehicles with clean idle engines actually emit less than idle reduction technologies that are allowed under the rule as auxiliary power units (APU). Thus, the new exemption will provide drivers with a new option that would enable them to comply with the motor vehicle idling limits, and provide an incentive for replacing older, higher-emitting vehicles with the newer clean idle engines. Without this exemption, drivers of vehicles with clean idle engines may use an idle reduction technology, such as an APU, to comply with the motor vehicle idling limits when they find it necessary to idle for longer than 5 minutes.[9] An APU is a commonly used idle reduction technology used in heavy duty trucks to supply cooling, heating, and electrical power for other applications while the main truck engine is turned off, thereby enabling drivers to comply with the motor vehicle idling limits. The type of clean idle engine the new exemption applies to would emit no more than 30 NO_x grams per hour (g/hr) when idling, while an APU in the larger size range (23 horsepower) can be expected to emit approximately 53 NO_x g/hr and one in the smaller size range (14 horsepower) can be expected to emit approximately 32 NO_x g/hr.[10] Without the new exemption, drivers of vehicles with clean idle engines could potentially choose to use an APU to comply with the motor vehicle idling limits by shutting down the clean idle engine and operating only the APU, potentially resulting in higher NO_x emissions than if the vehicle with the clean idle engine is idled instead. Therefore, we believe the new exemption will provide drivers with a new option enabling them to comply with the motor vehicle idling limits, and will not result in backsliding. We are proposing to approve the new exemption for motor vehicles with a gross vehicle weight rating greater than 14,000 pounds and equipped with a 2008 or subsequent model year heavy-duty diesel engine or liquefied or compressed natural gas engine that has been certified by the EPA or a state environmental agency to emit no more than 30 grams of NO_x per hour when idling.

This submittal was adopted consistent with the public notice SIP requirements of CAA § 110(l). The EPA proposes to approve the above revisions to the Locally Enforced Motor Vehicle Idling Limitations into the SIP because they do not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement and because they allow for clarity and consistency of the exemptions and control requirements for motor vehicle idling.

[9] For a list of EPA SmartWay verified idle reduction technologies, please visit *http://epa.gov/smartway/forpartners/technology.htm#tabs-4*.

[10] Please see our TSD for a more detailed discussion of these estimates.

IV. Proposed Action

The EPA is proposing to approve, revisions to regulations, and updates to the I/M portion of the mobile source strategies that control emissions from motor vehicles in Texas. We are proposing to approve revisions to the following sections within Chapter 114 of Title 30 of the Texas Administrative Code (TAC): 114.1, 114.2, 114.4, 114.50, 114.51, 114.52, 114.53, 114.211, 114.212, 114.213, 114.214, 114.215, 114.216, 114.217, 114.219, 114.512, and 114.517. We are also proposing to approve revisions to 37 TAC 23.93. We are proposing to approve the following SIP revisions, including narratives, that revise the I/M and vehicle idling programs: August, 16, 2002, December 30, 2002, November 14, 2005, May 15, 2006, February 28, 2008, December 22, 2010, August 30, 2011 and August 31, 2012. We are proposing to approve these SIP revisions except for the revisions to 114.50(b)(2) as explained in the discussion of the November 15, 2005 submittal. The EPA is proposing to approve these revisions in accordance with sections 110 and 182 of the Act and EPA's regulations and consistent with EPA guidance.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly,

this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 27, 2014.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2014–08342 Filed 4–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R07–OAR–2013–0692; FRL 9909–44–Region 7]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Air Emissions From Existing Municipal Solid Waste Landfills; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the revision to the state section 111 plan submitted by the State of Missouri for controlling emissions from existing municipal solid waste (MSW) landfills. The revised State Plan incorporates revisions to the Emissions Guidelines (EG) for MSW landfills promulgated by EPA in 2000 and 2006. The plan also corrects typographical and administrative changes in the Missouri rules. The plan was submitted to fulfill the requirements of section 111 of the Clean Air Act (CAA).

DATES: Comments on this proposed action must be received in writing by May 15, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2013–0692, by mail to Craig Bernstein, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. 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: Craig Bernstein, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; at 913–551–7688; or by email at *Bernstein.craig@epa.gov.*

SUPPLEMENTARY INFORMATION: In the final rules section of today's **Federal Register**, EPA is approving the state's 111(d) plan revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no relevant adverse comments because the revisions are administrative and consistent with Federal regulations. 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 in relation to this action. 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 action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: April 3, 2014.

Karl Brooks,

Regional Administrator, Region 7.

[FR Doc. 2014–08337 Filed 4–14–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 100

RIN 0906–AB00

National Vaccine Injury Compensation Program: Revisions to the Vaccine Injury Table

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of public hearing.

SUMMARY: This document announces a public hearing to receive information and views on the Notice of Proposed Rulemaking (NPRM) entitled ''National Vaccine Injury Compensation Program: Revisions to the Vaccine Injury Table.''

DATES: The public hearing will be held on April 28, 2014, from 10:00 a.m.–11:30 a.m. (EDT).

ADDRESSES: The public hearing will be held in Conference Room 10–65 in the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Dr. Avril Melissa Houston, Acting Director, Division of Vaccine Injury Compensation, at 855–266–2427 or by email at *ahouston@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The National Childhood Vaccine Injury Act

of 1986, Title III of Public Law 99–660, as amended (42 U.S.C. 300aa–10 et seq.), established the National Vaccine Injury Compensation Program (VICP) for persons found to be injured by vaccines. The Secretary has taken the necessary initial steps to propose to amend the Vaccine Injury Table to add intussusception as an injury associated with rotavirus vaccines.

The NPRM was published in the **Federal Register**, July 24, 2013: 78 FR 44512. The public comment period closed January 21, 2014.

A public hearing will be held after the 180-day public comment period. This hearing is to provide an open forum for the presentation of information and views concerning all aspects of the NPRM by interested persons.

In preparing a final regulation, the Secretary will consider the administrative record of this hearing along with all other written comments received during the comment period specified in the NPRM. Individuals or representatives of interested organizations are invited to participate in the public hearing in accord with the schedule and procedures set forth below.

The hearing will be held on April 28, 2014, beginning at 10:00 a.m. (EDT) in Conference Room 10–65 in the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Upon entering the Parklawn Building, persons who wish to attend the hearing will be required to call Ms. Annie Herzog at (301) 443–6634 to be escorted to Conference Room 10–65.

The public can also join the meeting via audio conference call:

Audio Conference Call: Dial 800–369–3104 and provide the following information:

Leaders Name: Dr. Melissa Houston

Password: HRSA

The presiding officer representing the Secretary, HHS, will be Dr. Avril Melissa Houston, Acting Director, Division of Vaccine Injury Compensation, Healthcare Systems Bureau (HSB), Health Resources and Services Administration.

Persons who wish to participate are requested to file a notice of participation with the Department of Health and Human Services (HHS) on or before April 21, 2014. The notice should be mailed to the Division of Vaccine Injury Compensation, HSB, Room 11C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 or emailed to *aherzog@hrsa.gov.* To ensure timely handling, any outer envelope or the subject line of an email should be clearly marked ''VICP NPRM Hearing.'' The notice of participation should contain the interested person's name, address, email address, telephone number, any business or organizational affiliation of the person desiring to make a presentation, a brief summary of the presentation, and the approximate time requested for the presentation. Groups that have similar interests should consolidate their comments as part of one presentation. Time available for the hearing will be allocated among the persons who properly file notices of participation. If time permits, interested parties attending the hearing who did not submit notice of participation in advance will be allowed to make an oral presentation at the conclusion of the hearing.

Persons who find that there is insufficient time to submit the required information in writing may give oral notice of participation by calling Annie Herzog, Division of Vaccine Injury Compensation, at (301) 443–6634, no later than April 21, 2014.

After reviewing the notices of participation and accompanying information, HHS will schedule each appearance and notify each participant by mail, email, or telephone of the time allotted to the person(s) and the approximate time the person's oral presentation is scheduled to begin.

Written comments and transcripts of the hearing will be made available for public inspection as soon as they have been prepared, on weekdays (federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m. (EDT) at the Division of Vaccine Injury Compensation, Room 11C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: April 9, 2014.

Kathleen Sebelius,

Secretary.

[FR Doc. 2014–08395 Filed 4–14–14; 8:45 am]

BILLING CODE 4165–15–P

LEGAL SERVICES CORPORATION

45 CFR Part 1614

Private Attorney Involvement

AGENCY: Legal Services Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule updates the Legal Services Corporation (LSC or Corporation) regulation on private attorney involvement (PAI) in the delivery of legal services to eligible clients.

DATES: Comments must be submitted by June 16, 2014.

ADDRESSES: Written comments must be submitted to Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007; (202) 337–6519 (fax) or *pairulemaking@lsc.gov*. Electronic submissions are preferred via email with attachments in Acrobat PDF format. Written comments sent to any other address or received after the end of the comment period may not be considered by LSC.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007, (202) 295–1563 (phone), (202) 337–6519 (fax), *pairulemaking@lsc.gov*.

SUPPLEMENTARY INFORMATION:

I. Regulatory History

In 1981, LSC issued the first instruction (''Instruction'') implementing the Corporation's policy that LSC funding recipients dedicate a percentage of their basic field grants to involving private attorneys in the delivery of legal services to eligible clients. 46 FR 61017, 61018, Dec. 14, 1981. The goal of the policy was to ensure that recipients would provide private attorneys with opportunities to give legal assistance to eligible clients ''in the most effective and economical manner and consistent with the purposes and requirements of the Legal Services Corporation Act.'' *Id.* at 61017. The Instruction gave recipients guidance on the types of opportunities that they could consider, such as engaging private attorneys in the direct representation of eligible clients or in providing community legal education. *Id.* at 61018. Recipients were directed to consider a number of factors in deciding which activities to pursue, including the legal needs of eligible clients, the recipient's priorities, the most effective and economical means of providing legal assistance, linguistic and cultural barriers to effective advocacy, conflicts of interest between private attorneys and eligible clients, and the substantive expertise of the private attorneys participating in the recipients' projects. *Id.* LSC reissued the Instruction without substantive change in 1983. 48 FR 53763, Nov. 29, 1983.

LSC subsequently promulgated the PAI policy in a regulation published at 45 CFR part 1614. 49 FR 21328, May 21, 1984. The new regulation adopted the policy and procedures established by the Instruction in large part. The rule adopted an amount equivalent to 12.5% of a recipient's basic field grant as the amount recipients were to spend on PAI activities. *Id.* The rule also adopted the

factors that recipients were to consider in determining which activities to pursue and the procedures by which recipients were to establish their PAI plans. *Id.* at 21328–29. Finally, the rule incorporated the Instruction's prohibition on using revolving litigation funds as a method of engaging private attorneys. *Id.* at 21329.

LSC published a notice of proposed rulemaking (NPRM) to amend part 1614 in 1985. 50 FR 34510, Aug. 26, 1985. The NPRM proposed numerous revisions to the original rule. A major substantive change was the introduction of the mandatory direct delivery provision. *Id.* at 34511. LSC believed that ''the essence of PAI is the direct delivery of legal services to the poor by private attorneys,'' and consequently required recipients to incorporate direct delivery into their PAI programs. *Id.* However, LSC left to the recipients' discretion the determination of what percentage of a recipient's PAI program to dedicate to direct delivery. *Id.* The NPRM also introduced new provisions on joint ventures, waivers, and sanctions for failure to comply with the PAI requirement. *Id.* at 34511, 34512. Finally, the NPRM proposed simplified audit provisions and a significantly rewritten section prohibiting revolving litigation funds. *Id.* at 34511. The NPRM left the 12.5% PAI requirement unchanged. *Id.* at 34510.

After receiving comments, the Corporation published the revised part 1614 as a final rule with an additional request for comments. 50 FR 48586, Nov. 26, 1985. LSC requested comments on a new, previously unpublished definition of the term ''private attorney.'' *Id.* at 48586–87. The original definition of ''private attorney'' substantially mirrored the definition that exists today:

> As of January 1, 1986, the term ''private attorney'' as used in this Part means an attorney who is not a staff attorney as defined in § 1600.1 of these regulations. In circumstances where the expenditure of funds with respect to a private attorney would violate the provisions of the Ethics in Government Act (18 U.S.C. 207) if the recipients or grantees were federal agencies, such funds may not be counted as part of the PAI requirement.

Id. at 48591. Although LSC is not a federal agency for purposes of the Ethics in Government Act, the Corporation chose to follow the Act because the Corporation uses taxpayer funds to make grants to its recipients. The purpose of the Ethics in Government Act, LSC stated, ''is to keep people at federal agencies from transferring money to former colleagues of theirs who have retired into private practice.'' *Id.* at 48587. The Corporation addressed two issues through the proposed definition. The first issue was that the purpose of the PAI rule was to reach out to attorneys who had not been involved previously in providing legal services to the poor—a purpose that was not accomplished by paying former LSC recipient staff attorneys to provide legal services. *Id.* The second was the appearance of impropriety created when a recipient paid a former attorney to handle the kinds of cases that the attorney worked on while employed by the recipient. *Id.* LSC recognized that there may be circumstances under which the most appropriate person to handle a given case would be an attorney previously employed by a recipient, and did not prohibit recipients from using funds to pay the former staff attorney in such cases. The only thing LSC proposed to prohibit was counting such funds toward a recipient's PAI requirement. *Id.*

The last substantive change to Part 1614 came with the June 13, 1986 publication of the amended final rule. 51 FR 21558, June 13, 1986. In the amended final rule, the Corporation removed the reference to the Ethics in Government Act from the definition of ''private attorney.'' *Id.* However, LSC adopted the policy of the Ethics in Government Act by including a separate provision prohibiting recipients from including in their PAI requirement payments made to individuals who had been staff attorneys within the preceding two years. *Id.* The definition of ''private attorney'' thus became the definition that exists today:

> As of January 1, 1986, the term ''private attorney'' as used in this Part means an attorney who is not a staff attorney as defined in § 1600.1 of these regulations

45 CFR 1614.1(d).

LSC made a technical amendment to Part 1614 in 2013 to bring § 1614.7, which established procedures for addressing a recipient's failure to comply with the PAI requirement, into conformity with the Corporation's enforcement policy. 78 FR 10085, 10092, Feb. 13, 2013.

On January 26, 2013, the LSC Board of Directors (Board) voted to authorize LSC to initiate rulemaking to consider revisions to the PAI rule in response to the recommendations made by LSC's Pro Bono Task Force (Task Force). The Task Force and its recommendations are discussed at greater length below. On April 14, 2013, the Board voted to convene two rulemaking workshops for the purpose of obtaining input from recipients and other stakeholders regarding the Task Force's recommendations and potential changes to part 1614. Through a request for information published in the **Federal Register** on May 10, 2013, the Corporation invited comments on the recommendations pertaining to part 1614 and solicited participants for the two rulemaking workshops. 78 FR 27339, May 10, 2013.

The first workshop was held on July 21, 2013, in Denver, Colorado, immediately following the Board's quarterly meeting. LSC subsequently published a second request for information, which posed new questions and solicited participants for the second and final rulemaking workshop. 78 FR 48848, Aug. 12, 2013. The second rulemaking workshop was held on September 17, 2013, at LSC headquarters in Washington, DC. The closing date of the comment period for both requests for information was October 17, 2013.

The Corporation considered all comments received in writing and provided during the rulemaking workshops in the development of this NPRM. On March 3, 2014, the Operations and Regulations Committee (Committee) of the Board held a telephonic meeting to discuss the proposed text of the rule. On April 7, 2014, the Committee voted to recommend that the Board approve publication of the NPRM in the **Federal Register** for public comment. On April 8, 2014, the Board approved the NPRM for publication.

II. The Pro Bono Task Force

On March 31, 2011, the LSC Board of Directors (Board) approved a resolution establishing the Pro Bono Task Force. Resolution 2011–009, ''Establishing a Pro Bono Task Force and Conferring Upon the Chairman of the Board Authority to Appoint Its Members,'' Mar. 31, 2011, *http://www.lsc.gov/board-directors/resolutions/resolutions-2011*. The purpose of the Task Force was to ''identify and recommend to the Board new and innovative ways in which to promote and enhance pro bono initiatives throughout the country[.]'' *Id.* The Chairman of the Board appointed to the Task Force individuals representing legal services providers, organized pro bono programs, the judiciary, law firms, government attorneys, law schools, bar leadership, corporate general counsels, and technology providers.

The Task Force focused its efforts on identifying ways to increase the supply of lawyers available to provide pro bono legal services while also engaging attorneys to reduce the demand for legal services. Legal Services Corporation, *Report of the Pro Bono Task Force* at 2,

October 2012, *available at http://lri.lsc.gov/legal-representation/private-attorney-involvement/resources*. Members considered strategies for expanding outreach to private attorneys and opportunities for private attorneys to represent individual clients in areas of interest to the attorneys. In addition, the Task Force explored strategies, such as appellate advocacy projects or collaborations with special interest groups, to help private attorneys address systemic problems as a way to decrease the need for legal services on a larger scale than can be achieved through individual representation. *Id.* Finally, the Task Force considered ways in which volunteers, including law students, paralegals, and members of other professions, could be better used to address clients' needs. *Id.*

In October, 2012, the Task Force released its report to the Corporation. The Task Force made four overarching recommendations to LSC in its report.

Recommendation 1: LSC Should Serve as an Information Clearinghouse and Source of Coordination and Technical Assistance to Help Grantees Develop Strong Pro Bono Programs

Recommendation 2: LSC Should Revise Its Private Attorney Involvement (PAI) Regulation to Encourage Pro Bono.

Recommendation 3: LSC Should Launch a Public Relations Campaign on the Importance of Pro Bono

Recommendation 4: LSC Should Create a Fellowship Program to Foster a Lifelong Commitment to Pro Bono

The Task Force also requested that the judiciary and bar leaders assist LSC in its efforts to expand pro bono by, for example, changing or advocating for changes in court rules that would allow retired attorneys or practitioners licensed outside of a recipient's jurisdiction to engage in pro bono legal representation. *Id.* at 25–27. Collaboration among LSC recipients, the private bar, law schools, and other legal services providers was a theme running throughout the Task Force's recommendations to the Corporation.

Recommendation 2 provided the impetus for the NPRM. Recommendation 2 had three subparts. Each recommendation focused on a portion of the PAI rule that the Task Force identified as posing an obstacle to effective engagement of private attorneys. Additionally, each recommendation identified a policy determination of the Corporation or an interpretation of the PAI rule issued by the Office of Legal Affairs (OLA) that the Task Force believed created barriers to collaboration and the expansion of pro bono legal services. The three subparts are:

2(a)—Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in ''incubator'' initiatives.

2(b)—Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.

2(c)—LSC should reexamine the rule that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.

Id. at 20–21.

The Task Force observed in Recommendation 2 that the ''PAI regulation has resulted in increased collaboration between LSC grantees and private attorneys,'' but that the legal market has changed since the rule's issuance. *Id.* at 20. The Task Force suggested that ''there are certain areas where the regulation might productively be revised to ensure that LSC grantees can use their grants to foster pro bono participation.'' *Id.* at 20. For example, the omission of services provided by law students and other non-lawyers and the poor fit of the ''staff attorney'' construct in the definition of ''private attorney'' created complications for recipients attempting to fulfill the PAI requirement. *Id.* at 20–21. The Task Force encouraged LSC to undertake a ''thoughtful effort to reexamine the regulation to ensure that it effectively encourages pro bono participation.'' *Id.* at 22.

III. Public Comments

LSC determined that an examination of the PAI rule within the context of the Task Force recommendations would benefit from early solicitation of input from stakeholders. LSC therefore published two requests for information seeking both written comments and participation in two rulemaking workshops held in July and September 2013. The first request for information focused discussion specifically on the three parts of Recommendation 2. 78 FR 27339, May 10, 2013. The second request for information, published after the July workshop, supplemented the first with questions developed in response to issues raised at the July workshop. 78 FR 48848, Aug. 12, 2013. In particular, the August request for information posed more detailed questions about the issues identified in Recommendation 2.

LSC received a total of twenty-five responses from LSC recipients, the American Bar Association (ABA), through its Standing Committee on Legal Aid and Indigent Defendants, the National Legal Aid and Defender Association, and others involved in pro bono work, including a state court judge and a representative of the National Association of Pro Bono Professionals. The nature of the written comments and workshop presentations led LSC to consider the recommendations of the Task Force in the context of overlapping solutions that address more than one of the recommendations, rather than discrete responses to each recommendation. For example, LSC considered the definition of the term ''private attorney'' as an issue whose resolution would respond to both Recommendations 2(a) and 2(b). This preamble will identify and discuss the Task Force recommendations and the comments as the Corporation did—within the framework of cross-cutting issues.

The report of the Pro Bono Task Force, the responses to the requests for information, transcripts of workshop presentations, and other related materials are available at *http://www.lsc.gov/rulemaking-lscs-private-attorney-involvement-pai-regulation*.

The Definition of ''Private Attorney''

The current PAI rule defines ''private attorney'' as ''an attorney who is not a staff attorney as defined in § 1600.1 of these regulations.'' 45 CFR 1614.1(d). ''Staff attorney,'' in turn, is defined as ''an attorney more than one half of whose annual professional income is derived from the proceeds of a grant from [LSC] or is received from a recipient, subrecipient, grantee, or contractor that limits its activities to providing legal assistance to clients eligible for assistance under the [LSC] Act.'' 45 CFR 1600.1. Finally, LSC has defined ''attorney'' as ''a person who provides legal assistance to eligible clients and who is authorized to practice law in the jurisdiction in which assistance is rendered.'' 45 CFR 1600.1.

The ''private attorney'' definition received considerable criticism in written responses to the requests for information and during the workshops themselves. Commenters called the definition ''confusing and limiting'' because the use of the word ''private'' seems to exclude government attorneys, in-house counsel, corporate attorneys, attorneys at other non-profits, law school professors, and adjunct law professors, even though the definition itself does not exclude them. They noted that the definition prevents recipients from allocating to the PAI requirement costs associated with involving law students, law graduates who have not yet become members of a state bar, and paralegals in the provision

of legal information and legal assistance to eligible clients. Finally, they discussed the fact that because the definition is tied to the term ''staff attorney,'' with its inclusion of an attorney who earns more than one-half of his or her professional income from an LSC grant, recipients cannot pay attorneys who are not otherwise employed, or not employed full-time (e.g., a retired attorney or a stay-at-home parent), to take cases at a discounted rate without turning them into ''staff attorneys'' whose activities are excluded from counting toward the PAI requirement. Commenters overwhelmingly recommended revising the term ''private attorney,'' with many of the recommendations being substantially similar to Recommendation 2(a) of the Task Force report.

In Recommendation 2(a), the Task Force recommended that LSC allow resources spent by recipients to supervise and train law students, law graduates, deferred associates, and others to be counted toward meeting recipients' PAI obligations. Panelists expanded upon this recommendation by suggesting that LSC amend the rule to allow recipients to allocate to the PAI requirement costs associated with involving paralegals, retired attorneys, and other professionals who may assist the recipient in providing legal assistance, such as accountants or forensic investigators. Some commenters noted that paralegals and lay advocates can contribute to recipients' PAI activities by participating in training events or representing clients in administrative proceedings where permitted by federal or state law. Other commenters described the contributions made by non-legal professionals to their delivery of legal services, such as financial experts conducting forensic accounting and providing expert testimony in recipient client cases. A few commenters advocated continuing to limit participation in PAI activities to licensed attorneys. On the whole, commenters supported including within the PAI rule services provided by non-lawyers that directly aid recipients in their delivery of legal assistance to eligible clients.

LSC considered Recommendation 2(a) and all of the comments relevant to the definition of ''private attorney'' and determined that a revision was in order. As noted by commenters, the existing definition excludes many individuals whose participation is instrumental in improving and expanding the availability of quality legal assistance to LSC-eligible individuals. LSC proposes to address the recommendation and comments in two ways. The first is to revise the definition of ''private attorney.'' The second is to expand the PAI rule to allow recipients to allocate to the PAI requirement costs associated with engaging law students, law graduates, or other professionals in the recipients' provision of legal information and legal assistance to eligible clients.

LSC proposes to revise the definition of the term *private attorney* in three significant ways. First, LSC proposes to remove the reference to *staff attorney* as defined in § 1600.1 and replace it with affirmative statements about who a private attorney is. Second, LSC proposes to exclude from the term attorneys employed more than 1,000 hours per calendar year by LSC recipients or subrecipients. Finally, LSC proposes to exclude from the definition attorneys employed by non-LSC-funded legal services providers who are acting within the scope of their employment. LSC proposes these exclusions because the purpose of the PAI rule is to engage attorneys who are not currently involved in the delivery of legal services to low-income individuals as part of their regular employment.

In addition to revising the definition of the term *private attorney,* LSC proposes to add definitions for the new terms *law graduate, law student,* and *other professional.* As defined, individuals in these categories will be included along with private attorneys as individuals that recipients may involve in the delivery of legal services.

Defining Law Student Involvement

In Recommendation 2(a), the Task Force noted that ''[c]ontributions from law school clinics can be counted only if a private attorney supervises the students'' and encouraged the Corporation to ''consider amending the regulation to allow grantee organizations to count as PAI expenses the funds they expend on training and supervising law students.'' *Report of the Pro Bono Task Force* at 20. Under the current rule, recipients may allocate to the PAI requirement costs associated with law student activities only when a private attorney, including a professor overseeing a law school clinic, supervises the student. *See* OLA External Opinion EX–2005–1001. In its analysis, OLA noted that ''[n]one of the support or indirect delivery activities listed in § 1614.3(b)(2) expressly include the supervision of law students or discuss activities done solely as an 'investment' in potential future private attorney involvement[.]'' EX–2005–1001 at 5. OLA concluded that because law students did not meet the definition of ''private attorney,'' any costs associated with services provided by the students could not be allocated to the recipient's PAI requirement. Likewise, recipients could not count toward the PAI requirement the time recipient attorneys spent supervising the law students because the supervision could not be considered support provided by the recipient to a private attorney.

Participants in the rulemaking workshops and other commenters echoed Recommendation 2(a). One commenter described a new bar rule in New York that will require all applicants to the New York bar to provide fifty hours of pro bono legal services prior to applying for admission. The same commenter stated that allowing recipients to receive PAI credit for training and supervising law students will result in more effective and efficient integration of the ''hundreds of thousands of new volunteer law student pro bono hours that are becoming available into their delivery systems.''

While commenters generally supported extending PAI to services provided by law students, they did so with some caveats. Some commenters were concerned that services provided by law students would become the focus of some recipients' programs, thus detracting from the rule's emphasis on engaging licensed attorneys in the delivery of legal services. Others suggested caps on the amount of the 12.5% that could be met by credit for supervising law students. Finally, others suggested that only those law student activities that involve substantive legal work that actually expand recipients' capacity—such as research or developing pleadings—should be included within the rule.

LSC considered this issue at length. A significant part of the discussion centered on the implicit suggestion in both the Task Force report and the comments that recipients should be able to allocate to the PAI requirement costs associated with their existing programs involving law students. LSC proposes to adopt the part of Recommendation 2(a) that advocates including law students within the rule. Interviewing clients, legal research, development of standard forms for posting on a legal resource Web site, and drafting briefs or memoranda are examples of law student work that supports the provision of legal information or legal assistance to eligible clients.

Defining Paralegal Involvement

The Task Force suggested that LSC recipients ''consider ways in which they

can involve other members of the law firm community in pro bono—including paralegals and other administrative staff.'' *Report of the Pro Bono Task Force* at 11. Although the Task Force did not recommend explicitly that LSC consider amending part 1614 to include paralegals among the groups that recipients could engage in the delivery of legal services, it did suggest in Recommendation 2(a) that ''resources spent supervising and training law students, deferred associates, and others'' should be counted toward the PAI requirement. *Id.* at 20.

Commenters recommended including paralegals within the definition of ''private attorney.'' Commenters pointed out that paralegals can represent clients in administrative proceedings and assist in will preparation under an attorney's supervision. By taking on these types of duties, commenters continued, paralegals both expand the availability of services to eligible clients and relieve the supervising attorney of having to undertake those duties alone, thereby increasing her availability to provide legal services.

LSC is adopting the recommendation to include paralegals in the rule. LSC considered establishing paralegals as a separate category of individuals recipients may engage in activities under this part. LSC researched accrediting standards and job descriptions for paralegals and determined that the term ''paralegal'' can cover a wide range of roles, from purely administrative support staff to provider of substantive legal services under the supervision of a licensed attorney. Additionally, LSC found that there is no uniformity across states with regard to the education, licensing, or credentialing that an individual must have to be called a ''paralegal.'' *See, e.g.,* National Federation of Paralegal Associations, Paralegal Regulation by State (updated 2012), *available at http://www.paralegals.org/default.asp?page=30.* Therefore, paralegals are included within the term *other professional.*

Support and Other Activities

Recommendations 2(b) and 2(c) of the Task Force report formed the basis for the most significant proposed changes to part 1614. These recommendations focused, respectively, on intake and referral programs and on case-handling requirements under the existing regulations. Both recommendations touched on common issues: whether PAI activities must include screening for LSC eligibility, whether recipients must track the outcomes of all cases in which services are provided through private attorneys, and whether recipients must accept individual cases handled by private attorneys as their own cases. LSC proposes to address the issues raised by these recommendations and the relevant comments by introducing provisions governing three areas: screening, clinics, and intake and referral systems. LSC will discuss the three areas separately in this preamble.

Screening

Recommendation 2(c) of the Task Force report discussed two requirements. The first was that recipients accept individuals assisted through the clinic as their own clients in order to allocate costs associated with supporting the clinic to the PAI requirement. This requirement, stated in OLA External Opinion EX–2008–1001, is addressed below in the discussion regarding clinics and intake and referral systems.

EX–2008–1001 raised a second issue: whether recipient participation in an unscreened clinic could potentially subsidize restricted activities, such as providing legal assistance to aliens not eligible for LSC-funded services. To put this issue into context, we briefly review restrictions imposed by statutes and LSC's regulations.

The LSC Act requires LSC recipients to provide LSC-funded services based on financial eligibility criteria and priorities that are determined pursuant to LSC guidelines. 42 U.S.C. 2996f(a)(2). Recipients of LSC funding are subject to two types of restrictions under the LSC Act and LSC's annual appropriations: restrictions on the use of LSC funds and some other funds (''fund restrictions'') and restrictions on all activities, regardless of the source of funds (''entity restrictions''). Thus, while LSC recipients can use, for example, Older Americans Act funds for services to people who are not financially eligible (a funds restriction), LSC recipients cannot use any funds, other than Tribal funds, for ineligible aliens (an entity restriction). The applicability of these restrictions to non-LSC funds is governed by 45 CFR part 1610.

The LSC funds restrictions appear primarily in the LSC Act. *See, e.g.,* 42 U.S.C. 2996f(b) (prohibitions on the use of LSC funds for various activities including criminal proceedings, political activities, and desegregation proceedings). The LSC entity restrictions appear primarily in LSC's annual appropriation. Since the early 1980s, Congress has imposed restrictions on LSC grantees through riders in LSC's appropriation. In 1996, Congress added the current set of appropriation restrictions and expanded them to apply to all activities of LSC grantees. *See, e.g.,* sec. 504, Pub. L. 104–134, 110 Stat. 1321, 1321–53—1321–57. Before an LSC recipient may provide legal assistance to an individual, the recipient must ensure that the individual meets the LSC eligibility criteria or may be assisted by the recipient using non-LSC funds, and that the assistance will not involve a restricted activity.

LSC has further defined when recipients must screen for eligibility. LSC's Case Service Report (CSR) Handbook describes two types of services that recipients may provide: legal assistance and legal information. The CSR defines ''legal assistance'' as ''the provision of limited service or extended service on behalf of a client or clients that meets the criteria of the CSR Closing Categories contained in Chapter VIII. Legal assistance is specific to the client's unique circumstances and involves a legal analysis that is tailored to the client's factual situation. Legal assistance involves applying legal judgment in interpreting the particular facts and in applying relevant law to the facts presented.'' Legal Services Corporation, *Case Service Report Handbook,* at 3 (2008 ed., as amended 2011). By contrast, the CSR Handbook defines ''legal information'' as ''substantive information not tailored to address a person's specific legal problem. As such, it is general and does not involve applying legal judgment and does not recommend a specific course of action.'' *Id.* LSC does not require recipients to determine whether an individual is eligible for services if the recipient is providing the individual only with legal information as defined in the CSR Handbook. *Other Services Report FAQ,* Nov. 2011, at 8, *http://grants.lsc.gov/rin/about-rin/grantee-guidance/other-services-report.*

With these statutory, regulatory, and policy requirements in mind, LSC has examined the issue whether recipient participation in an unscreened clinic could potentially subsidize restricted activities. The Task Force report did not discuss the issue of subsidies. When discussing screening in the clinic context, commenters expressed minimal concern about the potential for assisting clients who are ineligible for LSC-funded services. Most commenters focused on expanding the availability of private attorneys to provide pro bono legal services and not on the scope of LSC's legal obligations to ensure that LSC resources are not used to subsidize restricted activities. One commenter suggested that the test for the PAI rule should be whether the activity is targeted at the base of eligible clients,

even if the recipient cannot know whether every person assisted would be eligible. Another spoke about screened advice clinics, recommending that recipients should be able to count resources toward the PAI requirement for the time recipients spend supervising such clinics. The LSC Office of Inspector General (OIG) expressed concern that a relaxed screening requirement for clinics would have the ''unintended effect of increasing subsidization of restricted activity.'' OIG urged LSC to exercise caution to ''ensure that changes to the PAI rule do not make it more difficult to prevent and detect noncompliance with LSC regulations and do not increase the risk that LSC funds will be used to subsidize, whether intentionally or not, restricted activity.''

LSC considered the commenters' views on screening and the burden that screening may place on recipients' support for clinics operated solely by them or through the joint efforts of community organizations. LSC considered those views in light of the statutory restrictions Congress places on the funds appropriated to LSC and on recipients of LSC funds. LSC has concluded that, regardless of whether legal assistance is provided directly by a recipient or through PAI activities, to avoid impermissible subsidization, individuals must be screened for LSC eligibility and legal assistance may be provided only to those individuals who may be served consistent with the LSC Act, the LSC appropriation statutes, and the applicable regulations. Clinics that provide only legal information do not require screening.

The population to be served through the PAI rule is clearly stated in the introductory section of the existing rule: ''This part is designed to ensure that recipients of Legal Services Corporation funds involve private attorneys in the delivery of legal assistance to eligible clients.'' 45 CFR 1614.1(a). In its report, particularly Recommendation 2, the Task Force took no position on expanding the scope of the rule to allow recipients to provide legal assistance to serve populations beyond eligible individuals through their PAI programs. Rather, the Task Force emphasized changes to part 1614 that would improve recipients' ability to reach out to individuals who wanted to become engaged in providing legal services. LSC believes that the overall set of proposed changes to the PAI regulation promotes the Task Force's recommendations and commenters' expressed desire for increased flexibility to engage individuals and to support clinics while carrying out the Corporation's obligation to ensure that recipients of Corporation funds comply with applicable statutory restrictions.

PAI Clinics

''Clinics,'' as the term applies in the field, covers a diverse array of service delivery methods. Clinics have various screening mechanisms, levels of service provided, and involvement of recipients and other organizations, such as courts, churches, and community organizations. For example, both a training provided by a recipient attorney on a particular topic of law to private attorneys who are volunteering for a pro bono project and a scheduled, time-limited, session open to the public at which individuals can receive brief advice or extended representation from a private attorney may be called ''clinics.'' The varying nature of clinics made it difficult to draft a rule that would give recipients the flexibility they desire, and that the Task Force recommended, to achieve the goals of the PAI rule while simultaneously meeting the Corporation's responsibility to ensure accountability for the use of LSC funds and observance of the LSC funding restrictions.

In Recommendation 2(c), the Task Force noted that recipients ''are under strict guidelines about what cases they can and cannot handle. . . . Yet, under the PAI regulations they cannot count placement of any cases that they are not themselves able to accept.'' *Report of the Pro Bono Task Force* at 21. The Task Force encouraged LSC to ''reexamine the rule that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.'' *Id.* The Task Force stated that ''the regulation poses challenges to effective pro bono collaborations,'' and pointed to OLA External Opinion EX–2008–1001 as an example. *Id.* EX–2008–1001, inter alia, concluded that individuals receiving direct services from a private attorney, even in a clinic setting, must be screened and must be accepted as clients of the recipient in order for the recipient to count the case toward its PAI requirement.

Commenters generally supported Recommendation 2(c). Commenters criticized the position set forth in EX–2008–1001 as a hindrance to recipients' ability to collaborate effectively and efficiently with other providers in carrying out activities that attract the participation of private attorneys. One commenter stated that when another organization is the main organizer or ''owner'' of a clinic, it will often not want to follow another entity's rules in operating the clinic. Additionally, the commenter noted that other organizations and volunteers would not want to participate in a clinic that has to meet all of LSC's CSR requirements because private attorneys do not want to follow any more rules than they have to.

After consideration of Recommendation 2(c), comments at the workshops and in response to the requests for information, and EX–2008–1001, LSC is reversing the requirement that individuals receiving direct services from a private attorney, even in a clinic setting, must be accepted as clients of the recipient in order for the recipient to count the case toward its PAI requirement. LSC considers the organizational and technical support described in EX–2008–1001 to be more akin to support activities described in § 1614.3(b) than to direct delivery activities under § 1614.3(a). LSC proposes to no longer require recipients to apply the CSR case-handling requirements to legal assistance provided by private attorneys through clinics supported by the recipient in order to allocate the associated costs to the PAI requirement.

LSC proposes to establish a new category of activities specifically for clinics. This new regulatory provision will allow recipients to allocate costs associated with support to clinics to the PAI requirement. The new provisions of part 1614 will govern only those clinics in which a recipient plays a supporting role. Recipients will remain responsible for complying with the screening and CSR case-handling requirements for those clinics at which recipient attorneys provide legal assistance to individuals.

Intake and Referral Systems

Recommendation 2(b) of the Task Force report proposed revisions to part 1614 that would allow recipients ''to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.'' *Report of the Pro Bono Task Force* at 21. In its recommendation, the Task Force noted that under the existing PAI rule, ''LSC grantees cannot count money spent to support centralized screening and referral services as PAI, even where those referral services are needed to support pro bono programs.'' *Id.* The Task Force identified two OLA opinions, AO–2009–1004 and AO–2011–001, as creating obstacles to recipients' efforts to maximize their resources by participating in integrated pro bono referral systems.

Panelists and commenters overwhelmingly supported

Recommendation 2(b). Many of them echoed the Task Force's conclusion that intake and referral systems are an especially efficient and effective way to reach large numbers of individuals seeking legal assistance. Integrated systems in which recipients have already screened the cases and identified the individual's legal needs make it easier for the private attorney taking the case to simply begin work on the case. Intake and referral systems also are an attractive vehicle for collaborating with other providers and private attorneys because they allow participating individuals to help a large number of clients with little time commitment. Like the Task Force, many commenters and panelists urged LSC to reverse AO–2009–1004 and AO–2011–001 in the interest of removing barriers to collaboration and the efficient delivery of legal assistance.

AO–2009–1004 and AO–2011–001 stand for different propositions. In AO–2009–1004, OLA considered whether a recipient could count toward its PAI requirement costs associated with a hotline staffed by another legal services provider that referred cases back to the four LSC funding recipients within the state. OLA determined that because the hotline operator was another legal services provider that was either handling cases itself or referring the cases to other legal services providers including the recipient, the costs associated with the recipient's support for the hotline could not be counted toward the PAI requirement. As stated above, the purpose of the PAI rule is to engage attorneys who are not currently involved in the delivery of legal services to low-income individuals as part of their regular employment. Accordingly, LSC continues to believe that the result in AO–2009–1004 is correct and will not rescind the opinion.

In AO–2011–001, the recipient participated in an intake and referral system for which the recipient screened clients for eligibility and referred eligible cases out to volunteer attorney programs for placement. OLA concluded that the activity was not direct delivery under § 1614.3(a) because the recipient did not accept the cases as its own prior to referring them out and did not track the cases in any way after making the referrals. OLA also concluded, based on an LSC policy decision, that the activity did not count as a permissible support activity under § 1614.3(b). The policy decision turned on the fact that the recipient did not track the referrals in any way, so the recipient could not determine whether the referred individuals received services or what the outcomes of those services were. ''Under such circumstances, without the recipient involvement and oversight required by '1614 compliant' direct delivery systems, LSC cannot be assured that such systems 'generate the most possible legal services for eligible clients from available, but limited, resources.' '' AO–2011–001, p. 5.

LSC has determined that the policy position relied on by OLA in AO–2011–001 was more stringent than necessary. LSC no longer believes that it is necessary for recipients to accept the clients being referred as their own and to track the outcome of the services provided by the private attorney. LSC proposes instead to require that recipients participating in intake and referral systems only report the number of LSC-eligible individuals referred to lawyer placement programs and the number of such individuals who actually are placed with private attorneys. If adopted in the final rule, these proposals would serve to overturn AO–2011–001.

Flexibility in Choice of PAI Activities

During the workshops and in the written comments, LSC heard differing opinions regarding whether LSC should prescribe or limit with some precision how recipients should meet their PAI requirement. For example, LSC received comments about whether recipients should be required to dedicate a certain percentage of the PAI requirement to the direct delivery of legal assistance. As another example, some panelists and commenters expressed concern that allowing supervision of law students to count toward the PAI requirement would cause recipients to direct resources away from expanding opportunities to involve licensed attorneys in the delivery of legal assistance. As a further example, some panelists and commenters voiced reservations that allowing recipients to allocate costs associated with brief service clinics to the PAI requirement would result in fewer resources being spent to get licensed attorneys to accept individual cases for extended representation. Finally, some commenters opposed the Task Force recommendation to expand the PAI rule to allow recipients to engage law students, law graduates, and non-lawyer professionals. Commenters opposing the recommendation generally focused on the rule's purpose of engaging attorneys in the delivery of legal assistance.

The current rule requires recipients to provide direct delivery of legal services as part of their PAI activities; however, it does not mandate that recipients commit a certain amount of their PAI requirement to providing direct delivery. Nor does it place caps on the types of support or other activities in which recipients may engage to meet the 12.5% requirement. LSC has decided to continue this approach to the PAI rule. This determination rests on two bases. First, consistent with the recommendations of the Pro Bono Task Force, the Corporation decided to expand the categories of individuals that recipients may engage in the delivery of legal information and legal assistance. A principal purpose of the PAI rule was to engage private attorneys in the delivery of legal services, and LSC believes this remains a significant goal. However, LSC also believes helping to meet the unmet legal needs of eligible clients was and remains a significant purpose of the rule. The delivery of legal services has changed since the rule's inception, and continues to change, in ways that encourage openness and inclusiveness toward other providers as additional resources to help meet currently unmet legal needs. As the Task Force remarked, law students, law graduates, paralegals, and professionals in non-legal fields can make significant contributions to LSC recipients' delivery of legal information and legal assistance. LSC wants recipients to think creatively about the best means for leveraging community resources to improve the delivery of legal information and legal assistance to eligible clients.

Second, LSC believes that there likely is no ''one size fits all'' structure for creating the optimal PAI program. The most effective and efficient system is a function of, among other factors, the nature of the unmet legal needs and the available volunteer resources in a recipient's service area. Furthermore, LSC does not believe it has the data or the experience to identify a single optimal structure for PAI services. As with their priorities, recipients must determine which combination of direct delivery, intake and referral systems, clinics, or other activities will allow them to meet or exceed their PAI requirements and best serve their clients.

IV. Section-by-Section Discussion of the Proposed Changes

1614.1 Purpose

LSC proposes to revise § 1614.1 to state more clearly the purpose of the PAI rule. Proposed § 1614.1 states the Corporation's expectation that PAI will be ''an integral part'' of a recipient's delivery of legal services. It also states that that the Corporation has designed part 1614 to ensure that recipients

involve private attorneys in the delivery of legal information and legal assistance to eligible clients, and encourages recipients to engage law students, law graduates, or other professionals in those activities.

LSC proposes to move the requirement that recipients expend an amount equal to 12.5% of their annualized basic field grants on PAI activities from existing § 1614.1(a) to the statement of general policy in § 1614.2(a). Existing § 1614.1(b), regarding the use of Native American or migrant funds for PAI activities, is being relocated to proposed § 1614.2(b). The Corporation proposes to delete existing § 1614.1(c), revise and move § 1614.1(d) to § 1614.3, and move § 1614.1(e) to proposed § 1614.5.

1614.2 General Policy

LSC proposes to revise § 1614.2 to contain the policy statements that govern the PAI rule. Proposed § 1614.2(a) is adapted from existing § 1614.1(a) and states the requirement that recipients expend an amount equal to at least 12.5% of their annualized basic field grants on PAI activities. Similarly, LSC proposes to move existing § 1614.1(b), regarding the involvement of private attorneys in the delivery of legal services supported by Native American or migrant funding, to § 1614.2(b). LSC proposes to add ''law students, law graduates, or other professionals'' in both sections to reflect the expansion of the rule to include these individuals in recipients' delivery of legal information and legal assistance to eligible clients.

1614.3 Definitions

The Corporation proposes to relocate all parts of existing § 1614.3 to new sections of part 1614 and create a new definitions section in § 1614.3.

Proposed § 1614.3(a) defines the term *attorney* for purposes of part 1614 only. LSC's regulations define the term *attorney* at § 1600.1 to mean an individual providing legal assistance to eligible clients who is authorized to practice law in the jurisdiction in which services are rendered. 45 CFR 1600.1. This definition does not make sense within the context of part 1614, the purpose of which is to engage attorneys *who are not providing services to eligible clients.* LSC therefore proposes to except part 1614 from using the definition of *attorney* in § 1600.1 of these regulations.

Proposed § 1614.3(b) defines the term *law graduate* to mean an individual who has completed the educational or training requirements required for application to the bar in any U.S. state or territory. The definition is intended to capture two types of individuals: Those who have recently graduated from law school, but who are not yet licensed attorneys; and those who have completed a practical legal apprenticeship program that provided them with the necessary qualifications to become licensed in any jurisdiction that admits apprentices to the bar. LSC proposes to limit the term *law graduate* to those individuals who have completed their education or training within the preceding two years. The reason for this limitation is to capture individuals who have completed legal training and intend to enter a legal career, but who have not yet been admitted to the bar. If an individual defined as a *law graduate* under this part has not been admitted to the bar within two years of completing his or her education or training, that individual could fall under the definition of *other professional* in proposed § 1614.3(f).

Proposed § 1614.3(c) defines the term *law student* to include two groups. The first is individuals who are or have been enrolled in a law school that can provide the student with a degree that is a qualification for application to the bar in any U.S. state or territory. The second is individuals who are or have been participating in an apprenticeship program that can provide the individual with sufficient qualifications to apply for the bar in any U.S. state or territory. LSC recognizes that the delivery of legal education is evolving and that there are differences among the states with respect to the prerequisites for admission to the bar. Some states may allow only graduates of law schools accredited by the American Bar Association (ABA) or the American Association of Law Schools (AALS) to apply. Others allow graduates of such schools plus schools that are not accredited by either the ABA or AALS, but that are approved by the state bar or state legislature, to apply. Some states allow individuals who have completed legal apprenticeship programs to apply for admission to the bar; others do not. LSC proposes to define *law student* broadly enough to give recipients the flexibility to engage individuals who are pursuing some form of legal education in the provision of legal information or legal assistance to eligible individuals under this part.

LSC proposes to limit the term *law student* to those individuals who are currently enrolled, full-time or part-time, in law school or in an apprenticeship program, or who have been so enrolled within the past year. The term is intended to capture both current enrollees and those who take a brief sabbatical from their legal education. LSC also proposes to limit the term to those individuals who have not been expelled from law school or terminated from a legal apprenticeship program.

Proposed § 1614.3(d) defines the term *legal assistance.* This definition is substantially adapted from the LSC CSR Handbook, and is different from the term *legal assistance* defined in the LSC Act and in § 1600.1 of these regulations. LSC proposes to adopt the CSR Handbook definition in the PAI rule for consistency in the treatment of legal assistance and compliance with eligibility screening requirements by both recipients and private attorneys.

Proposed § 1614.3(e) defines the term *legal information* as the provision of substantive legal information that is not tailored to address an individual's specific legal problem and that does not involve applying legal judgment or recommending a specific course of action. This definition is also adapted substantially from the CSR Handbook for the same reasons stated above with respect to the definition of *legal assistance.*

Proposed § 1614.3(f) defines the term *other professional. Other professional* means any individual who is not engaged in the practice of law, is not employed by the recipient, and is providing services to an LSC recipient in furtherance of the recipient's provision of legal information or legal assistance to eligible clients. LSC intends this definition to cover a wide spectrum of professionals whose services will help recipients increase the effectiveness and efficiency of their programs. Such professionals include paralegals, accountants, and attorneys who are not authorized to practice law in the recipient's jurisdiction (such as an attorney licensed in another jurisdiction or a retired attorney who is prohibited from practicing by the bar rules). These individuals may provide services within their areas of expertise to a recipient that would improve the recipient's delivery of legal services. For example, a volunteer paralegal representing a client of the recipient in a Supplemental Security Income case or a volunteer accountant providing a legal information program on the earned income tax credit would constitute *other professionals* assisting a recipient in its delivery of legal information or legal assistance to eligible clients.

Proposed § 1614.3(g) defines the term *PAI clinic* as ''an activity under this part in which private attorneys, law students, law graduates, or other professionals are involved in providing

legal information and/or legal assistance to the public at a specified time and location.'' PAI clinics may consist solely of a legal information session on a specific topic, such as bankruptcy or no-contest divorce proceedings, that are open to the public and at which no individual legal assistance is provided. Or, a PAI clinic may be open to the public for walk-in intake and screening, and either the provision of individual legal assistance or a referral for services from another organization. Some clinics are hybrids of the two models, and some clinics are aimed at providing technical assistance to pro se litigants, such as help understanding the court procedures or filling out pleadings. The common thread among the activities considered to be *clinics* is that they are open to the public and distinct from a recipient's regular legal practice.

Proposed § 1614.3(h) defines the term *private attorney.* LSC proposes to remove the definition of *private attorney* in existing § 1614.1(d) and replace it with an entirely new definition. Proposed § 1614.3(h)(1) will define *private attorney* as an attorney who is licensed or otherwise authorized to practice law in the jurisdiction in which the recipient is located, or an attorney who is employed less than 1,000 hours per calendar year by an LSC recipient or subrecipient, but only as to activities conducted outside the scope of his or her employment by the recipient.

The proposed definition of *private attorney* improves upon the current definition in multiple ways. It removes the link to the term *staff attorney.* By eliminating the reference to *staff attorney,* the Corporation is also eliminating the obligation of recipients to determine how much of a private attorney's income is derived from PAI compensation in order to determine whether the recipient may allocate costs associated with services provided by the private attorney to the PAI requirement. The proposed definition explicitly contemplates that any attorney licensed or otherwise authorized, by court rules or legislation, to practice law in a jurisdiction may provide legal assistance to eligible clients or legal information through a recipient's PAI program. The definition does not identify specifically government attorneys, corporate attorneys, law professors, retired attorneys, and others who may be licensed or otherwise authorized to practice law in a particular jurisdiction. However, LSC believes that the revised definition makes clear that these categories of attorneys are included within the definition.

The proposed definition also allows attorneys who are employed less than 1,000 hours per calendar year at a recipient to be considered *private attorneys* with respect to legal services provided to the recipient outside of their employment. This aspect of the definition is intended to capture the attorney who is employed half-time or less by a recipient. A recipient may allocate to its PAI requirement costs associated with this attorney's provision of legal assistance or legal information on his or her own time.

The proposed rule establishes two exceptions to the definition of *private attorney.* The first exception is for attorneys who are employed more than 1,000 hours per calendar year by a recipient. The second is for attorneys employed by non-LSC-funded legal services providers who are acting within the terms of their employment. In both situations, the excepted attorney is already engaged, as part of their regular employment, in the provision of legal services to low-income individuals.

Proposed § 1614.3(i) defines the term *screen for eligibility.* The proposed definition makes clear that clients who will be receiving legal assistance through PAI activities must receive the same level of screening that recipients use for their own legal assistance activities. Screening for eligibility includes screening for income and assets, eligible alien status, citizenship, whether the individual's case is within the recipient's priorities, and whether the client seeks assistance in an area or through a strategy that is restricted by the LSC Act, the LSC appropriation acts, and applicable regulations. Screening for eligibility can also include determining whether a client can be served using non-LSC funds.

1614.4 Range of Activities

LSC proposes to move existing § 1614.3(a), (b), and (d) to § 1614.4, and to combine the provisions governing the direct delivery of legal services in one paragraph. LSC also proposes to expand upon the types of other activities, including support activities, that recipients may engage in under this part. LSC proposes to move existing § 1614.3(c) to proposed § 1646.6, which will govern the procedure recipients use to develop their PAI plans. Finally, LSC proposes to move existing § 1614.3(e), regarding accounting and recordkeeping standards for the PAI program, to a new § 1614.7 Compliance.

Proposed § 1614.4(a) will set forth the requirements applicable to direct delivery activities under this part. Proposed § 1614.4(a)(1) adopts existing § 1614.3(a), which states that recipients' PAI programs must include the direct delivery of legal services by private attorneys, in its entirety and without change. Under proposed § 1614.4(a)(2), recipients may count toward the PAI requirement representation of an eligible client by a non-attorney in an administrative proceeding where permitted by law. For example, a recipient may count toward its PAI requirement a law student or paralegal's representation of an eligible client in a Supplemental Security Income case, as long as the representation is permitted by law and undertaken consistent with the jurisdiction's rules of professional responsibility. Proposed § 1614.4(a)(3) adopts existing § 1614.3(d), which states the minimum requirements that a direct delivery system must meet. LSC proposes to combine the provisions relating to direct delivery systems in one paragraph for ease of reference.

LSC proposes to expand § 1614.4(b) to cover support and other activities. The proposed rule introduces activities that received considerable attention from the Task Force, panelists during the rulemaking workshops, and commenters responding to the Requests for Information.

Proposed § 1614.4(b)(1) adopts existing § 1614.3(b)(1) with one change. LSC proposes to change the current language from ''support provided by private attorneys to the recipient in its delivery of legal assistance. . . .'' to ''support provided by private attorneys to the recipient as part of its delivery of legal assistance. . . .'' LSC proposes this change to make clear that the support covered by the rule is support that inures primarily to the benefit of the recipient's clients. For example, PAI support activities would not include a recipient obtaining pro bono legal counsel to defend the recipient in an employment discrimination action brought by one of its own employees.

Consistent with the expansion of the rule to allow recipients to involve paralegals and non-legal professionals in the provision of legal services under this part, LSC proposes to add a new § 1614.4(b)(2). Section 1614.4(b)(2) will authorize recipients to allocate to the PAI requirement costs associated with support provided by other professionals in their areas of professional expertise to the recipient as part of the recipient's delivery of legal information or legal assistance to eligible clients. Support services would include, but not be limited to, intake support, research, training, technical assistance, or direct assistance to an eligible client of the recipient.

To qualify as support services under § 1614.4(b)(2), the services must inure to

the benefit of the recipient's clients. For example, an accountant who is reviewing financial records of a recipient client who has filed for bankruptcy is providing support to the recipient *as part of* the recipient's delivery of legal assistance to an eligible client. Similarly, an accountant who is providing information at an earned income tax credit clinic organized by the recipient is providing support to the recipient *as part of* the recipient's delivery of legal information. An accountant who is reviewing the recipient's financial statements to ensure that they accurately reflect the recipient's financial activities is not providing support as part of the recipient's delivery of legal assistance because the support is provided to the recipient for its benefit as an organization, rather than for the benefit of its clients.

As a result of the introduction of proposed § 1614.4(b)(2), existing § 1614.3(b)(2), describing support provided by the recipient to private attorneys engaged in the delivery of legal services, will be incorporated and redesignated as § 1614.4(b)(3). The lists of activities in § 1614.4(b)(1), (2), and (3) are intended to be illustrative rather than exhaustive.

Proposed § 1614.4(b)(4) establishes the rules governing recipient support for PAI clinics. LSC does not intend this section to place any restrictions on recipients' use of funds to support PAI clinics beyond the restrictions contained in the LSC Act and the LSC appropriations acts.

Proposed § 1614.4(b)(4)(i) applies to clinics involving private attorneys, law students, law graduates, or other professionals that provide only general legal information. Individuals receiving general legal information through a PAI clinic do not need to be screened for eligibility for the reasons stated in the preceding discussion of the definition of *legal information.*

Proposed § 1614.4(b)(4)(ii) applies to PAI clinics providing individualized legal assistance. In order for a recipient to participate in or support a legal assistance clinic, the clinic must screen for eligibility and provide legal assistance only to those individuals who may be served consistent with the LSC Act and relevant statutory and regulatory restrictions. In other words, the clinic may only provide legal assistance to individuals who either meet the requirements to receive legal assistance from an LSC recipient using LSC funds (e.g., income and assets, citizenship or eligible alien status, case within the recipient's priorities, and assistance that is not otherwise restricted), or who are eligible to receive services from the recipient that may be supported by non-LSC funds. An example of the latter category is an individual who exceeds the income and asset tests for LSC eligibility, but is otherwise eligible for assistance. The rule makes clear that recipients may not allocate costs associated with the latter category of cases to their PAI requirements because the clients served are not eligible for LSC-funded legal assistance.

Some PAI clinics are hybrid clinics at which legal information is provided, either as a group presentation or on an individual basis, and individual legal assistance is also provided. These clinics are addressed under the provisions governing legal assistance clinics in proposed § 1614.4(b)(4)(ii)(C). Recipients may support hybrid clinics and allocate costs associated with their support to the PAI requirements, but only if the clinic screens for LSC eligibility prior to providing legal assistance and only provides assistance to individuals who may be served by an LSC recipient.

Consistent with Recommendation 2(c) of the Task Force report, recipients are no longer required to treat legal assistance provided through PAI clinics as direct delivery activities under proposed § 1614.4(a) and accept the individuals assisted as their own clients. Recipients may, however, choose to treat legal assistance provided by private attorneys through PAI clinics as direct delivery activities.

Proposed § 1614.4(b)(5) establishes the rules governing intake and referral systems. This addition to the rule adopts Recommendation 2(b) by allowing recipients to allocate costs associated with intake and referral to private attorneys to their PAI requirement. Section 1614.4(b)(5) reflects the Corporation's decision to relieve recipients of the obligation to accept referred clients as part of their caseload and to determine the ultimate resolution of the clients' cases by considering intake and referral activities *other activities.* Cases screened and referred through these systems do not need to be accepted by the recipient as CSR cases and tracked in order for recipients to allocate costs associated with the system to the PAI requirement.

The rule establishes two requirements for allocating costs. First, recipients must screen applicants for services for LSC eligibility. Second, recipients must track the number of eligible persons referred to a program that places applicants for services with private attorneys and the number of eligible persons who were placed with a private attorney through the program receiving the referral. LSC believes these requirements are necessary to ensure that LSC funds are not being spent for restricted purposes and to ensure that programs using intake and referral systems to place eligible clients with private attorneys are satisfying this goal.

Proposed § 1614.4(b)(6) establishes the rules for allocating costs associated with the work provided by law students to the PAI requirement. The screening and other requirements of the rule apply to work provided by law students under this part.

Proposed § 1614.4(c) adopts existing § 1614.3(c) in its entirety. LSC proposes to revise the phrase ''involve private attorneys in the provision of legal assistance to eligible clients'' to include law students, law graduates, or other professionals. LSC proposes this change to reflect the rule's inclusion of the other categories of individuals that recipients may engage in PAI activities.

Proposed § 1614.4(d) makes clear that the rule is not intended to permit any activities that would conflict with the rules governing the unauthorized practice of law in the jurisdiction in which a recipient is located.

1614.5 Compensation of Recipient Staff and Private Attorneys; Blackout Period

LSC proposes to introduce a new § 1614.5 establishing rules for the treatment of compensation paid to private attorneys, law students, law graduates, or other professionals under the PAI rules. Proposed 1614.5(a) states that recipients may allocate to the PAI requirement costs for the compensation of staff for facilitating the involvement of private attorneys, law students, law graduates, or other professionals in the provision of legal information and legal assistance to eligible clients under this part. This section is intended to make clear that recipients may not allocate costs associated with compensation, such as salaries or stipends, paid to individuals employed by the recipient who are providing legal information or legal assistance to eligible clients as part of their employment. In other words, a recipient may allocate costs to the PAI requirement for compensation paid to a recipient attorney responsible for supervising law students or law graduates paid a stipend by the recipient, but may not allocate the costs of the stipends paid to the law students or law graduates. LSC believes this limitation is necessary to allow recipients to allocate costs associated with supervising law students and law graduates to the PAI requirement, as recommended by the Task Force,

without diluting the PAI requirement by allowing recipients to also allocate the costs associated with compensating those individuals.

Proposed § 1614.5(b) establishes limits on the amount of compensation paid to a private attorney, law student, law graduate, or other professional that a recipient may allocate to its PAI requirement. LSC proposes to limit the amount of compensation to the amount paid for up to 800 hours of service during a calendar year. The reason for this limitation is that compensation at a higher level is inconsistent with the goal of the PAI rule to engage private attorneys in the work of its recipients. It does not seem consistent with that goal for a recipient to count toward its PAI requirement compensation paid to individuals who are functionally recipient staff.

Proposed § 1614.5(c) adopts a revised version of existing § 1614.1(e), which prohibits recipients from allocating to the PAI requirement PAI fees paid to a former staff attorney for two years after the attorney's employment has ended, except for judicare or similar fees. LSC proposes to remove as obsolete the references to the effective date of the regulation and contracts made prior to fiscal year 1986. LSC also proposes to change the time period of the rule's coverage from attorneys employed as staff attorneys for any portion of the previous two years to any individual employed by the recipient for any portion of the current year and the previous year for more than 1,000 hours per calendar year, except for individuals employed as law students. The latter change is proposed to account for the expansion of the rule to allow recipients to engage individuals other than private attorneys in activities under this part. In recognition of the fact that law students are primarily engaged in educational endeavors, even while working at a recipient, LSC proposes to exclude law students from the scope of this provision.

Additionally, LSC proposes to set the threshold for the blackout period at 1,000 hours or more worked for the recipient within a calendar year. This proposal represents a change from existing § 1614.1(e), which requires the two-year blackout period for staff attorneys. As discussed previously, whether an individual is a *staff attorney* within the meaning of the LSC Act and these regulations turns on whether the individual received more than one-half of *the individual's* income from a recipient.

The proposed rule eases the administrative burden on a recipient by allowing the recipient to consider how many hours of legal information or legal assistance to eligible clients an individual provides to the recipient, rather than inquiring into the individual's finances. Furthermore, the proposed rule allows recipients to allocate costs associated with the participation in incubator programs of private attorneys and law graduates who are not employed by the recipient. Finally, the rule allows recipients to count compensation paid to attorneys participating in incubator projects toward the PAI requirement, but only for those attorneys who are not within the blackout period for payments to individuals previously employed by the recipient.

1614.6 Procedure

LSC proposes to move the text of existing § 1614.4, regarding the procedure recipients must use to establish their PAI plans, to § 1614.6. LSC proposes to include law students, law graduates, or other professionals as individuals that recipients may consider engaging in activities under this part during the development of their PAI plans. However, LSC is not revising proposed § 1614.6(b) to require recipients to consult with local associations for other professionals. LSC believes that recipients are in the best position to know which other professionals they may attempt to engage in their PAI programs, and encourages recipients to determine which professional associations they may want to consult in developing their PAI plans.

LSC also proposes to relocate existing § 1614.2(b), regarding joint PAI efforts by recipients with adjacent, coterminous, or overlapping service areas, to § 1614.6(c) without substantive changes. The Corporation believes that existing § 1614.2(b) is more appropriately located in the section governing the procedure that recipients must follow to establish their PAI plans and that this proposed change will improve the structure and logic of the rule.

1614.7 Compliance

As stated above, LSC proposes to move existing paragraph 1614.3(e) regarding compliance in its entirety to a separate section. LSC believes that separating the accounting and recordkeeping requirements for the PAI program from the section prescribing the types of activities that recipients may engage in will improve the comprehensibility of the rule. LSC also proposes to divide existing § 1614.3(e)(3) into two sections. Proposed § 1614.7(c) will contain the statement that in private attorney models, attorneys may be reimbursed for actual costs and expenses. Proposed § 1614.7(d) will state that fees paid for services under this part may not exceed 50% of the current market rate of the local prevailing market for the type of service provided. The proposed split of § 1614.3(e)(3) ensures that the 50% cap applies to fees paid to law students, law graduates, or other professionals, as well as to private attorneys.

1614.8 Prohibition of Revolving Litigation Funds

LSC proposes to move existing § 1614.5, prohibiting the use of revolving litigation funds to meet the PAI requirement, to new § 1614.8. The only proposed substantive change to this section is the inclusion of law students, law graduates, or other professionals.

1614.9 Waivers

LSC proposes to move existing § 1614.6, governing the procedures by which recipients may seek full or partial waivers of the PAI requirement, to new § 1614.9 without substantive change. LSC proposes to make technical amendments by replacing the references to the Office of Field Services (OFS) and the Audit Division of OFS, which no longer exist, with references to LSC. The Corporation is making this change for ease of administration by obviating the need to revise the rule in the event an internal restructuring, which is purely an operational event that does not affect substantive rights of recipients, causes the responsibility for making waiver decisions to transfer from one component to another.

1614.10 Failure To Comply

LSC proposes to move existing § 1614.7, establishing sanctions for a recipient's failure to comply with the PAI requirement or seek a waiver of the requirement, to new § 1614.10. LSC proposes to relocate existing § 1614.7(c), regarding funds withheld due to a failure to meet the PAI requirement or seek a waiver, to new § 1614.10(c) with one substantive change. Existing § 1614.7(c) requires LSC to conduct a competitive grant process for PAI services in the recipient's service area. LSC is concerned that the current recipient might be the only applicant for those funds, which would reduce the deterrent effect of withholding the funds and defeat the purpose of holding a competition for additional funds for PAI activities. LSC proposes to revise this provision to allow LSC to reallocate those funds for any basic field purpose. This revision would be consistent with

the provisions of 45 CFR 1606.13 regarding funds recovered in terminations, as well as LSC's practice for funds recovered through disallowed costs procedures pursuant to 45 CFR part 1630. Finally, LSC proposes to revise § 1614.10(d) to be consistent with the changes to the enforcement rules, 78 FR 10085, Feb. 13, 2013.

List of Subjects in 45 CFR Part 1614

Legal services, Private attorneys, Grant programs—law.

For the reasons stated in the preamble, and under the authority of 42 U.S.C. 2996g(e), the Legal Services Corporation proposes to revise 45 CFR part 1614 to read as follows:

PART 1614—PRIVATE ATTORNEY INVOLVEMENT

Sec.
1614.1 Purpose.
1614.2 General policy.
1614.3 Definitions.
1614.4 Range of activities.
1614.5 Compensation of recipient staff and private attorneys; blackout period.
1614.6 Procedure.
1614.7 Compliance.
1614.8 Prohibition of revolving litigation funds.
1614.9 Waivers.
1614.10 Failure to comply.

Authority: 42 U.S.C. 2996g(e)

§ 1614.1 Purpose.

Private attorney involvement shall be an integral part of a total local program undertaken within the established priorities of that program in a manner that furthers the statutory requirement of high quality, economical, and effective client-centered legal assistance to eligible clients. This part is designed to ensure that recipients of Legal Services Corporation funds involve private attorneys, and encourages recipients to involve law students, law graduates, or other professionals, in the delivery of legal information and legal assistance to eligible clients.

§ 1614.2 General policy.

(a) Except as provided hereafter, a recipient of Legal Services Corporation funding shall devote an amount equal to at least twelve and one-half percent (12.5%) of the recipient's LSC annualized basic field award to the involvement of private attorneys, law students, law graduates, or other professionals in the delivery of legal services to eligible clients; this requirement is hereinafter referred to as the ''PAI requirement.'' Funds received from the Corporation as one-time special grants shall not be considered in calculating a recipient's PAI requirement.

(b) Funds received from LSC as Native American or migrant grants are not subject to the PAI requirement. However, recipients of Native American or migrant funding shall provide opportunity for involvement in the delivery of services by private attorneys, law students, law graduates, or other professionals in a manner that is generally open to broad participation in those activities undertaken with those funds, or shall demonstrate to the satisfaction of the Corporation that such involvement is not feasible.

§ 1614.3 Definitions.

Attorney, for purposes of this part, does not have the meaning stated in 45 CFR 1600.1.

Law graduate means an individual who, within the last two years, has completed the education and/or training requirements necessary for application to the bar in any U.S. state or territory.

Law student means an individual who is, or has been, enrolled, full-time or part-time, within the past year, and not expelled from:

(1) A law school that can provide the student with a degree that is a qualification for application to the bar in any U.S. state or territory; or

(2) An apprenticeship program that can provide the student with sufficient qualifications for application to the bar in any U.S. state or territory.

Legal assistance means service on behalf of a client or clients that is specific to the client's or clients' unique circumstances, involves a legal analysis that is tailored to the client's or clients' factual situation, and involves applying legal judgment in interpreting the particular facts and in applying relevant law to the facts presented.

Legal information means substantive legal information not tailored to address a person's specific problem and that does not involve applying legal judgment or recommending a specific course of action.

Other professional means an individual, not engaged in the practice of law and not employed by the recipient, providing services to a recipient in furtherance of the recipient's provision of legal information or legal assistance to eligible clients. For example, a paralegal representing a client in a Supplemental Security Income (SSI) case, an accountant providing tax advice to an eligible client, or an attorney not authorized to practice law in the jurisdiction in which the recipient is located would fit within the definition of *other professional.* An individual granted a limited license to provide legal services by a body authorized by court rule or state law to grant such licenses in the jurisdiction in which the recipient is located would also meet the definition of *other professional.*

PAI Clinic means an activity under this part in which private attorneys, law students, law graduates, or other professionals are involved in providing legal information and/or legal assistance to the public at a specified time and location.

Private attorney means:

(1)(i) An attorney licensed or otherwise authorized to practice law in the jurisdiction in which the recipient is located; or

(ii) An attorney employed less than 1,000 hours per calendar year by an LSC recipient or subrecipient, but only as to activities conducted outside the scope of his or her employment by the recipient.

(2) *Private attorney* does not include:

(i) An attorney employed 1,000 hours or more per calendar year by an LSC recipient or subrecipient; or

(ii) An attorney employed by a non-LSC-funded legal services provider acting within the terms of his or her employment with the non-LSC-funded provider.

Screen for eligibility means to screen individuals for eligibility using the same criteria recipients use to determine an individual's eligibility for cases accepted by the recipient and whether LSC funds or non-LSC funds can be used to provide legal assistance (e.g., income and assets, citizenship, eligible alien status, within priorities, applicability of LSC restrictions).

§ 1614.4 Range of activities.

(a) *Direct delivery of legal assistance to recipient clients.* (1) Activities undertaken by the recipient to meet the requirements of this part must include the direct delivery of legal assistance to eligible clients by private attorneys through programs such as organized pro bono plans, reduced fee plans, judicare panels, private attorney contracts, or those modified pro bono plans which provide for the payment of nominal fees by eligible clients and/or organized referral systems; except that payment of attorney's fees through ''revolving litigation fund'' systems, as described in § 1614.8 of this part, shall neither be used nor funded under this part nor funded with any LSC support.

(2) In addition to the activities described in paragraph (a)(1) of this section, direct delivery of legal assistance to eligible clients may include representation by a non-attorney in an administrative tribunal

that permits non-attorneys to represent individuals before the tribunal.

(3) Systems designed to provide direct services to eligible clients of the recipient by private attorneys on either a pro bono or reduced fee basis, shall include at a minimum, the following components:

(i) Intake and case acceptance procedures consistent with the recipient's established priorities in meeting the legal needs of eligible clients;

(ii) Case assignments which ensure the referral of cases according to the nature of the legal problems involved and the skills, expertise, and substantive experience of the participating attorney;

(iii) Case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the result desired by the client and the efficient and economical utilization of recipient resources; and

(iv) Access by private attorneys to LSC recipient resources that provide back-up on substantive and procedural issues of the law.

(b) *Support and other activities.* Activities undertaken by recipients to meet the requirements of this part may also include, but are not limited to:

(1) Support provided by private attorneys to the recipient as part of its delivery of legal assistance to eligible clients on either a reduced fee or pro bono basis such as the provision of community legal education, training, technical assistance, research, advice and counsel; co-counseling arrangements; or the use of private law firm facilities, libraries, computer-assisted legal research systems or other resources;

(2) Support provided by other professionals in their areas of professional expertise to the recipient as part of its delivery of legal information or legal assistance to eligible clients on either a reduced fee or pro bono basis such as the provision of intake support, research, training, technical assistance, or direct assistance to an eligible client of the recipient; and

(3) Support provided by the recipient in furtherance of activities undertaken pursuant to this section including the provision of training, technical assistance, research, advice and counsel, or the use of recipient facilities, libraries, computer assisted legal research systems or other resources.

(4) *PAI Clinics*—(i) *Legal information provided in PAI clinics.* A recipient may allocate to its PAI requirement costs associated with providing support to clinics, regardless of whether the clinic screens for eligibility, if the clinic provides only legal information.

(ii) *Legal assistance provided in PAI clinics.* If the clinic provides legal assistance to individual clients, a recipient may provide support for the clinic if the clinic screens for eligibility and provides legal assistance only to clients who may be served consistent with the LSC Act and relevant statutory and regulatory restrictions.

(A) A recipient may allocate to its PAI requirement costs associated with its support of such clinics for legal assistance provided to individuals who are eligible to receive LSC-funded legal services.

(B) Where a recipient supports a clinic that provides legal assistance to individuals who are eligible for permissible non-LSC-funded services, the recipient may not allocate to its PAI requirement costs associated with the legal assistance provided to such individuals. For example, a recipient may not allocate to its PAI requirement costs associated with legal assistance provided through a clinic to an individual who exceeds the income and asset tests for LSC eligibility, but is otherwise eligible.

(C) For clinics providing both legal information to the public and legal assistance to clients screened for eligibility, a recipient may allocate to its PAI requirement costs associated with its support of both parts of the clinic.

(5) *Screening and referral systems.* (i) A recipient may participate in a referral system in which the recipient conducts intake screening and refers LSC-eligible applicants to programs that assign applicants to private attorneys on a pro bono or reduced fee basis.

(ii) In order to allocate to its PAI requirement costs associated with participating in such referral systems, a recipient must be able to track the number of eligible persons referred by the recipient to each program and the number of eligible persons who were placed with a private attorney through the program receiving the referral.

(6) *Law student activities.* A recipient may allocate to its PAI requirement costs associated with law student work supporting the recipient's provision of legal information or delivery of legal assistance to eligible clients. Compensation paid by the recipient to law students may not be allocated to the PAI requirement.

(c) *Determination of PAI activities.* The specific methods to be undertaken by a recipient to involve private attorneys, law students, law graduates, or other professionals in the provision of legal information and legal assistance to eligible clients will be determined by the recipient's taking into account the following factors:

(1) The priorities established pursuant to part 1620 of this chapter;

(2) The effective and economic delivery of legal assistance to eligible clients;

(3) The linguistic and cultural barriers to effective advocacy;

(4) The actual or potential conflicts of interest between specific participating attorneys and individual eligible clients or other professionals and individual eligible clients; and

(5) The substantive and practical expertise, skills, and willingness to undertake new or unique areas of the law of participating attorneys and other professionals.

(d) *Unauthorized practice of law.* This part is not intended to permit any activities that would conflict with the rules governing the unauthorized practice of law in the recipient's jurisdiction.

§ 1614.5 Compensation of recipient staff and private attorneys; blackout period.

(a) A recipient may allocate to its PAI requirement costs associated with compensation paid to its employees only for facilitating the involvement of private attorneys, law students, law graduates, or other professionals in activities under this part.

(b) A recipient may not allocate to its PAI requirement costs associated with compensation paid to a private attorney, law graduate, or other professional for services under this part for any hours an individual provides above 800 hours per calendar year.

(c) No PAI funds shall be committed for direct payment to any individual who for any portion of the current year or the previous year has been employed more than 1,000 hours per calendar year by an LSC recipient or subrecipient, except for employment as a law student; provided, however:

(1) This paragraph (c) shall not be construed to restrict the use of PAI funds in a pro bono or judicare project on the same terms that are available to other attorneys;

(2) This paragraph (c) shall not apply to the use of PAI funds in an incubator project in which a person is employed for less than a year at an LSC recipient as part of a program to provide legal training to law graduates or newly admitted attorneys who intend to establish their own independent law practices; and

(3) This paragraph (c) shall not be construed to restrict the payment of PAI funds as a result of work performed by an attorney or other individual who practices in the same business with such former employee.

§ 1614.6 Procedure.

(a) The recipient shall develop a plan and budget to meet the requirements of this part which shall be incorporated as a part of the refunding application or initial grant application. The budget shall be modified as necessary to fulfill this part. That plan shall take into consideration:

(1) The legal needs of eligible clients in the geographical area served by the recipient and the relative importance of those needs consistent with the priorities established pursuant to section 1007(a)(2)(C) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(C)) and 45 CFR part 1620 adopted pursuant thereto;

(2) The delivery mechanisms potentially available to provide the opportunity for private attorneys, law students, law graduates, or other professionals to meet the established priority legal needs of eligible clients in an economical and effective manner; and

(3) The results of the consultation as required below.

(b) The recipient shall consult with significant segments of the client community, private attorneys, and bar associations, including minority and women's bar associations, in the recipient's service area in the development of its annual plan to provide for the involvement of private attorneys, law students, law graduates, or other professionals in the provision of legal information and legal assistance to eligible clients and shall document that each year its proposed annual plan has been presented to all local bar associations within the recipient's service area and shall summarize their response.

(c) In the case of recipients whose service areas are adjacent, coterminous, or overlapping, the recipients may enter into joint efforts to involve private attorneys, law students, law graduates, or other professionals in the delivery of legal information and legal assistance to eligible clients, subject to the prior approval of LSC. In order to be approved, the joint venture plan must meet the following conditions:

(1) The recipients involved in the joint venture must plan to expend at least twelve and one-half percent (12.5%) of the aggregate of their basic field awards on PAI. In the case of recipients with adjacent service areas, 12.5% of each recipient's grant shall be expended to PAI; provided, however, that such expenditure is subject to waiver under this section;

(2) Each recipient in the joint venture must be a bona fide participant in the activities undertaken by the joint venture; and

(3) The joint PAI venture must provide an opportunity for involving private attorneys, law students, law graduates, or other professionals throughout the entire joint service area(s).

§ 1614.7 Compliance.

The recipient shall demonstrate compliance with this part by utilizing financial systems and procedures and maintaining supporting documentation to identify and account separately for costs related to the PAI effort. Such systems and records shall meet the requirements of the Corporation's Audit Guide for Recipients and Auditors and the Accounting Guide for LSC Recipients and shall have the following characteristics:

(a) They shall accurately identify and account for:

(1) The recipient's administrative, overhead, staff, and support costs related to PAI activities. Non-personnel costs shall be allocated on the basis of reasonable operating data. All methods of allocating common costs shall be clearly documented. If any direct or indirect time of staff attorneys or paralegals is to be allocated as a cost to PAI, such costs must be documented by time sheets accounting for the time those employees have spent on PAI activities. The timekeeping requirement does not apply to such employees as receptionists, secretaries, intake personnel or bookkeepers; however, personnel cost allocations for non-attorney or non-paralegal staff should be based on other reasonable operating data which is clearly documented;

(2) Payments to private attorneys for support or direct client services rendered. The recipient shall maintain contracts on file which set forth payment systems, hourly rates, and maximum allowable fees. Bills and/or invoices from private attorneys shall be submitted before payments are made. Encumbrances shall not be included in calculating whether a recipient has met the requirement of this part;

(3) Contractual payments to individuals or organizations that undertake administrative, support, and/or direct services to eligible clients on behalf of the recipient consistent with the provisions of this part. Contracts concerning transfer of LSC funds for PAI activities shall require that such funds be accounted for by the recipient in accordance with LSC guidelines, including the requirements of the Audit Guide for Recipients and Auditors and the Accounting Guide for LSC Recipients and 45 CFR part 1627;

(4) Other such actual costs as may be incurred by the recipient in this regard.

(b) Support and expenses relating to the PAI effort must be reported separately in the recipient's year-end audit. This shall be done by establishing a separate fund or providing a separate schedule in the financial statement to account for the entire PAI allocation. Recipients are not required to establish separate bank accounts to segregate funds allocated to PAI. Auditors are required to perform sufficient audit tests to enable them to render an opinion on the recipient's compliance with the requirements of this part.

(c) In private attorney models, attorneys may be reimbursed for actual costs and expenses.

(d) Fees paid to individuals for providing services under this part may not exceed 50% of the local prevailing market rate for that type of service.

§ 1614.8 Prohibition of revolving litigation funds.

(a) A revolving litigation fund system is a system under which a recipient systematically encourages the acceptance of fee-generating cases as defined in § 1609.2 of this chapter by advancing funds to private attorneys, law students, law graduates, or other professionals to enable them to pay costs, expenses, or attorneys' fees for representing clients.

(b) No funds received from the Legal Services Corporation shall be used to establish or maintain revolving litigation fund systems.

(c) The prohibition in paragraph (b) of this section does not prevent recipients from reimbursing or paying private attorneys, law students, law graduates, or other professionals for costs and expenses, provided:

(1) The private attorney, law student, law graduate, or other professional is representing an eligible client in a matter in which representation of the eligible client by the recipient would be allowed under the Act and under the Corporation's Regulations; and

(2) The private attorney, law student, law graduate, or other professional has expended such funds in accordance with a schedule previously approved by the recipient's governing body or, prior to initiating action in the matter, has requested the recipient to advance the funds.

(d) Nothing in this section shall prevent a recipient from recovering from a private attorney, law student, law graduate, or other professional the amount advanced for any costs, expenses, or fees from an award to the attorney for representing an eligible client.

§ 1614.9 Waivers.

(a) While it is the expectation and experience of the Corporation that most basic field programs can effectively expend their PAI requirement, there are some circumstances, temporary or permanent, under which the goal of economical and effective use of Corporation funds will be furthered by a partial, or in exceptional circumstances, a complete waiver of the PAI requirement.

(b) A complete waiver shall be granted by LSC when the recipient shows to the satisfaction of LSC that:

(1) Because of the unavailability of qualified private attorneys, law students, law graduates, or other professionals an attempt to carry out a PAI program would be futile; or

(2) All qualified private attorneys, law students, law graduates, or other professionals in the program's service area either refuse to participate or have conflicts generated by their practice which render their participation inappropriate.

(c) A partial waiver shall be granted by LSC when the recipient shows to the satisfaction of LSC that:

(1) The population of qualified private attorneys, law students, law graduates, or other professionals available to participate in the program is too small to use the full PAI allocation economically and effectively; or

(2) Despite the recipient's best efforts too few qualified private attorneys, law students, law graduates, or other professionals are willing to participate in the program to use the full PAI allocation economically and effectively; or

(3) Despite a recipient's best efforts—including, but not limited to, communicating its problems expending the required amount to LSC and requesting and availing itself of assistance and/or advice from LSC regarding the problem—expenditures already made during a program year are insufficient to meet the PAI requirement, and there is insufficient time to make economical and efficient expenditures during the remainder of a program year, but in this instance, unless the shortfall resulted from unforeseen and unusual circumstances, the recipient shall accompany the waiver request with a plan to avoid such a shortfall in the future; or

(4) The recipient uses a fee-for-service program whose current encumbrances and projected expenditures for the current fiscal year would meet the requirement, but its actual current expenditures do not meet the requirement, and could not be increased to do so economically and effectively in the remainder of the program year, or could not be increased to do so in a fiscally responsible manner in view of outstanding encumbrances; or

(5) The recipient uses a fee-for-service program and its PAI expenditures in the prior year exceeded the twelve and one-half percent (12.5%) requirement but, because of variances in the timing of work performed by the private attorneys and the consequent billing for that work, its PAI expenditures for the current year fail to meet the twelve and one-half percent (12.5%) requirement; or

(6) If, in the reasonable judgment of the recipient's governing body, it would not be economical and efficient for the recipient to expend its full 12.5% of Corporation funds on PAI activities, provided that the recipient has handled and expects to continue to handle at least 12.5% of cases brought on behalf of eligible clients through its PAI program(s).

(d)(1) A waiver of special accounting and bookkeeping requirements of this part may be granted by the Audit Division with the concurrence of LSC, if the recipient shows to the satisfaction of the Audit Division of LSC that such waiver will advance the purpose of this part as expressed in §§ 1614.1 and 1614.2.

(2) As provided in 45 CFR 1627.3(c) with respect to subgrants, alternatives to Corporation audit requirements or to the accounting requirements of this Part may be approved for subgrants by LSC; such alternatives for PAI subgrants shall be approved liberally where necessary to foster increased PAI participation.

(e) Waivers of the PAI expenditure requirement may be full or partial, that is, the Corporation may waive all or some of the required expenditure for a fiscal year.

(1) Applications for waivers of any requirement under this Part may be for the current, or next fiscal year. All such applications must be in writing. Applications for waivers for the current fiscal year must be received by the Corporation during the current fiscal year.

(2) At the expiration of a waiver a recipient may seek a similar or identical waiver.

(f) All waiver requests shall be addressed to LSC or the Audit Division as is appropriate under the preceding provisions of this Part. The Corporation shall make a written response to each such request postmarked not later than thirty (30) days after its receipt. If the request is denied, the Corporation will provide the recipient with an explanation and statement of the grounds for denial. If the waiver is to be denied because the information submitted is insufficient, the Corporation will inform the recipient as soon as possible, both orally and in writing, about what additional information is needed. Should the Corporation fail to so respond, the request shall be deemed to be granted.

§ 1614.10 Failure to comply.

(a) If a recipient fails to comply with the expenditure required by this part and if that recipient fails without good cause to seek a waiver during the term of the grant or contract, the Corporation shall withhold from the recipient's support payments an amount equal to the difference between the amount expended on PAI and twelve and one-half percent (12.5%) of the recipient's basic field award.

(b) If a recipient fails with good cause to seek a waiver, or applies for but does not receive a waiver, or receives a waiver of part of the PAI requirement and does not expend the amount required to be expended, the PAI expenditure requirement for the ensuing year shall be increased for that recipient by an amount equal to the difference between the amount actually expended and the amount required to be expended.

(c) Any funds withheld by the Corporation pursuant to this section shall be made available by the Corporation for basic field purposes, which may include making those funds available for use in providing legal services in the recipient's service area through PAI programs. Disbursement of these funds for PAI activities in the recipient's service area shall be made through a competitive solicitation and awarded on the basis of efficiency, quality, creativity, and demonstrated commitment to PAI service delivery to low-income people.

(d) The withholding of funds under this section shall not be construed as any action under 45 CFR parts 1606, 1618, 1623, or 1630.

Dated: April 9, 2014.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2014–08353 Filed 4–14–14; 8:45 am]

BILLING CODE 7050–01–P

Notices

Federal Register
Vol. 79, No. 72
Tuesday, April 15, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 10, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by May 15, 2014 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: National Animal Health Monitoring System; Bison 2014 Study

OMB Control Number: 0579–NEW

Summary of Collection: Collection and dissemination of animal health data and information is mandated by 7 U.S.C. 391, the Animal Industry Act of 1884, which established the precursor of the Animal and Plant Health Inspection Service (APHIS), Veterinary Services (VS), the Bureau of Animal Industry. Legal requirements for examining and reporting on animal disease control methods were further mandated by 7 U.S.C. 8308 of the Animal Health Protection Act, ''Detection, Control, and Eradication of Diseases and Pests,'' May 13, 2002. The National Animal Health Monitoring System (NAHMS') will initiate the first national data collection for ranched Bison through the 2014 study. The study is designed to collect information on operations that have ranched bison, as reported to the U.S. Census of Agriculture.

Need and Use of the Information: APHIS will use the data collected to: (1) Provide a baseline description of the U.S. bison industry, including basic characteristics of operations, such as inventory, size, and type, (2) Describe current U.S. bison industry production practices and challenges, including identification, confinement and handling, animal care, and disease testing, (3) Describe health management and biosecurity practices important for the productivity and health of farmed bison, and (4) Describe producer-reported occurrence of select health problems and evaluate potentially associated risk factors. Without this type of national data, the United States will have no ability to understand and develop information on trends in management, production, and health status factors that increase/decrease farm economy or productivity either directly or indirectly.

Description of Respondents: Business or other for-profit.

Number of Respondents: 3,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 396.

Animal and Plant Health Inspection Service

Title: Conducting Aquatic Animal tests for Export Health Certificates.

OMB Control Number: 0579–NEW.

Summary of Collection: The Animal Health Protection Act (APHA) of 2002 is the primary Federal law governing the protection of animal health. The AHPA is contained in Title X, Subtitle E, Sections 10401–18 of Public Law 107–171, May 13, 2002, the Farm Security and Rural Investment Act of 2002. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Secretary may also prohibit or restrict import or export of any animal or related material if necessary to prevent the spread of any livestock or poultry. To facilitate the export of U.S. animals and animal products, the Animal and Plant Health Inspection Service (APHIS) maintains information regarding the import health requirements of other countries for animals and animal products, including aquaculture animals, exported from the United States.

Need and Use of the Information: APHIS will collect the following information to certify laboratories for aquaculture export activities: (1) Notification for Intent to Request Approval (2) Application for APHIS Approval (3) Protocol Statement (4) Submission of Sample Copies of Diagnostic Reports (5) Recordkeeping of Sample Copies of Diagnostic Reports (6) Quality Assurance/Control Plans (7) Recordkeeping of Quality Assurance/Control Plans (8) Notification of Proposed Changes to Assay Protocols (9) Recordkeeping: Supporting Assay Documentation (10) Request for Removal of Approved Status. If APHIS cannot collect this information, it cannot approve the laboratory assays that support exports from U.S. producers.

Description of Respondents: Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 12.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 18,336.

Animal and Plant Health Inspection Service

Title: Importation of Pomegranates from Chile under a System Approach.

OMB Control Number: 0579–0375.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants and plant pests to prevent the introduction of plant pests into the United States or their dissemination within the United States. The regulations in ''Subpart-Fruit and Vegetables'' (7 CFR 319.56–58), prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination within the United States. The importation of pomegranates from Chile, into the continental United States, is under a system approach in which the fruit must be grown in a place of production that is registered with the Government of Chile and certified as having a low prevalence of Brevipalpus chilensis. The fruit undergoes pre-harvest sampling at the registered production site. After the post-harvest process, the fruit is inspected in Chile at an approved inspection site.

Need and Use of the Information: The Animal and Plant Health Inspection Service will use the following activities to collect information: Phytosanitary Certificate with/Additio9nal Declaration, Production Site Registration, Marking of Cartons with Registration Number, and List of Certified Production Sites. Falling to collect this information would cripple APHIS' ability to ensure pomegranates from Chile are not carrying plant pests.

Description of Respondents: State, Local or Tribal Government; Federal Government.

Number of Respondents: 3.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 150.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–08498 Filed 4–14–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Meeting Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App 2, the United States Department of Agriculture (USDA) announces a meeting of the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: The National Agricultural Research, Extension, Education, and Economics Advisory Board will meet May 5–7, 2014. The public may file written comments before or up to two weeks after the meeting with the contact person.

ADDRESSES: The meeting will take place at the Ohio Agricultural Research and Development Center, Shisler Center, 1680 Madison Avenue, Wooster, OH 44691. Written comments from the public may be sent to the Contact Person identified in this notice at: The National Agricultural Research, Extension, Education, and Economics Advisory Board Office, Room 3901, South Building, United States Department of Agriculture, STOP 0321, 1400 Independence Avenue SW., Washington, DC 20250–0321.

FOR FURTHER INFORMATION CONTACT: Michele Esch, Executive Director, or Shirley Morgan-Jordan, Program Support Coordinator, National Agricultural Research, Extension, Education, and Economics Advisory Board; telephone: (202) 720–3684; fax: (202) 720–6199; or email: *michele.esch@usda.gov* or *Shirley.Morgan@ars.usda.gov*.

SUPPLEMENTARY INFORMATION: The Honorable Secretary of Agriculture Tom Vilsack, and the Under Secretary of Research, Education, and Economics Dr. Catherine Woteki have been invited to provide brief remarks and welcome the new Board members during the meeting.

On Monday, May 5, 2014, an orientation session for new members and interested incumbent members will be held from 8:00 a.m.–12:00 p.m. (noon). Specific topics of discussion will include a briefing on ethical behavior for federal advisory committee members; briefings regarding the USDA's Research, Education, and Economics Mission Area; a discussion on the role of the Board in advising the Secretary of Agriculture, Land Grant Institutions and Congress; and a discussion on how to most effectively organize the work of the Board and its Committees. The afternoon session will be held from 12:00 p.m.–3:00 p.m. and be immediately followed by a tour of the Ohio Agricultural Research and Development Center facilities. There will be an evening session beginning at 5:30 p.m. and ending at 7:30 p.m. located at The Barnhart Rice Homestead House, a historical home of The Ohio State University. Specific topics of discussion will include presentations by the Experiment Station Committee on Organization and Policy (ESCOP) and items of board business, including brief introductions of new Board members, incumbents, and guests; the election of the Chair and Vice-Chair of the Advisory Board; and comments from a variety of distinguished leaders, experts, and departmental personnel.

On Tuesday, May 6, 2014, the full Advisory Board will convene at 7:00 a.m. for a tour of the J.M. Smucker Company and Cedar Lane Farms. A morning session beginning at 10:00 a.m. will be held at the Shisler Conference Center. Specific topics of discussion will include: continued presentations by the Experiment Station Committee on Organization and Policy (ESCOP); and additional board business. The meeting will adjourn at 5:00 p.m.

On Wednesday, May 7, 2013, the Board will reconvene at 8:00 a.m. to discuss initial recommendations resulting from the meeting and future planning for the Board; to organize the membership of the committees, and working groups of the Advisory Board; and to finalize Board business for the meeting. The Board Meeting will adjourn by 12:00 p.m. (noon).

This meeting is open to the public and any interested individuals wishing to attend.

Opportunity for public comment will be offered each day of the meeting. Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to two weeks following the Board meeting (by close of business Tuesday, May 23, 2014). All statements will become a part of the official record of the National Agricultural Research, Extension, Education, and Economics Advisory Board and will be kept on file for public review in the Research, Education, and Economics Advisory Board Office.

Done at Washington, DC this 31st day of March 2014.

Ann Bartuska,

Deputy Secretary, Research, Education, and Economics.

[FR Doc. 2014–08478 Filed 4–14–14; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Pacific Northwest National Scenic Trail Advisory Council

AGENCY: Forest Service.

ACTION: Notice of intent to establish an advisory council and call for nominations.

SUMMARY: The Secretary of Agriculture intends to establish the Pacific Northwest National Scenic Trail Advisory Council (Council) pursuant to Section 5(d) of the National Trails System Act (Act) (Pub. L. 90–543), as amended through (Pub. L. 111–11) (16 U.S.C. 1241 to 1251). The Council is being established to provide advice and recommendations on matters relating to the Pacific Northwest National Scenic Trail (Pacific Northwest Trail) including, but not limited to, the development and implementation of a comprehensive plan, selection of rights-of-way, standards for the erection and maintenance of markers along the Trail, and interpretation of the Trail. Therefore, the Secretary of Agriculture is seeking nominations for individuals to be considered as Council members. The public is invited to submit nominations for membership.

DATES: Written nominations must be received by June 16, 2014. Nominations must contain a completed application packet that includes the nominee's name, resume, and completed form AD–755 (Advisory Committee Membership Background Information). The form AD–755 may be obtained from the Forest Service individual listed in the **FOR FURTHER INFORMATION CONTACT** section or from the following Web site: *http://www.ocio.usda.gov/forms/doc/AD–755_Master_2012_508%20Ver.pdf.* The package must be sent to the address below.

ADDRESSES: Send nominations and applications to Matt McGrath, USDA Forest Service, Mt. Baker-Snoqualmie National Forest, 2930 Wetmore Avenue, Suite 3A, Everett, WA 98201- 4044; telephone (425) 783–6199; *email: mtmcgrath@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Matt McGrath, USDA Forest Service, Mt. Baker-Snoqualmie National Forest, 2930 Wetmore Avenue, Suite 3A, Everett, WA 98201–4044; telephone (425)783–6199; email: *mtmcgrath@fs.fed.us.* Individuals who use telecommunications devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

In accordance with Section 5(d) of the National Trails System Act (Act) (Pub. L. 90–543, as amended through Pub. L. 111–11) (16 U.S.C. 1241 to 1251), and the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App.2), the Secretary of Agriculture intends to establish the Pacific Northwest National Scenic Trail Advisory Council. The Council will be a statutory advisory council. The Council will operate under the provisions of FACA and will report to the Secretary of Agriculture through the Chief of the Forest Service.

The purpose of the Council is to advise and make recommendations to the Secretary of Agriculture, through the Chief of the Forest Service, on matters relating to the Pacific Northwest National Scenic Trail in accordance with Section 5(d) of the Act, which states,

> The Secretary charged with the administration of each respective trail shall, within one year of the date of the addition of any national scenic or national historic trail to the system, ... establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment, ... If the appropriate Secretary is unable to establish such an advisory council because of the lack of adequate public interest, the Secretary shall so advise the appropriate committees of the Congress. The appropriate Secretary shall consult with such council from time to time with respect to matters relating to the trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the trail, and the administration of the trail. . . . .

Advisory Council Organization

The Council will be comprised of approximately of 20 members. The members appointed to the Council will provide a fairly balanced and broad representation of all public interests. Members shall be appointed by the Secretary of Agriculture as follows: the Regional Forester of the Pacific Northwest Region, Forest Service, or a designee; the Regional Forester of the Northern Region, Forest Service, or a designee; the Regional Director of the Pacific West or Intermountain Regions, National Park Service, or a designee; a representative of the State of Montana (selected from recommendations by the Governor); a representative of the State of Idaho (selected from recommendations by the Governor); a representative of the State of Washington (selected from recommendation by the Governor); at least one representative for Tribal governments with an interest in the Trail or the areas through which it passes; at least one representative of a nationally recognized trails organization; at least one representative of a regionally recognized trails organization; at least one representative of outdoor recreation (hiking); at least one representative of outdoor recreation (pack and saddle stock); at least one representative of a nationally or regionally recognized environmental organization; at least one representative of archaeological and historical interests; at least one representative of a nationally or regionally recognized wildlife organization; at least one representative of the timber industry; at least one representative of the tourism industry and/or commercial outfitter interests; at least one representative of environmental education interests; at least one representative of youth engagement and employment interests; and at least one representative of private landowner interests.

No individual who is currently registered as a Federal lobbyist is eligible to serve as a member of the Council.

The Council will meet at least once annually or as often as necessary and at such times as designated by the Designated Federal Official (DFO).

The appointment of members to the Council will be made by the Secretary of Agriculture. Any individual or organization may nominate one or more qualified persons to serve on the Pacific Northwest National Scenic Trail Advisory Council. Individuals may also nominate themselves. To be considered for membership, nominees must submit:

1. Resume describing qualification for membership to the Council;

2. Cover letter with a rationale for serving on the Council and what they can contribute; and

3. Complete form AD–755, Advisory Committee Membership Background Information.

Letters of recommendations are welcome. All nominations will be vetted by the United States Department of the Agriculture (USDA). The Secretary of Agriculture will appoint members to the Pacific Northwest National Scenic Trail Advisory Council from the list of qualified applicants.

The non-Federal and non-Independent Agency members of the

Council will serve without compensation, but may be reimbursed for travel expenses while performing duties on behalf of the Council, subject to approval by the DFO.

Equal opportunity practices in accordance with USDA policies shall be followed in all appointments to the Council. To help ensure that recommendations of the committee take into account the needs of the diverse groups served by USDA, membership shall include, to the extent possible, individuals with demonstrated ability to represent women, men, racial and ethnic groups, and persons with disabilities.

Dated: April 2, 2014.

Gregory Parham,

Assistant Secretary for Administration.

[FR Doc. 2014–08468 Filed 4–14–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forest Resource Coordinating Committee

AGENCY: Forest Service, USDA.

ACTION: Call for nominations.

SUMMARY: The Department of Agriculture is seeking nominations for the Forest Resource Coordinating Committee (Committee) pursuant to Section 8005 of the Food, Conservation, and Energy Act of 2008 (Act) (Pub. L. 110–246), and the Federal Advisory Committee Act (FACA), (5 U.S.C. App. 2). Additional information on the Committee can be found by visiting the Committee's Web site at: *http://www.fs.fed.us/spf/coop/frcc/.*

DATES: Written nominations must be received by May 15, 2014. Nominations must contain a completed application packet that includes the nominee's name, resume, cover letter, and completed Form AD–755 (Advisory Committee or Research and Promotion Background Information). The package must be sent to the address below.

ADDRESSES: Laurie Schoonhoven, USDA Forest Service, Office of Cooperative Forestry, Sidney R. Yates Federal Building, 201 14th Street SW., mailstop 1123, Washington, DC 20024 by express mail delivery or overnight courier service. Nominations sent via the U.S. Postal Service must be sent to the following address: USDA Forest Service; Office of Cooperative Forestry, State & Private Forestry; mailstop 1123; 1400 Independence Avenue SW,, Washington, DC 20250–1123.

FOR FURTHER INFORMATION CONTACT: Laurie Schoonhoven, Forest Resource Coordinating Committee Program Coordinator, Telephone: (202) 205–0929 or Karl Dalla Rosa, Designated Federal Officer (DFO), Telephone: (202) 205–6206. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 5 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the provisions of FACA, the Secretary of Agriculture is seeking nominations to fill seven vacancies that will occur when current appointments expire in December 2014. The purpose of the Committee is to continue providing direction and coordination of actions within the Department of Agriculture, and coordination with State agencies and the private sector, to effectively address the national priorities for private forest conservation, with specific focus on owners of non-industrial private forest land as described in Section 8005 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246). These priorities include:

1. Conserving and managing working forest landscapes for multiple values and uses,

2. Protecting forests from threats, including catastrophic wildfires, hurricanes, tornadoes, windstorms, snow or ice storms, flooding, drought, invasive species, insect or disease outbreak, or development, and restoring appropriate forest types in response to such threats, and

3. Enhancing public benefits from private forests, including air and water quality, soil conservation, biological diversity, carbon storage, forest products, forestry-related jobs, production of renewable energy, wildlife, wildlife corridors and wildlife habitat, and recreation.

Vacancy

Members appointed to the Committee will be fairly balanced in terms of the points of view represented, functions to be performed, and will represent a broad array of expertise, leadership and relevancy to a membership category. Geographic balance and a balanced distribution among the categories are also important. Representatives from the following categories will be appointed by the Secretary with staggered terms up to 3 years: (2) State Foresters or equivalent State officials from geographically diverse regions of the United States.; (1) Non-industrial Private Forest Landowner; (1) Land-Grant University or College; (1) Private Forestry Consultant; (1) State Technical Committee; and (1) Conservation Organization. Vacancies will be filled in the manner in which the original appointment was made.

Nomination and Application Instructions

The State Foresters, Non-industrial Private Forest Landowner, Land-Grant University or College, Private Forestry Consultant, State Technical Committee, or Conservation Organization positions must be associated with such organizations and be willing to represent that sector as it relates to non-industrial private forestry. The public is invited to submit nominations for membership on the Forest Resource Coordinating Committee, either as a self-nomination or a nomination of any qualified and interested person. The appointment of members to the Committee is made by the Secretary of Agriculture. Any individual or organization may nominate one or more qualified persons to represent the above vacancy on the Forest Resource Coordinating Committee. To be considered for membership, nominees must provide the following:

1. Resume describing your qualifications to represent the vacancy;

2. Cover letter with a rationale for serving on the committee and what you can contribute;

3. Complete Form AD–755, Advisory Committee or Research and Promotion Background Information. The form AD–755 may be obtained from the Forest Service contacts or from the following Web site: *http://www.usda.gov/documents/OCIO_AD_755_Master_2012.pdf.*

5. Letters of recommendation are welcome.

All nominations will be vetted by USDA. A list of qualified applicants will be prepared from which the Secretary of Agriculture shall appoint to the Forest Resource Coordinating Committee. Applicants are strongly encouraged to submit nominations via overnight mail or delivery to ensure timely receipt by the USDA. Members of the Committee will serve without compensation, but may be reimbursed for travel expenses while performing duties on behalf of the Committee, subject to approval by the DFO.

Equal opportunity practices, in line with USDA policies, will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have been taken into account the needs of the diverse groups served by the Departments, membership will,

to the extent practicable, include individuals with demonstrated ability to represent all racial and ethnic groups, women and men, and persons with disabilities.

Dated: April 2, 2014.

Gregory Parham,

Acting Assistant Secretary for Administration.

[FR Doc. 2014–08472 Filed 4–14–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Aberdeen, SD; Hastings, NE; Fulton, IL; the State of Missouri, and the State of South Carolina Areas; Request for Comments on the Official Agencies Servicing These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end on September 30, 2014. We are asking persons or governmental agencies interested in providing official services in the areas presently served by these agencies to submit an application for designation. In addition, we are asking for comments on the quality of services provided by the following designated agencies: Aberdeen Grain Inspection, Inc. (Aberdeen); Hastings Grain Inspection, Inc. (Hastings); John R. McCrea Agency, Inc. (McCrea); Missouri Department of Agriculture (Missouri); and South Carolina Department of Agriculture (South Carolina).

DATES: Applications and comments must be received by May 15, 2014.

ADDRESSES: Submit applications and comments concerning this notice using any of the following methods:

- Applying for Designation on the Internet: Use FGISonline (*https://fgis.gipsa.usda.gov/default_home_FGIS.aspx*) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGISonline customer number and USDA eAuthentication username and password prior to applying.
- Submit Comments Using the Internet: Go to Regulations.gov (*http://www.regulations.gov*). Instructions for submitting and reading comments are detailed on the site.
- Mail, Courier or Hand Delivery: Eric J. Jabs, Chief, USDA, GIPSA, FGIS, QACD, QADB, 10383 North Ambassador Drive, Kansas City, MO 64153.
- Fax: Eric J. Jabs, 816–872–1257.
- Email: *Eric.J.Jabs@usda.gov*.

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

FOR FURTHER INFORMATION CONTACT: Eric J. Jabs, 816–659–8408 or *Eric.J.Jabs@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 79(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)). Under section 79(g) of the USGSA, designations of official agencies are effective for three years unless terminated by the Secretary, but may be renewed according to the criteria and procedures prescribed in section 79(f) of the USGSA.

Areas Open for Designation

Aberdeen

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the State of North Dakota and South Dakota, is assigned to this official agency:

In North Dakota and South Dakota

Bounded on the North by U.S. Route 12 east to State Route 22; State Route 22 north to the Burlington-Northern (BN) line; the Burlington-Northern (BN) line east to State Route 21; State Route 21 east to State Route 49; State Route 49 south to the North Dakota-South Dakota State line; the North Dakota-South Dakota State line east to U.S. Route 83; U.S. Route 83 north to State Route 13; State Route 13 east and north to McIntosh County; the northern McIntosh County line east to Dickey County; the northern Dickey County line east to U.S. Route 281; U.S. Route 281 south to the North Dakota-South Dakota State line; the North Dakota-South Dakota State line east;

Bounded on the East by the eastern South Dakota State line (the Big Sioux River) to A54B;

Bounded on the South by A54B west to State Route 11; State Route 11 north to State Route 44 (U.S. 18); State Route 44 west to the Missouri River; the Missouri River south-southeast to the South Dakota State line; the southern South Dakota State line west;

Bounded on the West by the western South Dakota State line north; the western North Dakota State line north to U.S. Route 12.

Hastings

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the State of Nebraska, is assigned to this official agency:

In Nebraska

Bounded on the North by the northern Nebraska State line from the western Sioux County line east to the eastern Knox County line;

Bounded on the East by the eastern and southern Knox County lines; the eastern Antelope County line; the northern Madison County line east to U.S. Route 81; U.S. Route 81 south to the southern Madison County line; the southern Madison County line; the eastern Boone, Nance, and Merrick County lines; the Platte River southwest; the eastern Hamilton County line; the northern and eastern Fillmore County lines; the southern Fillmore County line west to U.S. Route 81; U.S. Route 81 south to State Highway 8; State Highway 8 west to the County Road 1 mile west of U.S. Route 81; the County Road south to southern Nebraska State line;

Bounded on the South by the southern Nebraska State line, from the County Road 1 mile west of U.S. Route 81, west to the western Dundy County line;

Bounded on the West by the western Dundy, Chase, Perkins, and Keith County lines; the southern and western Garden County lines; the southern Morrill County line west to U.S. Route 385; U.S. Route 385 north to the southern Box Butte County line; the southern and western Sioux County lines north to the northern Nebraska State line.

The following grain elevators are part of this geographic area assignment. In Kansas Grain Inspection Service, Inc.'s area: Farmers Coop, Big Springs, Deuel County, Nebraska; and Big Springs Elevator, Big Springs, Deuel County, Nebraska. In Fremont Grain Inspection Department, Inc.'s area: Huskers Cooperative Grain Company, Columbus, Platte County, Nebraska.

McCrea

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the State of Illinois and Iowa, is assigned to this official agency:

In Illinois

Carroll and Whiteside Counties.

In Iowa

Clinton and Jackson Counties.

Missouri

Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of Missouri, is assigned to this official agency:

In Missouri

The entire State of Missouri.

South Carolina

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the State of South Carolina, is assigned to this official agency:

In South Carolina

The entire State, except those export port locations within the State, which are serviced by GIPSA.

Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic areas specified above under the provisions of section 79(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic areas is for the period beginning October 1, 2014 and ending September 30, 2017. To apply for designation or for more information, contact Eric J. Jabs at the address listed above or visit GIPSA's Web site at *http://www.gipsa.usda.gov*.

Request for Comments

We are publishing this notice to provide interested persons the opportunity to comment on the quality of services provided by the Aberdeen, Hastings, McCrea, Missouri, and South Carolina official agencies. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicants. Submit all comments to Eric J. Jabs at the above address or at *http://www.regulations.gov*.

We consider applications, comments, and other available information when determining which applicants will be designated.

Authority: 7 U.S.C. 71–87k.

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2014–08481 Filed 4–14–14; 8:45 am]

BILLING CODE 3410–KD–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

TIME AND DATE: May 1, 2014, 6:00 p.m.–9:00 p.m. PST

PLACE: Brodniak Auditorium, Anacortes High School; 1600 20th St. Anacortes, WA 98221

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

The Chemical Safety and Hazard Investigation Board (CSB) will convene a public meeting on May 1, 2014, starting at 6:00 p.m. PST at the Brodniak Auditorium, Anacortes High School, 1600 20th St., Anacortes, WA 98221.

At the public meeting, the Board will consider and vote on the final investigation report into the April 2, 2010, explosion and fire that fatally injured seven employees at the Tesoro Refinery in Anacortes, WA. The CSB's investigation found that at the time of the incident a bank of heat exchangers was being brought online in the refinery's naphtha hydrotreater unit when another heat exchanger in a parallel bank catastrophically failed, spewing highly flammable hydrogen and naphtha which ignited. Seven Tesoro workers who were nearby, assisting with the heat exchanger startup, were fatally burned. The accident at Tesoro was the mostly deadly U.S. refinery incident since the 2005 explosion at BP Texas City, TX. that killed 15 workers and injured 180 others.

At the meeting, CSB staff will present to the Board the results of the investigation's findings and safety recommendations.

The Board will then consider whether to approve the final report and recommendations. All staff presentations are preliminary and are intended solely to allow the Board to consider in a public forum the issues and factors involved in this case. No factual analyses, conclusions, or findings presented by staff should be considered final.

Only after the Board has considered the staff presentations, considered public comments that were previously submitted, and adopted a final investigation report and recommendations will there be an approved final record of the CSB investigation of this incident.

Additional Information

The meeting is free and open to the public. If you require a translator or interpreter, please notify the individual listed below as the ''Contact Person for Further Information,'' at least five business days prior to the meeting.

The CSB is an independent federal agency charged with investigating accidents and hazards that result, or may result, in the catastrophic release of extremely hazardous substances. The agency's Board Members are appointed by the President and confirmed by the Senate. CSB investigations look into all aspects of chemical accidents and hazards, including physical causes such as equipment failure as well as inadequacies in regulations, industry standards, and safety management systems.

Contact Person for Further Information

Hillary J. Cohen, Communications Manager, *hillary.cohen@csb.gov* or (202) 446–8094. General information about the CSB can be found on the agency Web site at: *www.csb.gov*.

Dated: April 10, 2014.

Rafael Moure-Eraso,

Chairperson.

[FR Doc. 2014–08588 Filed 4–11–14; 11:15 am]

BILLING CODE 6350–01–P

COMMISSION ON CIVIL RIGHTS

Public Meeting of the Mississippi Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of Mississippi Advisory Committee meeting.

SUMMARY: The Mississippi Advisory Committee (Committee) to the U.S. Commission on Civil Rights (USCCR) will hold a meeting on May 7, 2014, to discuss current civil rights issues in Mississippi. The Committee was appointed on February 14, 2014, and will begin discussing the possible issues on which to conduct future research and produce recommendations.

Members of the public are entitled to comment during the open session beginning at 12:45 p.m. Alternatively, members of the public may submit written comments. Comments must be received in the regional office by June 6, 2014. Comments may be mailed to the Central Regional Office, U.S. Commission on Civil Rights, 400 State Avenue, Suite 908, Kansas City, KS 66101. They may also be faxed to the Committee at (913) 551–1413 or emailed to David Mussatt at *dmussatt@usccr.gov*.

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Central Regional Office at least ten (10) working days

before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Central 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 Central Regional Office.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

DATES: The meeting will be held on Wednesday, May 7, 2014, at 11 a.m. until 1:00 p.m.

ADDRESSES: The meetings will be at Millsaps Cabot Lodge at 2375 North State Street, Jackson, MS 39202.

FOR FURTHER INFORMATION CONTACT: Corrine Sanders, 913–551–1400.

Dated: April 9, 2014.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2014–08397 Filed 4–14–14; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Florida Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Florida Advisory Committee (Committee) to the Commission will convene at 1:30 p.m. and adjourn at approximately 3:30 p.m. on Tuesday, April 29, 2014. The meeting will be held at the Disability Rights Florida, 2728 Centerview Drive, Suite 102, Tallahassee, 32301. The purpose of the meeting is for the Committee to plan its human trafficking project.

Members of the public are entitled to submit written comments. Comments must be received in the regional office by May 29, 2014. Comments may be mailed to the Southern Regional Office, U.S. Commission on Civil Rights, 61 Forsyth St. SW., Suite 16T126, Atlanta, GA, 30303. They may also be faxed to the Committee at (404) 562–7005 or emailed to Peter Minarik at *pminarik@usccr.gov*. Persons who desire additional information may contact the Southern Regional Office at (404) 562–7000.

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Southern Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Southern Regional Office at the above email or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated in Chicago, IL, April 10, 2014.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2014–08511 Filed 4–14–14; 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

[03/7/2014 through 04/09/2014]

Firm name	Firm address	Date accepted for investigation	Product(s)
NIMCO Corporation	1000 NIMCO Drive, Crystal Lake, IL 60014.	3/31/2014	The firm manufactures product packaging machinery for consumer goods and food industries.
General Box Company	710 Haines Avenue, Waycross, GA 31501.	4/9/2014	The firm manufactures boxes, three ring binders, and desk accessories.
Missouri Thistle, Inc	1008 Commercial Drive, Owensville, MO 65066.	4/9/2014	The firm manufacturers plastics and vinyl product such as business card carriers and checkbook covers.
Point6, LLC	1120 South Lincoln Ave, Suite F, Steamboat Springs, CO 80487.	4/9/2014	The firm produces merino wool blend socks.

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: April 9, 2014.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2014–08465 Filed 4–14–14; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No.: 140311231–4231–01]

Draft NIST Framework and Roadmap for Smart Grid Interoperability Standards, Release 3.0

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice; request for comments.

SUMMARY: The National Institute of Standards and Technology (NIST) seeks comments on the draft NIST Framework and Roadmap for Smart Grid Interoperability Standards, Release 3.0. This new document builds on two previously released Frameworks and Roadmaps, and incorporates advances in smart grid infrastructure, such as widespread deployment of wireless-communication power meters, the availability of customer energy usage data through the Green Button initiative, and remote sensing for determining real-time transmission and distribution status. Release 3.0 also includes protocols for electric vehicle charging. The entire draft version of the draft NIST Framework and Roadmap for Smart Grid Interoperability Standards, Release 3.0, is available online at: *http://www.nist.gov/smartgrid/framework3.cfm.*

DATES: Comments must be received on or before 5:00 p.m. Eastern Time on May 30, 2014.

ADDRESSES: Written comments may be sent to the Cyber Physical Systems and Smart Grid Program Office, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8200, Gaithersburg, MD 20899–8200 or by email at *nistsgfwcmts@nist.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Chris L. Greer, Director, Cyber Physical Systems and Smart Grid Program Office, and National Coordinator for Smart Grid Interoperability, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8200, Gaithersburg, MD 20899–8200; telephone 301–975–5987, fax 301–948–5668; or via email at *nistsgfwcmts@nist.gov.*

SUPPLEMENTARY INFORMATION:

Section 1305 of the Energy Independence and Security Act (EISA) of 2007 (Pub. L. 110–140) directs NIST ''to coordinate the development of a framework that includes protocols and model standards for information management to achieve interoperability of smart grid devices and systems.''

To meet these statutory goals, in January 2010, NIST published the NIST Framework and Roadmap for Smart Grid Interoperability Standards, Release 1.0 (Release 1.0), and in February 2012, NIST published the NIST Framework and Roadmap for Smart Grid Interoperability Standards, Release 2.0 (Release 2.0), which updated the material discussed in Release 1.0. The Framework document discusses the NIST vision for an advanced smart grid as well as a high-level overview of smart grid architecture, cybersecurity, and testing and certification considerations. In addition, there is a discussion of the Smart Grid Interoperability Panel (SGIP) which is playing a key role in the development of interoperability standards.

NIST now announces the publication of the draft NIST Framework and Roadmap for Smart Grid Interoperability Standards, Release 3.0 (Release 3.0 Draft) for public review and comment. The entire draft version of Release 3.0 Draft is available online at: *http://www.nist.gov/smartgrid/framework3.cfm.*

Release 3.0 Draft builds upon the work in previous releases with an update on the progress since Release 2.0; a description of the Smart Grid Interoperability Panel (SGIP); updated architecture, cybersecurity, and testing and certification chapters; and a new chapter on cross-cutting issues and future directions.

Since the release of the last edition of the NIST Framework and Roadmap for Smart Grid Interoperability Standards (Release 2.0), advances in smart grid infrastructure have been implemented. Examples include the widespread deployment of wireless-communication power meters, the availability of customer energy usage data through the Green Button initiative, remote sensing for determining real-time transmission and distribution status, and protocols for electric vehicle charging, supported by standards development across the entire smart grid arena. This release updates NIST's ongoing efforts to facilitate and coordinate smart grid interoperability standards development and smart grid-related measurement science and technology, including the evolving and continuing NIST relationship with the SGIP.

Request for comments:

NIST seeks comments on the draft NIST Framework and Roadmap for Smart Grid Interoperability Standards, Release 3.0. In particular, the agency requests that comments be categorized as (1) technical; (2) editorial; or (3) general. If a comment is not a general comment, please identify the relevant page, line number, and section that is addressed by the comment. NIST will also accept proposed solutions along with the comments. Comments should be submitted in accordance with instructions in the **DATES** and **ADDRESSES** sections of this notice.

Dated: April 9, 2014.

Kevin A. Kimball,

Chief of Staff.

[FR Doc. 2014–08513 Filed 4–14–14; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket Number: 140305199–4199–01]

Notice of Intent To Terminate Selected National Voluntary Conformity Assessment Systems Evaluation (NVCASE) Program Services

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The National Institute of Standards and Technology (NIST) announces its intent to terminate the Organic Production and Processing sub-program offered by NIST's National Voluntary Conformity Assessment Systems Evaluation (NVCASE) program, effective January 1, 2016.

NIST requests written comments on the intended termination of the Organic Production and Processing sub-program offered by NVCASE, and announces a 30-day comment period for that purpose. Persons desiring to comment on the proposed termination must submit their comments in writing to the address provided in the **ADDRESSES** section of this notice.

DATES: Comments regarding the proposed January 1, 2016, termination of the NVCASE Organic Production and Processing sub-program must be received no later than May 15, 2014.

ADDRESSES: Submit written comments to NVCASE Program Manager, National Voluntary Conformity Assessment Systems Evaluation Program, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2100, Gaithersburg, MD 20899–2100, or by email to *ramona.saar@nist.gov*.

FOR FURTHER INFORMATION CONTACT: Ramona Saar, National Institute of Standards and Technology, 100 Bureau Drive, Stop 2100, Gaithersburg, MD 20899–2100, email to *ramona.saar@nist.gov*, or phone 301–975–5521.

SUPPLEMENTARY INFORMATION: The National Institute of Standards and

Technology (NIST) administers the National Voluntary Conformity Assessment Systems Evaluation (NVCASE) program under regulations found in Part 286 of Title 15 of the Code of Federal Regulations.

Under the NVCASE program NIST evaluates U.S.-based conformity assessment bodies in order to be able to provide assurances to a foreign government that qualifying bodies meet that government's requirements and can provide results that are acceptable to that government. The program is intended to provide a technically-based U.S. approval process for U.S. industry to gain foreign market access.

On December 6, 2002, NIST received a request from a U.S. accreditation body to establish a sub-program, under the NVCASE program, for Organic Production and Processing. The stated objectives of the request were to provide confidence in the quality of this accreditation body's work, and to provide assurance that this accreditation body complied with the requirements of some foreign governments, thus facilitating the export of U.S. products.

NIST, having determined that there was no satisfactory recognition alternative available and that there was evidence that significant public disadvantage would result from the absence of any alternative, established the NVCASE sub-program for Organic Production and Processing on November 4, 2003, following a public workshop held on May 9, 2003. See, 68 FR 62434 (November 4, 2003).

In the decade since the establishment of the sub-program, the United States has made numerous trade arrangements to facilitate the international trade of organic products. The resulting changes in the international requirements have increased international market access for U.S. producers. NIST considers that there are now suitable alternative paths to foreign market access, and that there would be no significant public disadvantage to terminating the Organic Production and Processing sub-program.

Accordingly, the NIST NVCASE program announces its intent to cease to grant or renew recognition under the Organic Production and Processing sub-program, effective January 1, 2016. Conformity assessment bodies currently recognized under the sub-program will remain recognized until January 1, 2016, provided they continue to meet program requirements. The NVCASE program is inviting the submission of written comments on its announcement as set forth in the **DATES** and **ADDRESSES** sections of this notice.

Following the comment period, NVCASE will make a final determination on terminating the sub-program, which will be published in the **Federal Register**.

Dated: April 9, 2014.

Kevin A. Kimball,

Chief of Staff.

[FR Doc. 2014–08506 Filed 4–14–14; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Greater Atlantic Region Observer Providers Requirements

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before June 16, 2014.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Travis Ford, (978) 281–9233 or *Travis.Ford@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a current information collection.

Under the Magnuson-Stevens Fishery Conservation and Management Act, the Secretary of Commerce (Secretary) has the responsibility for the conservation and management of marine fishery resources. Much of this responsibility has been delegated to the National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS). Under this stewardship role, the Secretary was given certain regulatory authorities to ensure the most beneficial uses of these resources. One of the regulatory steps taken to carry out the conservation and management objectives is to collect data from users of the resource.

Regulations at 50 CFR 648.11(g) require observer service providers to comply with specific requirements in order to operate as an approved provider in the Atlantic sea scallop (scallop) fishery. Observer service providers must comply with the following requirements: submit applications for approval as an observer service provider; formally request observer training by the Northeast Fisheries Observer Program (NEFOP); submit observer deployment reports and biological samples; give notification of whether a vessel must carry an observer within 24 hours of the vessel owner's notification of a prospective trip; and maintain an updated contact list of all observers that includes the observer's identification number, name, mailing address, email address, phone numbers, homeports or fisheries/trip types assigned, and whether or not the observer is ''in service.'' The regulations also require observer service providers submit any outreach materials, such as informational pamphlets, payment notification, and descriptions of observer duties as well as all contracts between the service provider and entities requiring observer services for review to NMFS/NEFOP. Observer service providers also have the option to respond to application denials, and submit a rebuttal in response to a pending removal from the list of approved observer providers. These requirements allow NMFS/NEFOP to effectively administer the scallop observer program.

II. Method of Collection

The approved observer service providers submit information to NMFS/NEFOP via email, fax, or postal service.

III. Data

OMB Control Number: 0648–0546.

Form Number: None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 631.

Estimated Time per Response: Application for approval of observer service provider, 10 hours; applicant response to denial of application for approval of observer service provider, 10 hours; observer service provider request for observer training, 30 minutes; observer deployment report, 10 minutes; observer availability report, 10

minutes; safety refusal report, 30 minutes; submission of raw observer data, 5 minutes; observer debriefing, 2 hours; biological samples, 5 minutes; rebuttal of pending removal from list of approved observer service providers, 8 hours; vessel request to observer service provider for procurement of a certified observer, 25 minutes; vessel request for waiver of observer coverage requirement, 5 minutes; observer contact list updates, 5 minutes; observer availability updates, 1 minute; service provider material submissions, 30 minutes; service provider contracts, 30 minutes.

Estimated Total Annual Burden Hours: 6,236.

Estimated Total Annual Cost to Public: $44,715.

IV. Request for Comments

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

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

Dated: April 9, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–08447 Filed 4–14–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Renewal of the Advisory Committee on Commercial Remote Sensing

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App 2, and the General Services Administration (GSA) rule on Federal Advisory Committee Management, 41 CFR Part 101–6, and after consultation with GSA, the Secretary of Commerce has determined that the renewal of the Advisory Committee on Commercial Remote Sensing (ACCRES) is in the public interest in connection with the performance of duties imposed on the Department by law. ACCRES was renewed on March 13, 2014.

SUPPLEMENTARY INFORMATION: The Committee was first established in May 2002, to advise the Under Secretary of Commerce for Oceans and Atmosphere on matters relating to the U.S. commercial remote-sensing industry and NOAA's activities to carry out the responsibilities of the Department of Commerce set forth in the National and Commercial Space Programs Act of 2010 (The Act) Title 51 U.S.C. 60101 *et seq* (formally the Land Remote Sensing Policy Act of 1992 15 U.S.C. Secs. 5621–5625).

ACCRES will have a fairly balanced membership consisting of approximately 9 to 15 members serving in a representative capacity. All members will have expertise in remote sensing, space commerce or a related field. Each candidate member is recommended by the Assistant Administrator and shall be appointed by the Under Secretary for a tern of two years at the discretion of the Under Secretary.

The Committee will function solely as an advisory body, and in compliance with provisions of the Federal Advisory Committee Act. Copies of the Committee's revised Charter have been filed with the appropriate committees of the Congress and with the Library of Congress.

FOR FURTHER INFORMATION CONTACT: Richard James, Program Analyst, Commercial Remote Sensing Regulatory Affairs Office, NOAA Satellite and Information Services, 1335 East West Highway, Room 8247, Silver Spring, Maryland 20910; telephone (301) 713–0572, email *Richard.James@noaa.gov*.

Mary E. Kicza,

Assistant Administrator for Satellite and Information Services.

[FR Doc. 2014–08474 Filed 4–14–14; 8:45 am]

BILLING CODE 3510–HR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Public Meeting

SUMMARY: The Advisory Committee on Commercial Remote Sensing (ACCRES) will meet May 15, 2014.

DATES: *Date and Time:* The meeting is scheduled as follows: May 15, 2014, 9:00 a.m.–4:00 p.m. The meeting will be open to the public.

ADDRESSES: The meeting will be held in the Department of Commerce, Room 1412, 1401 Constitution Avenue, Washington, DC 20230.

SUPPLEMENTARY INFORMATION: As required by section 10(a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of the meeting of ACCRES. ACCRES was established by the Secretary of Commerce (Secretary) on May 21, 2002, to advise the Secretary through the Under Secretary of Commerce for Oceans and Atmosphere on long- and short-range strategies for the licensing of commercial remote sensing satellite systems.

Matters To Be Considered

The meeting will be open to the public pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, as amended by Section 5(c) of the Government in Sunshine Act, Public Law 94–409 and in accordance with Section 552b(c)(1) of Title 5, United States Code.

All other portions of the meeting will be open to the public. The Committee will receive a presentation on updates of NOAA's licensing activities. The committee will also receive public comments on its activities.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for special accommodations may be directed to ACCRES, NOAA/NESDIS/CRSRA, 1335 East West Highway, Room 8260, Silver Spring, Maryland 20910.

Additional Information and Public Comments

Any member of the public wishing further information concerning the meeting or who wishes to submit oral or written comments should contact Tahara Dawkins, Designated Federal Officer for ACCRES, NOAA/NESDIS/CRSRA, 1335 East West Highway, Room 8260, Silver Spring, Maryland 20910. Copies of the draft meeting agenda can be obtained from Richard James at (301) 713–0572, fax (301) 713–1249, or *email richard.james@noaa.gov*.

The ACCRES expects that public statements presented at its meetings will not be repetitive of previously-submitted oral or written statements. In general, each individual or group making an oral presentation may be limited to a total time of five minutes. Written comments (please provide at

least 15 copies) received in the NOAA/NESDIS/CRSRA on or before April 30, 2014, will be provided to Committee members in advance of the meeting. Comments received too close to the meeting date will normally be provided to Committee members at the meeting.

FOR FURTHER INFORMATION CONTACT: Tahara Dawkins, NOAA/NESDIS/CRSRA, 1335 East West Highway, Room 8260, Silver Spring, Maryland 20910; telephone (301) 713–3385, fax (301) 713–1249, email *Tahara.Dawkins@noaa.gov,* or Richard James at telephone (301) 713–0572, email *Richard.James@noaa.gov.*

Mary E. Kicza,

Assistant Administrator for Satellite and Information Services.

[FR Doc. 2014–08473 Filed 4–14–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC644

Marine Mammals; File No. 18016

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

ACTION: Notice; amendment of application.

SUMMARY: Notice is hereby given that Tamara McGuire, LGL Alaska Research Associates, Inc., 2000 W International Airport Rd, Suite C1, Anchorage, AK 99502, has applied in due form for a permit to conduct research on Cook Inlet beluga whales (*Delphinapterus leucas*).

DATES: Written, telefaxed, or email comments must be received on or before May 15, 2014.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 18016 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Rosa L. González, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

On May 3, 2013 notice (86 FR 25954) was published that Ms. McGuire requests a 5-year permit to conduct research on Cook Inlet beluga whales to provide information about their movement patterns, habitat use, survivorship, reproduction, and population size in Alaska. The application is being amended to request the incidental harassment of up to 200 harbor seals (*Phoca vitulina*) annually that may be encountered during vessel surveys. Researchers will make no efforts to approach harbor seals. The permit would be valid for five years upon issuance.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: April 10, 2014.

Tammy C. Adams,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–08524 Filed 4–14–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2012–OS–0004]

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 16, 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 Office of the Under Secretary of Defense (Personnel and Readiness), Department of Defense Education Activity (DoDEA), ATTN: Dr. Sandra Embler, Alexandria, VA 22305, or call DoDEA Research and Evaluation Branch at 571–372–6006.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Department of Defense Education Activity (DoDEA) School Perception Surveys; OMB Control Number 0704–TBD.

Needs and Uses: The information collection requirement is necessary to measure the satisfaction level of sponsors and students with the programs and services provided by DoDEA. This collection is necessary to measure school environment within Goal 2 of the DoDEA Community Strategic Plan (SY2013–14–2017/18), which states that DoDEA will ''Develop and sustain each school to be high-performing with an environment of innovation, collaboration, continuous renewal and caring relationships.'' The surveys are also necessary to measure perceptions of teacher quality within Goal 3 of the DoDEA Community Strategic Plan which states that DoDEA will ''Recruit, develop, and empower a diverse high-performing team to maximize achievement for each student.''

Affected Public: Individuals or households.

Annual Burden Hours: 1,152.

Number of Respondents: 3,457.

Responses per Respondent: 1.

Total Annual Responses: 3,457.

Average Burden per Response: 20 minutes.

Frequency: On Occasion.

The Department of Defense Education Activity (DoDEA) School Perception Surveys for sponsors and students will be administered to all parents of students attending a DoDEA school, as well as students in grades 3–12. Participation in the surveys is completely voluntary and will be administered via an online, web-based portal. The questions will provide all stakeholders with the opportunity to provide input on their satisfaction with their child's school or with their school, to include perceptions of instruction, technology use, school environment, safety, and communication.

The results of the surveys will be used at all levels of the organization to improve programs and services offered to DoDEA's students. The survey results will also be used as an outcome measure to monitor progress on the goals of DoDEA's Community Strategic Plan.

Dated: April 10, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–08503 Filed 4–14–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Air University Board of Visitors Meeting

ACTION: Notice of Meeting of the Air University Board of Visitors.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces a change in location for the Air University Board of Visitors' spring meeting (Reference previous **Federal Register** Notice Vol. 79, No. 50, published on 14 Mar 14). Due to unforeseen circumstances the previously announced meeting place for the scheduled meeting on April 16–17, 2014, of the Air University Board of Visitors had to be changed and, as such, the requirements of 41 CFR 102–3.150(a) cannot be met. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

The meeting will be held in the Georgia Technical Research Institute located at 1700 North Moore Street, Suite 1910, Arlington, VA. Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155 all sessions of the Air University Board of Visitors' meeting will be open to the public. Any member of the public wishing to provide input to the Air University Board of Visitors should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Written statements can be submitted to the Designated Federal Officer at the address detailed below at any time. Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed below at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the Air University Board of Visitors until its next meeting. The Designated Federal Officer will review all timely submissions with the Air University Board of Visitors' Board Chairperson and ensure they are provided to members of the Board before the meeting that is the subject of this notice. Additionally, any member of the public wishing to attend this meeting should contact the person listed below at least five calendar days prior to the meeting for information on base entry passes.

FOR FURTHER INFORMATION CONTACT: Mrs. Diana Bunch, Designated Federal Officer, Air University Headquarters, AU/CF, 55 LeMay Plaza South, Maxwell Air Force Base, Alabama 36112–6335, telephone (334) 953–1303.

Henry Williams,

Air Force Federal Register Liaison Officer.

[FR Doc. 2014–08462 Filed 4–14–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Visitors of Marine Corps University

AGENCY: Department of the Navy, DoD.

ACTION: Notice of Open Meeting.

SUMMARY: The Board of Visitors of the Marine Corps University will meet to review, develop and provide recommendations on all aspects of the academic and administrative policies of the University; examine all aspects of professional military education operations; and provide such oversight and advice, as is necessary, to facilitate high educational standards and cost effective operations. The Board will be focusing primarily on the internal procedures of Marine Corps University. All sessions of the meeting will be open to the public.

DATES: The meeting will be held on Thursday, May 1, 2014, from 1:00 p.m. to 4:30 p.m. and Friday, May 2, 2014, from 8:00 a.m.–1:00 p.m.

ADDRESSES: The meeting will be held at the Marine Corps University in Quantico, Virginia. The address is: 2076 South St, Quantico, VA 22134.

FOR FURTHER INFORMATION CONTACT: Jay Hatton, Director of Academic Support, Marine Corps University Board of Visitors, 2076 South Street, Quantico, VA 22134, telephone number 703–784–4037.

Meeting Announcement: Due to difficulties finalizing the meeting agenda for the scheduled meeting of May 1–2, 2014, of the Marine Corps University Board of Visitors the requirements of 41 CFR 102–3.150(a) were not met. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Dated: April 9, 2014.

P.A. Richelmi,

Lieutenant, Office of the Judge Advocate General, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 2014–08451 Filed 4–14–14; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0014]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; State of Preschool Survey 2013–2015

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 15, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0014 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact: Kashka Kubzdela at 202–502–7411.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: State of Preschool Survey 2013–2015.

OMB Control Number: 1850–0895.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 53.

Total Estimated Number of Annual Burden Hours: 636.

Abstract: The National Center for Education Statistics (NCES), within the Institute of Education Sciences (IES) of the U.S. Department of Education (ED), is seeking approval to conduct in 2014, 2015, and 2016 the annual, Web-based State of Preschool survey, which centralizes data about publicly provided early childhood education opportunities. Data are collected from state agencies responsible for providing early childhood education and made available for secondary analyses. Data collected as part of the survey focus on enrollment counts in state-funded early childhood education programs, funding provided by the states for these programs, and program monitoring and licensing policies. The collected data are then reported, both separately and in combination with extant data available from federal agencies supporting early childhood education programs such as Head Start and the U.S. Census Bureau. Data from the U.S. Census Bureau form the basis for some of the rates developed for the State of Preschool reports. The data and annual report resulting from the State of Preschool data collection provide a key information resource for research and for federal and state policy on publicly funded early childhood education.

Dated: April 9, 2014

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–08423 Filed 4–14–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Advanced Placement (AP) Test Fee Program; Correction

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice; correction.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.330B.

SUMMARY: On March 24, 2014, the Office of Elementary and Secondary Education of the U.S. Department of Education (ED) published in the **Federal Register** (79 FR 15975) a notice inviting applications for new awards for fiscal year (FY) 2014 for the AP Test Fee program that included a summary of exam costs with an incorrect amount for the exams administered by the International Baccalaureate Organization. This notice corrects the maximum amount the Department would pay an SEA towards the costs of the exams administered by the International Baccalaureate Organization.

DATES: Effective April 15, 2014.

SUPPLEMENTARY INFORMATION:

Correction

Section V. Application Review Information, Part 1, Review and Selection Process, second paragraph, of the NIA contained inaccurate information regarding the maximum amount of grant funds that may be used

to pay the cost of exams administered by the International Baccalaureate Organization. The correct maximum amount of program funds that an SEA may use to cover a portion of the cost of each approved advanced placement exam taken by low-income students in school years 2013–14 and 2014–15 follows: (a) Up to $37 for each Advanced Placement test administered by the College Board; (b) up to $90 for each Diploma Programme test administered by the International Baccalaureate Organization; and (c) up to $39 for each Advanced Subsidiary test and up to $68 for each Advanced test administered by Cambridge International Examinations.

Program Authority: 20 U.S.C. 6534.

FOR FURTHER INFORMATION CONTACT: Francisco Ramirez, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E224, Washington, DC 20202–6200. Telephone: (202) 260–1541 or by email: *francisco.ramirez@ed.gov*.

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 10, 2014.

Deborah Delisle,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2014–08537 Filed 4–14–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Braille Training Program

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

ACTION: Notice.

Overview Information:

Braille Training Program

Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.235E.

DATES:

Applications Available: April 15, 2014

Deadline for Transmittal of Applications: May 30, 2014.

Deadline for Intergovernmental Review: July 29, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Braille Training Program offers financial assistance to projects that will provide training in the use of braille for personnel providing vocational rehabilitation services or educational services to youth and adults who are blind.

Priority: In accordance with 34 CFR 75.105(b)(2)(iv), this priority is from section 303(d) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 773(d)).

Absolute Priority: For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Braille Training Program.

Under this priority we provide grants for the establishment or continuation of projects that provide—

(1) Development of braille training materials;

(2) In-service or pre-service training in the use of braille, the importance of braille literacy, and methods of teaching braille to youths and adults who are blind; or

(3) Activities to promote knowledge and use of braille and nonvisual access technology for blind youth and adults through a program of training, demonstration, and evaluation conducted with leadership of experienced blind individuals, including the use of comprehensive, state-of-the-art technology.

Program Authority: 29 U.S.C. 773(d).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 86, 97, and 99. (b) The Education Department suspension and debarment regulations in 2 CFR part 3485.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

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

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $330,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2015 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $105,000–110,000.

Estimated Average Size of Awards: $110,000.

Maximum Award: We will reject any application that proposes a budget exceeding $110,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 3.

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

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* States and public or nonprofit agencies and organizations, including institutions of higher education.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address To Request Application Package:* You can obtain an application package via the Internet, from the Education Publications Center (ED Pubs), or from the program office.

To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html*. To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

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

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.235E.

To obtain a copy from the program office, contact Theresa DeVaughn, U.S. Department of Education, Rehabilitation Services Administration, 400 Maryland Avenue SW., Room 5045, Potomac Center Plaza (PCP), Washington, DC 20202–2800. Telephone: (202) 245–7321 or by email: *theresa.devaughn@ed.gov*.

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

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

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

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 45 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

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

However, the page limit does apply to all of the application narrative section, Part III. We will reject your application if you exceed the page limit in Part III.

3. *Submission Dates and Times:*

Applications Available: April 15, 2014.

Deadline for Transmittal of Applications: May 30, 2014.

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

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

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

Deadline for Intergovernmental Review: July 29, 2014.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

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

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

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

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

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

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

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one-to-two business days.

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

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

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

Information about SAM is available at *www.SAM.gov*. To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html*.

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

7. *Other Submission Requirements:*

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

a. *Electronic Submission of Applications.*

Applications for grants under the Braille Training Program competition, CFDA Number 84.235E, must be submitted electronically using the

Governmentwide Grants.gov Apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

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

You may access the electronic grant application for the Braille Training competition at *www.Grants.gov*. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.235, not 84.235E).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov*.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

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

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

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

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

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

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system;

and

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

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

Address and mail or fax your statement to: Theresa DeVaughn, U.S. Department of Education, 400 Maryland Avenue SW., Room 5045, PCP, Washington, DC 20202–2800. FAX: (202) 245–7591.

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

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.235E), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

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

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

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

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

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

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

(1) A private metered postmark.

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

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

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

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

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.235E), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The Government Performance and Results Act of 1993 (GPRA) directs Federal departments and agencies to improve the effectiveness of programs by engaging in strategic planning, setting outcome-related goals for programs, and measuring program results against those goals.

The goal of the Braille Training Program is to provide financial assistance to projects that will provide training in the use of braille for personnel providing vocational rehabilitation services or educational services to youth and adults who are blind. A grantee under this program

must submit information to allow measurement of project outcomes and performance consistent with its approved application, including any data needed to comply with GPRA (34 CFR 373.21). For the Braille Training Program, we are requiring a grantee to collect information on the number of students who attend the program, the number of students who complete the program, and whether these students obtain positions that require braille training following completion of the program. Grantees are required to report annually to RSA on these data.

Other information, as requested by RSA, may be required from grantees in order to verify substantial progress and successfully report the effectiveness of the program to Congress and key stakeholders. Grantees are strongly encouraged to seek technical guidance as needed from RSA staff to ensure that they are meeting the objectives, goals, targets, and projected outcomes specified in their approved application.

5. Continuation Awards: In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Theresa DeVaughn, U.S. Department of Education, Rehabilitation Services Administration, 400 Maryland Avenue SW., Room 5045, PCP, Washington, DC 20202–2800. Telephone: (202) 245–7321 or by email: *theresa.devaughn@ed.gov*.

If you use a TDD or TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 10, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–08542 Filed 4–14–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–2464–015; Project No. P–2484–018]

Gresham Municipal Utilities; Notice Of Application Accepted For Filing, Ready For Environmental Analysis And Soliciting Comments, Recommendations, Terms And Conditions, And Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent License.

b. *Project Nos.:* P–2464–015 and P–2484–018.

c. *Date filed:* June 10, 2013.

d. *Applicant:* Gresham Municipal Utilities (Gresham).

e. *Name of Projects:* Weed Dam Hydroelectric Project and Upper Red Lake Dam Hydroelectric Project.

f. *Location:* On the Red River, in Shawano County, Wisconsin. Neither project would occupy federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)—825(r).

h. *Applicant Contact:* Mr. Art Bahr, Utilities Manager, Gresham Municipal Utilities, 1126 Main Street, P.O. Box 50, Gresham, WI 54128; Telephone (715) 787–3994.

i. *FERC Contact:* Bryan Roden-Reynolds at (202) 502–6618, or via email at *bryan.roden-reynolds@ferc.gov*.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include: Weed Dam Hydroelectric Project No. P–2464–015 and Upper Red Lake Dam Project No. P–2484–018.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing, and is ready for environmental analysis at this time.

l. The existing Weed Dam Hydroelectric Project consists of: (1) A gated 64-foot-long concrete spillway with four bays, each containing 5-foot-high tainter gate; (2) two 700-foot-long earth embankments on either side of the spillway; (3) a 244-acre reservoir with a storage capacity of 1,200 acre-feet; (4) two buried steel penstocks; and (5) a concrete powerhouse with one 500-kW turbine-generator unit and one 120-kW turbine-generator unit having a total installed capacity of 620 kW; (6) a 100-foot-long transmission line; (7) a substation; and (8) appurtenant facilities. The project has an annual average generation of approximately 1,490-megawatt-hours (MWh).

The existing Upper Red Lake Dam Hydroelectric Project consists of: (1) A 42-foot-long concrete dam with a gated spillway section, a concrete overflow section, and a concrete non-overflow section; (2) two short earth embankments on either side of the concrete dam; (3) a 239-acre reservoir; (4) a penstock-and-surge-tank arrangement that delivers flow to the powerhouse; and (5) a 61.5-foot-long by 53-foot-wide concrete and brick powerhouse with one 275-kW turbine-generator unit and one 175-kW turbine-generator unit having a total installed capacity of 450 kW; (6) a substation with three 333-kVA transformers; and (7) appurtenant facilities. The project has an annual average generation of approximately 1,900 MWh.

Gresham proposes to operate both projects in a run-of-river mode, such that the water surface elevation of the impoundments would be maintained at the existing normal pool elevation (crest of the dam spillway) or above. No new or upgraded facilities, structural changes, or operational changes are proposed for the projects.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. A license applicant must file no later than 60 days following the date of issuance of this notice: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: April 9, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08492 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–1564–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–04–07_MVP Triennial Review Compliance Filing to be effective 6/18/2012.
Filed Date: 4/7/14.
Accession Number: 20140407–5284.
Comments Due: 5 p.m. ET 6/6/14.

Docket Numbers: ER14–1548–001.
Applicants: Copper Mountain Solar 3, LLC.
Description: Copper Mountain Solar 3 LLC Market-Based Rates Tariff Supplement to be effective 4/15/2014.
Filed Date: 4/4/14.
Accession Number: 20140404–5274.
Comments Due: 5 p.m. ET 4/25/14.

Docket Numbers: ER14–1662–000.
Applicants: Black Hills Power, Inc.
Description: Planning Reserve Agreement to be effective 6/3/2014.
Filed Date: 4/4/14.
Accession Number: 20140404–5289.
Comments Due: 5 p.m. ET 4/25/14.

Docket Numbers: ER14–1663–000.
Applicants: Pacific Gas and Electric Company.
Description: Amendment to CDWR's Comprehensive Agreement, South Bay Removal to be effective 6/9/2014.
Filed Date: 4/7/14.
Accession Number: 20140407–5008.
Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1664–000.
Applicants: Northern Indiana Public Service Company.
Description: Filing of Supplement to FERC Elec Rate Sch No. 14 to be effective 5/5/2014.
Filed Date: 4/7/14.
Accession Number: 20140407–5193.
Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1665–000.
Applicants: Natural Gas Exchange Inc.
Description: NGX—New MBR Tariff to be effective 5/8/2014.
Filed Date: 4/7/14.
Accession Number: 20140407–5241.
Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1666–000.
Applicants: Southern California Edison Company.
Description: Notices of Cancellation of SGIA DSA with County Sanitation Dist No. 2 of LA Cty to be effective 4/4/2014.
Filed Date: 4/7/14.
Accession Number: 20140407–5242.
Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1667–000.
Applicants: Hardee Power Partners Limited.
Description: Notice of Cancellation of Switchyard Facility Sharing Agreement of Hardee Power Partners Limited.
Filed Date: 4/7/14.
Accession Number: 20140407–5255.
Comments Due: 5 p.m. ET 4/28/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 7, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08444 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC14–74–000.
Applicants: CSOLAR IV West, LLC, AES Solar Power, LLC, Silver Ridge Power, LLC.
Description: Joint Application For Approval Under Section 203 of the Federal Power Act of CSOLAR IV West, LLC, et. al.
Filed Date: 4/8/14.
Accession Number: 20140408–5111.
Comments Due: 5 p.m. ET 4/29/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1910–004*; ER10–1908–004; ER10–1909–004; ER10–1911–004.*
Applicants: Duquesne Conemaugh LLC, Duquesne Keystone LLC, Duquesne Light Company, Duquesne Power, LLC.
Description: Supplement to December 27, 2013 Notice of Non-Material Change in Status of the Duquesne Utilities.
Filed Date: 4/1/14.
Accession Number: 20140401–5249.
Comments Due: 5 p.m. ET 4/22/14.

Docket Numbers: ER12–21–008*; ER13–520–001; ER13–521–001; ER13–1441–001; ER13–1442–001; ER12–1626–002; ER13–1266–001; ER13–1267–001; ER13–1268–001; ER13–1269–001; ER13–1270–001; ER13–1271–001; ER13–1272–001; ER13–1273–001; ER10–2605–005.*
Applicants: Agua Caliente Solar, LLC, Pinyon Pines Wind I, LLC, Pinyon Pines Wind II, LLC, Solar Star California XIX, LLC, Solar Star California XX, LLC, Topaz Solar Farms LLC, CalEnergy, LLC,CE Leathers Company, Del Ranch Company, Elmore Company, Fish Lake Power LLC, Salton Sea Power Generation Company, Salton Sea Power L.L.C., Vulcan/BN Geothermal Power Company, Yuma Cogeneration Associates.
Description: Supplement to June 26, 2013 Updated Market Power Analysis of the MidAmerican Southwest MBR Sellers.
Filed Date: 4/7/14.
Accession Number: 20140407–5425.
Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER12–458–005.
Applicants: Quantum Choctaw Power, LLC.
Description: Notice of Non-Material Change in Status of Quantum Choctaw Power, LLC.
Filed Date: 4/8/14.
Accession Number: 20140408–5118.
Comments Due: 5 p.m. ET 4/29/14.

Docket Numbers: ER13–1748–001.
Applicants: Southwest Power Pool, Inc.
Description: Amendment to Order No. 755 Compliance to be effective 3/1/2015.
Filed Date: 4/7/14.
Accession Number: 20140407–5353.
Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER13–2124–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–04–07 Docket No. ER12–2124–000_RSG Netting Compliance to be effective 3/17/2014.
Filed Date: 4/7/14.
Accession Number: 20140407–5332.
Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1325–001.
Applicants: Northern States Power Company, a Wisconsin corporation, Northern States Power Company, a Minnesota corporation.
Description: 20140408 IA Deferral to be effective 1/1/2014.
Filed Date: 4/8/14.
Accession Number: 20140408–5114.
Comments Due: 5 p.m. ET 4/29/14.

Docket Numbers: ER14–1680–000.
Applicants: Allegany Generating Station LLC.
Description: Application of Allegany Generating Station LLC for Waiver of NYISO Procedures, and Request for Expedited Treatment and Shortened Comment Period.
Filed Date: 4/7/14.
Accession Number: 20140407–5363.
Comments Due: 5 p.m. ET 4/14/14.

Docket Numbers: ER14–1681–000.
Applicants: Illinois Municipal Electric Agency.
Description: Request for Limited Waiver and Expedited relief of the Illinois Municipal Electric Agency.
Filed Date: 4/7/14.
Accession Number: 20140407–5434.
Comments Due: 5 p.m. ET 4/17/14.

Docket Numbers: ER14–1682–000.
Applicants: Public Service Company of New Hampshire.
Description: PSNH FERC Rate Schedule No. SA–1—Brookfield Power U.S. Asset Management LLC to be effective 4/8/2014.
Filed Date: 4/8/14.
Accession Number: 20140408–5094.
Comments Due: 5 p.m. ET 4/29/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: http://www.ferc.gov/docs-filing/efiling/filing-req.pdf. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 08, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08509 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–1668–000.
Applicants: Community Wind North 1 LLC.
Description: Application for Market-Based Rate Authorization to be effective 4/8/2014.
Filed Date: 4/7/14.
Accession Number: 20140407–5336.
Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1669–000.
Applicants: Community Wind North 2 LLC.
Description: Application for Market-Based Rate Authorization to be effective 4/8/2014.
Filed Date: 4/7/14.
Accession Number: 20140407–5337.
Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1670–000.
Applicants: Community Wind North 5 LLC.
Description: Application for Market-Based Rate Tariff to be effective 4/8/2014.
Filed Date: 4/7/14.
Accession Number: 20140407–5338.
Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1671–000.
Applicants: Community Wind North 6 LLC.
Description: Application for Market-Based Rate Authorization to be effective 4/8/2014.
Filed Date: 4/7/14.
Accession Number: 20140407–5339.
Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1672–000.
Applicants: Community Wind North 15 LLC.
Description: Market-Based Rate Application to be effective 4/8/2014.
Filed Date: 4/7/14.
Accession Number: 20140407–5340.
Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1673–000.

Applicants: Community Wind North 8 LLC.

Description: Application for Market-Based Rate Authorization to be effective 4/8/2014.

Filed Date: 4/7/14.

Accession Number: 20140407–5341.

Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1674–000.

Applicants: Community Wind North 3 LLC.

Description: Application for Market-Based Rate Authorization to be effective 4/8/2014.

Filed Date: 4/7/14.

Accession Number: 20140407–5342.

Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1675–000.

Applicants: Community Wind North 7 LLC.

Description: Application for Market-Based Rate Authorization to be effective 4/8/2014.

Filed Date: 4/7/14.

Accession Number: 20140407–5343.

Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1676–000.

Applicants: Community Wind North 9 LLC.

Description: Application for Market-Based Rate Authorization to be effective 4/8/2014.

Filed Date: 4/7/14.

Accession Number: 20140407–5344.

Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1677–000.

Applicants: Community Wind North 10 LLC.

Description: Application for Market-Based Rate Authorization to be effective 4/8/2014.

Filed Date: 4/7/14.

Accession Number: 20140407–5345.

Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1678–000.

Applicants: Community Wind North 11 LLC.

Description: Market-Based Rate Application to be effective 4/8/2014.

Filed Date: 4/7/14.

Accession Number: 20140407–5347.

Comments Due: 5 p.m. ET 4/28/14.

Docket Numbers: ER14–1679–000.

Applicants: Community Wind North 13 LLC.

Description: Market-Based Rate Application to be effective 4/8/2014.

Filed Date: 4/7/14.

Accession Number: 20140407–5348.

Comments Due: 5 p.m. ET 4/28/14

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08508 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2984–042]

S.D. Warren Company; Notice of Availability of Supplemental Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for new license for the Eel Weir Project, located at the outlet of Sebago Lake on the Presumpscot River, in Cumberland County, Maine, and has prepared a supplemental Environmental Assessment (supplemental EA) for the project.

The supplemental EA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the supplemental EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, at (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2984–042.

For further information, contact Tom Dean at (202) 502–6041.

Dated: April 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08406 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2280–018]

Seneca Generation, LLC; Notice of Environmental Site Review

On May 6, 2014, Commission staff will hold an environmental site review for the Kinzua Pumped Storage Project No. 2280–018. The project is located at the United States Army Corps of Engineers' Kinzua Dam, and within the United States Forest Service Allegheny National Forest, adjacent to the Allegheny River and the Allegheny Reservoir near the City of Warren, in Warren County, Pennsylvania. The purpose of the site review is to introduce the Commission's contractor team to the project. All participants should be prepared to provide their own transportation.

All participants should meet Tuesday, May 6, 2014, at 8:45 a.m. in the Kinzua Dam Information Center parking lot in Warren, Pennsylvania. The information center is located below Kinzua Dam adjacent to the Allegheny River.

All participants planning to attend the site visit should RSVP to Kathy French (908) 239–3974, *KFrench@LSPower.com*, or Tom Groff (814) 723–2195, *homas.groff@naes.com*.

If you have any question please contact Gaylord Hoisington at (202) 502–6032 or *gaylord.hoisington@ferc.gov*.

Dated: April 9, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08496 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–7404–000]

Rettinger, Jon; Notice of Filing

Take notice that on April 8, 2014, Jon Rettinger submitted for filing, an application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act (FPA), 16 U.S.C. 825d(b), Part 45 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR Part 45, and Order No. 664.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 29, 2014.

Dated: April 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08404 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

[1] *Commission Authorization to Hold Interlocking Positions,* 112 FERC ¶ 61,298 (2005) (Order No. 664); *order on reh'g,* 114 FERC ¶ 61,142 (2006) (Order No. 664–A).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1671–000]

Community Wind North 6 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Community Wind North 6 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 28, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08435 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1670–000]

Community Wind North 5 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Community Wind North 5 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard

to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 28, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08434 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1677–000]

Community Wind North 10 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Community Wind North 10 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 28, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08441 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1673–000]

Community Wind North 8 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Community Wind North 8 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 28, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08437 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1669–000]

Community Wind North 2 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Community Wind North 2 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 28, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08433 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1674–000]

Community Wind North 3 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Community Wind North 3 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 28, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08438 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1679–000]

Community Wind North 13 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Community Wind North 13 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to

intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 28, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08443 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1665–000]

Natural Gas Exchange Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Natural Gas Exchange Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 28, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08431 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1675–000]

Community Wind North 7 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Community Wind North 7 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 28, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08439 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1672–000]

Community Wind North 15 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Community Wind North 15 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 28, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08436 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1678–000]

Community Wind North 11 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Community Wind North 11 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 28, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08442 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1668–000]

Community Wind North 1 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Community Wind North 1 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to

intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 28, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08432 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1676–000]

Community Wind North 9 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Community Wind North 9 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is April 28, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08440 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2788–015]

Hydro Development Group, Inc.; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 2788–015.

c. *Date Filed:* February 28, 2014.

d. *Submitted By:* Hydro Development Group, Inc.

e. *Name of Project:* Colliersville Hydroelectric Project.

f. *Location:* The Colliersville Hydroelectric Project is located on the Susquehanna River in the Towns of Milford and Middlefield, in Otsego County, New York. The project does not affect federal lands.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Mr. Kevin M. Webb, Hydro Development Group, Inc., One Tech Drive, Suite 220, Andover, MA 01810; (978) 681–1900 ext. 809; or email at *kevin.webb@enel.com.*

i. *FERC Contact:* Andy Bernick at (202) 502–8660 or email at *andrew.bernick@ferc.gov.*

j. Hydro Development Group, Inc. (Hydro Development Group) filed its request to use the Traditional Licensing Process on February 28, 2014. Hydro Development Group provided public notice of its request on February 27, 2014. In a letter dated April 9, 2014, the Director of the Division of Hydropower Licensing approved Hydro Development Group's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and (b) the New York State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Hydro Development Group as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Hydro Development Group filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a subsequent license for Project No. 2788–015. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 28, 2017.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: April 9, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08493 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9709–064]

Trafalgar Power, Inc.; Notice of Termination of License (Minor Project) by Implied Surrender and Soliciting Comments and Protests

Take notice that the following hydroelectric proceeding has been initiated by the Commission:

a. *Type of Proceeding:* Termination of license by implied surrender.

b. *Project No.:* 9709–064.

c. *Date Initiated:* April 7, 2014.

d. *Licensee:* Trafalgar Power, Inc.

e. *Name and Location of Project:* The Herkimer Hydroelectric Project is located on the West Canada Creek, in Herkimer County, New York.

f. *Filed Pursuant to:* Standard Article 17.

g. *Licensee Contact Information:* Mr. Peter Michaud, Regulatory Affairs Manager Algonquin Power & Utilities Corp., 2845 Bristol Circle, Oakville, Ontario, Canada L6h–7H7, (905) 465–4516.

h. *FERC Contact:* Krista Sakallaris, (202) 502–6302, *Krista.Sakallaris@ferc.gov.*

i. Deadline for filing comments and protests is 30 days from the issuance of this notice by the Commission. Please file your submittal electronically via the Internet (eFiling) in lieu of paper. Please refer to the instructions on the Commission's Web site under *http://www.ferc.gov/docs-filing/efiling.asp* and filing instructions in the Commission's Regulations at 18 CFR section 385.2001(a)(1)(iii). To assist you with eFilings you should refer to the submission guidelines document at *http://www.ferc.gov/help/submission-guide/user-guide.pdf.* In addition, certain filing requirements have statutory or regulatory formatting and other instructions. You should refer to a list of these ''qualified documents'' at *http://www.ferc.gov/docs-filing/efiling/filing.pdf.* You must include your name and contact information at the end of your comments. Please include the project number (9709–064) on any documents or motions filed. The Commission strongly encourages electronic filings; otherwise, you should submit an original and seven copies of any submittal to the following address: The Secretary, Federal Energy Regulatory Commission, Mail Code: DHAC, PJ–12, 888 First Street NE., Washington, DC 20426.

j. *Description of Project Facilities:* (1) A timber crib dam consisting of: (a) A 9-foot-high, 95-foot-long section with a crest elevation of 420.0 feet m.s.l.; and (b) a 12-foot-high, 145-foot-long section with a crest elevation of 419.2 feet m.s.l.; (2) a reservoir with a surface area of 19 acres, a storage capacity of 163 acre-feet, and a normal water surface elevation of 420.5 feet m.s.l.; (3) timber flashboards; (4) an intake structure; (5) a reinforced concrete and steel powerhouse containing four generating units with a capacity of 400 kW each and a 110 kW minimum flow generator at the base of the dam for a total installed capacity of 1,710 kW; (6) a 50-foot-long, 13.2 kilovolt transmission line; and (7) appurtenant facilities.

k. *Description of Proceeding:* The licensee is in violation of Article 17 of its license, issued April 22, 1987, which states in part: If the Licensee shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission, the Commission will deem it to be the intent of the Licensee to surrender the license.

Commission records indicate that the four main generating units stopped operating in 2004 and the fifth minimum flow-generating unit became inoperable in 2006. Additionally, severe floods occurring in June 2006 and April 2011 washed out the flashboards, causing debris damage, which the licensee has not repaired.

The Commission's Division of Dam Safety and Inspections last inspected the project on June 12, 2012. The inspection found that the licensee does not have plans to restore the non-operating generating units, but is committed to maintaining the dam in a safe condition. The licensee filed with the Commission a Dam Safety Surveillance and Monitoring Report on March 10, 2014. The report states that the licensee must seek approval from a bankruptcy court before receiving any funds for project repairs.

l. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the Docket number (P–9709–064) excluding the last three digits in the docket number field to access the notice. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments and Protests*—Anyone may submit comments or protests in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.211. In determining the appropriate action to take, the Commission will consider all protests filed. Any protests must be received on or before the specified deadline date for the particular proceeding.

o. *Filing and Service of Responsive Documents*—Any filing must (1) bear in all capital letters the title ''COMMENTS or ''PROTEST,'' as applicable; (2) set forth in the heading the project number of the proceeding to which the filing responds; (3) furnish the name, address,

and telephone number of the person commenting or protesting; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments or protests should relate to project works which are the subject of the termination of license. A copy of any protest must be served upon each representative of the licensee specified in item g above. A copy of all other filings in reference to this notice must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

p. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described proceeding. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

Dated: April 7, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08407 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: April 17, 2014, 10:00 a.m.

PLACE: Room 2C, 888 First Street NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

* NOTE—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

1004TH—MEETING, REGULAR MEETING

[April 17, 2014, 10:00 a.m.]

Item No.	Docket No.	Company
	Administrative	
A–1	AD02–1–000	Agency Business Matters.
A–2	AD02–7–000	Customer Matters, Reliability, Security and Market Operations.
	Electric	
E–1	ER13–64–001	PacifiCorp.
	ER13–65–001	Deseret Generation & Transmission Cooperative, Inc.
	ER13–67–001	NorthWestern Corporation.
	ER13–68–001	Portland General Electric Company.
	ER13–127–002	Idaho Power Company.
E–2	ER14–1331–000	Southern California Edison Company.
E–3	ER14–1332–000	DATC Path 15, LLC.
	EL14–33–000.	
E–4	ER14–354–000	Florida Power & Light Company.
E–5	ER14–381–000	PJM Interconnection, L.L.C.
E–6	ER13–2233–001	Midcontinent Independent System Operator, Inc.
E–7	ER13–1292–001	Southwest Power Pool, Inc.
E–8	ER10–1138–001	NorthWestern Corporation.
	ER12–316–000.	
E–9	OMITTED.	
E–10	EL14–14–000	California Wind Energy Association and First Solar, Inc. v. California Independent System Operator Corporation and Southern California Edison Company.
E–11	EL14–13–000	Arkansas Electric Cooperative Corporation v. Oklahoma Gas and Electric Company.
	Hydro	
H–1	P–2232–522	Duke Energy Carolinas, LLC.
H–2	P–18–095	Idaho Power Company.
H–3	P–2210–240	Appalachian Power Company.
H–4	P–516–480	South Carolina Electric and Gas Company.
H–5	P–12693–004	Sutton Hydroelectric Company LLC.
H–6	P–14493–001	KC Pittsfield LLC.
H–7	CD14–15–001	ECOsponsible, Inc.
	Certificates	
C–1	CP12–491–001	Trunkline Gas Company, LLC.
C–2	CP13–523–000	Transcontinental Gas Pipe Line Company, LLC.
C–3	CP14–32–000	Panhandle Eastern Pipe Line Company, LP.

Issued: April 10, 2014.

Kimberly D. Bose,

Secretary.

A free webcast of this event is available through *www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *www.ferc.gov*'s Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or contact Danelle Springer or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 2014–08672 Filed 4–11–14; 4:15 pm]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–132–000]

Gulf Oil Limited Partnership; Notice of Petition for Declaratory Order

Take notice that on April 1, 2014, Gulf Oil Limited Partnership pursuant to section 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207 (2013) filed a Petition for Declaratory Order for the construction and operation of a liquefied natural gas (LNG) production facility which Gulf Oil plans to construct in northeastern Pennsylvania in order to convert natural gas produced in the Marcellus Shale play into LNG that will be marketed as vehicular fuel, high horsepower engine fuel, and as a source of supply for certain local distribution company peak shaving facilities will not be subject to the Commission's jurisdiction under Section 7 of the Natural Gas Act and will not make the owner or operator of that LNG facility a ''natural-gas company'' within the meaning of Section 1(b) of the NGA.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on May 1, 2014.

Dated: April 8, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08430 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–36–000]

FirstEnergy Solutions Corporation; Notice of Petition for Declaratory Order

Take notice that on April 7, 2014, FirstEnergy Solutions Corporation, pursuant to section 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure 18 CFR 385.207(a)(2), filed a petition for declaratory order requesting that the Commission determine that PJM Interconnection, L.L.C.'s (PJM) Open Access Transmission Tariff requires a generator's Market Seller Offer Cap in Reliability Pricing Model to reflect the unit's cost-based energy offers in the calculation of net Projected PJM Market Revenues.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 18, 2014.

Dated: April 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08403 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14572–000]

Siting Renewables, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On December 16, 2013, Siting Renewables, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Hepburn Street Dam Hydroelectric Project (Hepburn Project or project) to be located on West Branch of the Susquehanna River, near South Williamsport, Lycoming County, Pennsylvania. The Hepburn Street Dam is owned by the state of Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) The existing reinforced concrete overflow dam, 1,200 feet long and approximately 14.5 feet high discharging into the West Branch of the Susquehanna River; (2) nine channels, each with two 350- kilowatt (kW) very low head (VLH) turbines and generators, rated at 350 kW each, with a maximum generating capacity of 6,300 kW, with a maximum hydraulic capacity of 8,774 cubic feet per second under a gross head of 14 feet, (3) nine new heavy flotsam racks; (4) a crest-mounted walkway carrying hydraulic and electrical conduits from the VLH turbines to a new powerhouse; (5) one hydraulic and electrical controls module; and (6) one 600-foot-long 12.42/7.2 kilovolt primary transmission line. The estimated annual generation of the Hepburn Project would be 33,100,000 kilowatthours.

Applicant Contact: Mr. Ralph J. Jones, Siting Renewables, LLC, 1800 Rt. 34, Suite 101, Wall, NJ 07719; phone: (855) 946–7652.

FERC Contact: Timothy Looney; phone: (202) 502–6096.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14572–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14572) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: April 9, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08495 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–14558–000]

KC Lake Hydro LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On October 4, 2013, KC Lake Hydro LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the North Hadley Lake Warner Dam Hydropower Project (project) to be located at the outlet of Lake Warner, on the Miller River, near the Town of North Hadley, Hampshire County, Massachusetts. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of: (1) The existing 82-foot-long, 15-foot-high, concrete gravity Lake Warner dam; (2) an existing 70-acre impoundment with a normal maximum water surface elevation of 128 feet above mean sea level; (3) a new 30.6-foot-long, 10.4-foot-diameter conduit structure; (4) a new 20-foot-long, 20-foot-wide powerhouse containing a single turbine generator unit with an installed capacity of 100.8 kilowatts; (5) a new 100-foot-long, 21-kilovolt transmission line; and (6) appurtenant facilities. The project would have an estimated average annual energy generation of 500 megawatt-hours. The dam is owned and operated by the Kestrel Land Trust. There are no federal lands associated with the project.

Applicant Contact: Ms. Kelly Sackheim, Principal, KC Lake Hydro LLC, 5096 Cocoa Palm Way, Fair Oaks, California 95628; phone: (301) 401–5978.

FERC Contact: Michael Watts; phone: (202) 502–6123; email: *michael.watts@ferc.gov*.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14558–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14558) in the docket number field to

access the document. For assistance, contact FERC Online Support.

Dated: April 9, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08494 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14573–000]

Siting Renewables, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On December 17, 2013, Siting Renewables, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Easton Dam Hydroelectric Project (Easton Dam Project or project) to be located on the Lehigh River, near Easton, Northampton County, Pennsylvania. The Easton Dam is owned by the state of Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) An existing dam, reinforced with concrete in 1967, 30 feet high; (2) a 590-foot-long concrete spillway discharging into the Delaware River; (3) two channels, each with three, 500-kilowatt (kW) very low head (VLH) turbines and generators with a maximum generating capacity of 3000 kW, with a maximum hydraulic capacity of 2,300 cubic feet per second under a 30-foot gross head; (4) two new heavy flotsam racks; (5) a crest mounted walkway, carrying hydraulic and electrical conduits from the VLH turbines to a new powerhouse; (6) one hydraulic and electrical controls module; and (7) one 4,800-foot-long 12.42/7.2 kilovolt primary transmission line. The estimated annual generation of the Easton Dam Project would be 15,770,000 kilowatthours.

Applicant Contact: Mr. Ralph J. Jones, Siting Renewables, LLC, 1800 Rt. 34, Suite 101, Wall, NJ 07719; phone: (855) 946–7652.

FERC Contact: Timothy Looney; phone: (202) 502–6096.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14573–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14573) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: April 9, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08497 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14576–000]

Warm Springs Hydro LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 13, 2014, Warm Spring Hydro LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Unity Dam Hydroelectric Project (project) to be located on the Burnt River near Unity in Baker County, Illinois. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would be located at the U. S. Bureau of Reclamation's Unity Dam and would consist of the following new facilities: (1) A bifurcation at the end of the existing discharge pipe; (2) a 130-foot-long, 4-foot-diameter steel penstock; (3) a powerhouse containing two Francis turbine/generator units with a combined rated capacity of 800 kilowatts at 100 feet of design head; (4) a 500-foot-long, 12.5-kilovolt transmission line extending from the powerhouse to an existing transmission line (the point of interconnection); and (5) appurtenant facilities. The estimated annual generation of the project would be 3,400 megawatt-hours.

Applicant Contact: Mr. Nick Josten, GeoSense, 2742 St. Charles Avenue, Idaho Falls, ID 83404; phone: (208) 522–8069.

FERC Contact: Kim Nguyen; phone: (202) 502–6105.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14576–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/*

elibrary.asp. Enter the docket number (P–14576) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: April 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08408 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD14–16–000]

El Dorado Irrigation District; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions to Intervene

On March 25, 2014, El Dorado Irrigation District filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act, as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed Tank 3 In-conduit Hydroelectric Project would have an installed capacity of 600 kilowatts (kW) and would utilize an existing 30-diameter water supply pipeline. The project would be located near the Town of Camino, El Dorado County, California.

Applicant Contact: Cindy Megerdigan, El Dorado Irrigation District, 2890 Mosquito Road, Placerville, CA 95667 Phone No. (530) 642–4056.

FERC Contact: Robert Bell, Phone No. (202) 502–6062, email: *robert.bell@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A proposed 20-foot-long, 24-inch diameter pipeline that branches off the 30-inch diameter main water supply pipe, which carries water in succession to; (2) three proposed 20-foot-long, 16-inch diameter pipes along which are; (3) three generating units, with a total installed capacity of 600 kW; (4) a proposed 20-foot-long, 24-inch-diameter discharge pipe that receives water from the three 16-inch diameter pipes; (5) a proposed 20-foot-long, 24-inch diameter bypass pipe to be used when the plant is shut down; and (6) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 2,900 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA ..	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA.	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: Based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*,(866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://*

[1] 18 CFR 385.2001–2005 (2013).

www.ferc.gov/docs-filing/elibrary.asp using the ''eLibrary'' link. Enter the docket number (e.g., CD14–16–000) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: April 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08400 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–135–000]

East Cheyenne Gas Storage, LLC; Notice of Request Under Blanket Authorization

Take notice that on April 4, 2014, East Cheyenne Gas Storage, LLC (East Cheyenne), 10370 Richmond Avenue, Suite 510, Houston, Texas 77042, filed in Docket No. CP14–135–000, a prior notice request pursuant to sections 157.205 and 157.213 of the Commission's regulations under the Natural Gas Act (NGA). East Cheyenne seeks authorization to convert its well WP–D003–2 in Logan County, Colorado, currently certificated as an injection/withdrawal well, to an observation well. East Cheyenne proposes to perform these activities under its blanket certificate issued in Docket No. CP10–34–000 [132 FERC ¶ 61,097 (2010)], all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to James Hoff, Vice President, Reservoir Engineering, East Cheyenne Gas Storage, LLC, 10370 Richmond Avenue, Suite 510, Houston, Texas 77042, or by calling (713) 403–6467 (telephone) or (713) 403–6461 (fax) *jhoff@mehllc.com*.

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental 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 via the internet in lieu of paper. See 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site (www.ferc.gov) under the ''e-Filing'' link. 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. See, 18CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Dated: April 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08402 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–126–000]

American Midstream (Midla), LLC; Notice of Request Under Blanket Authorization

Take notice that on March 28, 2014, American Midstream (Midla), LLC, 1400 16th Street, Suite 310, Denver, CO 80202–5994, filed in Docket No. CP14–126–000, a prior notice request, pursuant to sections 157.205 and 157.216(b)(2) of the Commission's Regulations under the Natural Gas Act, and Midla's blanket certificate issued in Docket No. CP82–539, for authorization to abandon two portions of its pipeline system: The ''T–32 System'' in Ouachita Parish, Louisiana which consists of Midla's T–32, T–63 and T–64 Lateral lines; and, the ''Baton Rouge System'' which consists of the welded portions of Midla's T–1 and T–1 Loop lines plus its T–55, T–61, and TH–5 Lines; one delivery meter on a non-contiguous pipeline (the T–62 Line); three additional non-contiguous meter stations; and one section of non-contiguous pipeline (the T–61 Line), all located in East Baton Rouge Parish, Louisiana, to its affiliate, Mid-Louisiana Gas Transmission, LLC (MLGT). Midla states that MLGT intends to operate the laterals as a Hinshaw Pipeline. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll

free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding this Application should be directed to Dennis J. Kelly, Senior Attorney for Midla, 1400 16th Street, Suite 310, Denver, CO 80202–5994, or call at (720) 457–6060, email: *dkelly@americanmidstream.com.*

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with he Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: April 7, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08401 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Attendance at PJM Interconnection, L.L.C. Meetings

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission and Commission staff may attend upcoming PJM Interconnection, L.L.C. (PJM) Members Committee and Markets and Reliability Committee meetings, as well as other PJM committee, subcommittee or task force meetings.[1] The Commission and Commission staff may attend the following meetings:

PJM Members Committee

- April 24, 2014 (Wilmington, DE).
- May 15, 2014 (Hyatt Regency Hotel, Cambridge, MD).
- June 26, 2014 (Wilmington, DE).
- July 31, 2014 (Wilmington, DE).
- September 18, 2014 (Wilmington, DE).
- October 30, 2014 (Wilmington, DE).
- November 20, 2014 (Wilmington, DE).

[1] For example, PJM subcommittees and task forces of the standing committees (Operating, Planning and Market Implementation) and senior standing committees (Members and Markets and Reliability) meet on a variety of different topics; they convene and dissolve on an as-needed basis. Therefore, the Commission and Commission staff may monitor the various meetings posted on the PJM Web site.

PJM Markets and Reliability Committee

- April 24, 2014 (Wilmington, DE).
- May 29, 2014 (Wilmington, DE).
- June 26, 2014 (Wilmington, DE).
- July 31, 2014 (Wilmington, DE).
- August 28, 2014 (Wilmington, DE).
- September 18, 2014 (Wilmington, DE).
- October 30, 2014 (Wilmington, DE).
- November 20, 2014 (Wilmington, DE).
- December 18, 2014 (Wilmington, DE).

PJM Market Implementation Committee

- April 9, 2014 (Norristown, PA).
- May 7, 2014 (Norristown, PA).
- June 6, 2014 (Norristown, PA).
- July 7, 2014 (Norristown, PA).
- August 8, 2014 (Norristown, PA).
- September 3, 2014 (Norristown, PA).
- October 8, 2014 (Norristown, PA).
- November 5, 2014 (Norristown, PA).
- December 3, 2014 (Norristown, PA).

The discussions at each of the meetings described above may address matters at issue in pending proceedings before the Commission, including the following currently pending proceedings:

Docket No. EL05–121, *PJM Interconnection, L.L.C.*
Docket No. EL08–14, *Black Oak Energy LLC, et al.,* v. *FERC.*
Docket No. ER09–1148, *PPL Electric Utilities Corporation.*
Docket No. ER09–1256, *Potomac-Appalachian Transmission Highline, L.L.C..*
Docket Nos. ER09–1589 and EL10–6, *FirstEnergy Service Company.*
Docket No. EL10–52, *Central Transmission, L.L.C.* v. *PJM Interconnection, L.L.C..*
Docket No. ER11–1844, *Midwest Independent Transmission System Operator, Inc.*
Docket No. AD12–1 and ER11–4081, *Midwest Independent Transmission System Operator, Inc.*
Docket No. AD12–16, *Capacity Deliverability Across the Midwest Independent Transmission System Operator, Inc./PJM Interconnection, L.L.C. Seam.*
Docket No. EL12–54, *Viridity Energy, Inc. v. PJM Interconnection, L.L.C.*
Docket No. ER12–91, *PJM Interconnection, L.L.C.*
Docket No. ER12–92, *PJM Interconnection, L.L.C., et al.*
Docket No. ER12–1901, *GenOn Power Midwest, LP*

Docket No. ER12–2399, *PJM Interconnection, L.L.C.*

Docket No. ER12–2708, *PJM Interconnection, L.L.C.*

Docket No. EL13–47, *FirstEnergy Solutions Corporation v. PJM Interconnection, L.L.C. et al.*

Docket No. ER13–90, *Public Service Electric and Gas Company and PJM Interconnection, L.L.C.*

Docket No. ER13–195, *Indicated PJM Transmission Owners.*

Docket No. ER13–198, *PJM Interconnection, L.L.C.*

Docket No. ER13–535, *PJM Interconnection, L.L.C.*

Docket No. ER13–1654, *PJM Interconnection, L.L.C.*

Docket No. ER13–1924, *PJM Interconnection, L.L.C.*

Docket No. ER13–1926, *PJM Interconnection, L.L.C.*

Docket No. ER13–1927, *PJM Interconnection, L.L.C.*

Docket No. ER13–1936, *PJM Interconnection, L.L.C.*

Docket No. ER13–1944, *PJM Interconnection, L.L.C.*

Docket No. ER13–1947, *PJM Interconnection, L.L.C.*

Docket No. ER14–456, *PJM Interconnection, L.L.C.*

Docket No. ER14–503, *PJM Interconnection, L.L.C.*

Docket No. ER14–381, *PJM Interconnection, L.L.C.*

Docket No. ER14–822, *PJM Interconnection, L.L.C.*

Docket No. ER14–1144, *PJM Interconnection, L.L.C.*

Docket No. ER14–1145, *PJM Interconnection, L.L.C.*

Docket No. ER14–1207, *Keys Energy Center, L.L.C.*

Docket No. ER14–1221, *PJM Interconnection, L.L.C.*

Docket No. ER14–1461, *PJM Interconnection, L.L.C.*

For additional meeting information, see: *http://www.pjm.com/committees-and-groups.aspx* and *http://www.pjm.com/Calendar.aspx*.

The meetings are open to stakeholders. For more information, contact Valerie Martin, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–6139 or *Valerie.Martin@ferc.gov*.

Dated: April 8, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–08405 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR14–26–000]

MarkWest Bluestone Ethane Pipeline, L.L.C.; Notice of Petition for Waiver

Take notice that on April 2, 2014, pursuant to Rule 207(a)(2) of the Commission's Rules of Practices and Procedure, 18 CFR 385.207(a)(2)(2014), MarkWest Bluestone Ethane Pipeline, L.L.C. filed a petition requesting temporary waiver of the Interstate Commerce Act Section 6 and Section 20 tariff filing and reporting requirements applicable to interstate common carrier pipelines with respect to its natural gas liquids pipeline, as more fully explained 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. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the 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.

Comments: 5:00 p.m. Eastern Time on April 21, 2014.

Dated: April 9, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–08507 Filed 4–14–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9905–33–OARM]

Access to Confidential Business Information by Enrollees Under the Senior Environmental Employment Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized grantee organizations under the Senior Environmental Employment (SEE) Program and their enrollees access to information which has been submitted to EPA under the environmental statutes administered by the Agency. Some of this information may be claimed or determined to be confidential business information (CBI).

DATES: Comments concerning CBI access will be accepted on or before April 21, 2014.

ADDRESSES: Comments should be submitted to: Susan Street, National Program Manager, Senior Environmental Employment Program (MC 3600M), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Susan Street (202) 564–0410.

SUPPLEMENTARY INFORMATION: The Senior Environmental Employment (SEE) program is authorized by the Environmental Programs Assistance Act of 1984 (Pub. L. 98–313), which provides that the Administrator of the Environmental Protection Agency may ''make grants to, or enter into cooperative agreements with,'' specified private, nonprofit organizations for the purpose of ''providing technical assistance to Federal, State and local environmental agencies for projects of pollution prevention, abatement, and control.'' Cooperative agreements under the SEE Program provide support for many functions in the Agency, including clerical support, staffing hot

lines, providing support to Agency enforcement activities, providing library services, compiling data, and providing support in scientific, engineering, financial and other areas.

In performing these tasks, grantees and cooperators under the SEE Program and their enrollees may have access to potentially all documents submitted under the Clean Air Act (CAA), the Clean Water Act (CWA), the Safe Drinking Water Act (SDWA), the Resource Conservation and Recovery Act (RCRA), the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Emergency Planning Community Right-to-Know Act (EPCRA), the Federal Food, Drug, and Cosmetic Act (FFDCA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), to the extent that these statues allow disclosure of confidential information to ''authorized representatives of the United States'' or to ''contractors.'' Some of these documents may contain information claimed as confidential.

EPA provides confidential information to enrollees working under the following cooperative agreements:

Cooperative agreement number	Organization
National Association for Hispanic Elderly (NAHE)	
Q–835398	NAHE
Q–835418	NAHE
QS–835429	NAHE
Q–835445	NAHE
National Asian Pacific Center on Aging (NAPCA)	
Q–835376	NAPCA
QS–835428	NAPCA
National Caucus and Center on Black Aged, Inc. (NCBA)	
Q–834571	NCBA
Q–835019	NCBA
Q–835021	NCBA
Q–835427	NCBA
Q–835446	NCBA
Q–835561	NCBA
Q–835562	NCBA
Q–835563	NCBA
Q–835580	NCBA
Q–835587	NCBA
National Council on the Aging, Inc. (NCOA)	
Q–835387	NCOA
Q–835566	NCOA
Senior Service America, Inc. (SSAI)	
Q–835372	SSAI
Q–835373	SSAI
Q–835430	SSAI
Q–835452	SSAI
Q–835572	SSAI

Among the procedures established by EPA confidentiality regulations for granting access to confidential business information is notification to the submitters of CBI that SEE-grantee organizations and their enrollees will have access to this information. See 40 CFR 2.301(h)(2)(iii) for information submitted under the CAA, 40 CFR 350.23 for EPCRA, and corresponding provisions of 40 CFR 2.302–2.311, for other statutes listed above. This document is intended to fulfill that requirement.

The grantee organizations are required by the cooperative agreements to protect confidential information. SEE enrollees are required to sign confidentiality agreements and to adhere to the same security procedures as Federal employees.

Dated: April 9, 2014.

Susan Street,

SEE Program Manager.

[FR Doc. 2014–08502 Filed 4–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9909–62–ORD; EPA–HQ—ORD–2014–0288]

Notice of Availability of the Framework for Human Health Risk Assessment To Inform Decision Making

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the release of the *Framework for Human Health Risk Assessment to Inform Decision Making.* This document was developed by the EPA's Risk Assessment Forum and describes a *Framework* for conducting human health risk assessments that are responsive to the needs of Agency decision making. The document was developed to provide information to Agency staff and managers, external stakeholders, and the public.

DATES: The document will be available for use by EPA risk assessors and other interested parties on April 15, 2014.

ADDRESSES: *The Risk Assessment Forum Framework for Human Health Risk Assessment to Inform Decision Making* is available electronically through the EPA Web site at *http://www.epa.gov/raf/frameworkhhra.htm.*

FOR FURTHER INFORMATION CONTACT: Julie Fitzpatrick, Office of the Science Advisor, Mail Code 8105–R, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4212; fax number: (202) 564–2070, Email: *fitzpatrick.julie@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has an established history of conducting human health risk assessments to support its decision making. The *Framework* describes a process for conducting human health risk assessments that is responsive to EPA's decision-making needs. The *Framework* facilitates implementation of existing and future EPA guidance for conducting human health risk assessments and improves the utility of risk assessment in the decision-making process. The risk assessment design and utility recommendations presented in the National Research Council's report, *Science and Decisions: Advancing Risk Assessment,* are addressed throughout the *Framework.* Specifically, the *Framework* incorporates the recommendations that the EPA formalize and implement planning and scoping, and problem formulation in the risk assessment process as well as adopt a framework for informing decisions.

The *Framework* highlights the important roles of planning and scoping as well as problem formulation in designing a risk assessment that will serve a specific purpose. In accordance with longstanding EPA policy, it also emphasizes the importance of scientific review and public involvement. The *Framework* presents the concept of ''fit for purpose'' to address to the development of risk assessments and associated products that are suitable and useful for informing decisions. EPA expects that this *Framework* will enhance the agency's emphasis on the importance of transparency of the human health risk assessment and decision making.

This document is not intended to supersede existing agency guidance; rather by citing and discussing existing guidance in the context of the *Framework* it is intended to foster increased implementation of agency guidance.

Dated: April 8, 2014.

Glenn Paulson,

Science Advisor.

[FR Doc. 2014–08489 Filed 4–14–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9909–63–OCFO]

Meeting of the Environmental Financial Advisory Board—Public Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting of the Environmental Financial Advisory Board.

SUMMARY: The Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold a public meeting on May 13–14, 2014. EFAB is an EPA advisory committee chartered under the Federal Advisory Committee Act (FACA) to provide advice and recommendations to EPA on creative approaches to funding environmental programs, projects, and activities.

The purpose of this meeting is to hear from informed speakers on environmental finance issues, proposed legislation, and EPA priorities; to discuss activities, progress, and preliminary recommendations with regard to current EFAB work projects; and to consider requests for assistance from EPA offices.

Environmental finance discussions, and presentations are expected on the following topics: environmental infrastructure resilience and sustainability; transit-oriented development in sustainable communities; improving compliance at small water systems in Puerto Rico and the Virgin Islands; brownfields clean-up and redevelopment; the interaction of technology and finance in environmental programs; and green infrastructure.

The meeting is open to the public; however, seating is limited. All members of the public who wish to attend the meeting must register in advance no later than Friday May 2, 2014.

DATES: The full board meeting will be held on Tuesday May 13, 2014 from 9:00 a.m. to 5 p.m., EST and Wednesday, May 14, 2014 from 9–3:00 p.m., EST.

ADDRESSES: Potomac Yard South, 2733 S. Crystal Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:

For information on access or services for individuals with disabilities, or to request accommodations for a person with a disability, please contact Sandra Williams, U.S. EPA, at (202) 564–4999 or *williams.sandra@epa.gov*, at least 10 days prior to the meeting, to allow as much time as possible to process your request.

Dated: April 7, 2014.

David Bloom,

Acting Deputy Chief Financial Officer.

[FR Doc. 2014–08487 Filed 4–14–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission (FCC).

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3502–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimates; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB Control Number.

DATES: Written PRA comments should be submitted on or before May 15, 2014. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Leslie Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov.* To submit your PRA comments by email, please send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Leslie Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), at 202–418–0217, or via the Internet at: *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0971.

Title: Section 52.15, Request for ''For Cause'' Audits and State Commission's Access to Numbering Resource Application Information.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit and state, local or tribal government.

Number of Respondents and Responses: 2,105 respondents; 63,005 responses.

Estimated Time per Response: 0.166 hours to 3 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 153, 154, 201–205, 207–209, 218, 225–227, 251–252, 271 and 332.

Total Annual Burden: 10,473 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Carrier numbering resource applications and audits of carrier compliance will be treated as confidential and will be exempt from public disclosure under 5 U.S.C. 552(b)(4).

Needs and Uses: There are two Paperwork Reduction Act related obligations under this OMB Control Number:

1. The North American Numbering Plan Administrator (NANPA), the Pooling Administrator, or a state commission may draft a request to the auditor stating the reason for the request, such as misleading or inaccurate data, and attach supporting documentation; and

2. Requests for copies of carriers' applications for numbering resources may be made directly to carriers.

The information collected will be used by the FCC, state commissions, the NANPA and the Pooling Administrator to verify the validity and accuracy of such data and to assist state

commissions in carrying out their numbering responsibilities, such as area code relief.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–08466 Filed 4–14–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before June 16, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0546.

Title: Section 76.59 Definition of Markets for Purposes of the Cable Television Mandatory Television Broadcast Signal Carriage Rules.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 75 respondents and 75 responses.

Estimated Time per Response: 4 to 80 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 1,440 hours.

Total Annual Costs: $1,440,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 4(i) of the Communications Act of 1934, as amended, and Section 614 of the Cable Television Consumer Protection and Competition Act of 1992.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: 47 CFR 76.59 states that the Commission, following a written request from a broadcast station or a cable system, may deem that the television market of a particular commercial television broadcast station should include additional communities within its television market or exclude communities from such station's television market. In this respect, communities may be considered part of more than one television market.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–08470 Filed 4–14–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information burden for small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 16, 2014. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Benish Shah, Federal Communications Commission, via the Internet at *Benish.Shah@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–XXXX.

Title: Administration of Interoperability Channels, State License, and Band Plan (47 CFR 90.525, 90.529, and 90.531).

Form No.: N/A.

Type of Review: New Collection.

Respondents: State, local or tribal government and not-for-profit institutions.

Number of Respondents and Responses: 2155 respondents; 2155 responses.

Estimated Time per Response: 1 hour (range of 1 hour to 2 hours).

Frequency of Response: On occasion reporting requirements; one-time reporting requirements; and third party disclosure.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7).

Total Annual Burden: 2,208 hours.

Total Annual Cost: N/A

Privacy Act Impact Assessment: No impact.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: Section 90.525 of the Commission's rules requires approval of license applications for Interoperability channels in the 769–775 MHz and 799–805 MHz frequency bands by state-level agency or organization responsible for administering emergency communications. *Section 90.529* of the Commission's rules provides that each state license will be granted subject to the condition that the state certifies on or before each applicable benchmark date that it is providing or prepared to provide ''substantial service.'' *See* OMB Control No. 3060–0798. A licensee must demonstrate that it is providing or prepared to provide substantial service to one third of its geographic area or population by June 13, 2014 and two thirds by June 13, 2019. A licensee will be deemed to be prepared to provide substantial service if the licensee certifies that a radio system has been approved and funded for implementation by the deadline date. Substantial service refers to service which is sound, favorable, and substantially above a level of mediocre service which might minimally warrant renewal. If a state licensee fails to meet any condition of the grant the state license is modified automatically to the frequencies and geographic areas where the state certifies that it is providing substantial service. Any recovered state license spectrum will revert to General Use. However, spectrum licensed to a state under a state license remains unavailable for reassignment to other applicants until the Commission's database reflects the parameters of the modified state license. By Public Notice released April 7, 2014, DA 14–467, the Commission provided guidance on information licensees may provide to demonstrate substantial service, including the kind of public safety service that the licensee is providing with the system; which state channels are in use in the system; whether the licensee's has made its showing based on territory or population served; the percentage of territory/population served by the system footprint; and what signal level is being used to determine the system footprint. *Section 90.531* of the Commission's rules sets forth the band plan for the 763–775 MHz and 793–805 MHz public safety bands. This section covers channel designations for base and mobile use, narrowband segments, combined channels, channel pairing, internal guard band, and broadband. Narrowband general use channels and low power channels require regional planning committee concurrence.

Commission staff will use the information to assign licenses for interoperability and General Use channels, as well as renewal of State licenses. The information will also be used to determine whether prospective licensees operate in compliance with the Commission's rules. Without such information, the Commission could not accommodate State interoperability or regional planning requirements or provide for the efficient use of State frequencies. This information collection includes rules to govern the operation and licensing of 700 MHz band systems to ensure that licensees continue to fulfill their statutory responsibilities in accordance with the Communications Act of 1934, as amended. Such information will continue to be used to verify that applicants are legally and technically qualified to hold licenses, and to determine compliance with Commission rules.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–08467 Filed 4–14–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before June 16, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–0390.

Title: Broadcast Station Annual Employment Report, FCC Form 395–B.

Form Number: FCC 395–B.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 14,000 respondents, 14,000 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 14,000 hours.

Total Annual Costs: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority of this collection of information is contained in Sections 154(i) and 334 of the Communications Act of 1934, as amended.

Nature and Extend of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: FCC Form 395–B, the ''Broadcast Station Annual Employment Report,'' is a data collection device used by the Commission to assess industry employment trends and provide reports to Congress. By the form, broadcast licensees and permittees identify employees by gender and race/ethnicity in ten specified major job categories in the form.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–08471 Filed 4–14–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request Re: Interagency Notice of Change in Control

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. As part of its continuing effort to reduce paperwork and respondent burden, the FDIC invites the general public and other Federal agencies to take this opportunity to comment on renewal of an existing information collection as required by PRA. On February 5, 2014 (79 FR 6903), the FDIC requested comment for 60 days on renewal of its information collection entitled *Interagency Notice of Change in Control,* which is currently approved under OMB Control No. 3064–0019. No comments were received on the proposal to renew. The FDIC hereby gives notice of submission to OMB of its request to renew the collection.

DATES: Comments must be submitted on or before May 15, 2014.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html*
- *Email: comments@fdic.gov.* Include the name of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room NYA–5050, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503. A copy of the form can be accessed through the following link: *http://www.fdic.gov/formsdocuments/interag2.pdf.*

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collections of information:

Title: Interagency Notice of Change in Control.

OMB Number: 3064–0019.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks and state savings associations.

Estimated Number of Respondents: 25.

Estimated Time per Response: 30 hours.

Total Estimated Annual Burden: 750 hours.

General Description of Collection: The *Interagency Notice of Change in Control* is submitted by any person proposing to acquire ownership control of an insured state nonmember bank. The information is used by the FDIC to determine whether the competence, experience, or integrity of any acquiring person indicates it would not be in the interest of the depositors of the bank, or in the public interest, to permit such persons to control the bank.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 10th day of April, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–08491 Filed 4–14–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Cynthia Ayouch—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235,

725 17th Street NW.,Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, with revision, of the following reports:

1. Report title: Consolidated Financial Statements for Holding Companies.

Agency form number: FR Y–9C.

OMB control number: 7100–0128.

Frequency: Quarterly.

Reporters: Holding companies (HCs).

Estimated annual reporting hours: FR Y–9C (non Advanced Approaches HCs): 220,366 hours; FR Y–9C (Advanced Approaches Bank Holding Companies (BHCs)): 2,404 hours.

Estimated average hours per response: FR Y–9C (non Advanced Approaches HCs): 48.84 hours; FR Y–9C (Advanced Approaches BHCs): 50.09 hours.

Number of respondents: FR Y–9C (non Advanced Approaches HCs): 1,128; FR Y–9C (Advanced Approaches BHCs): 12.

General description of report: This information collection is authorized pursuant by Section 5(c) of the Bank Holding Company Act [12 U.S.C. 1844(c)]. In addition, 12 U.S.C. 1467a(b)(2)(A) and 1850a(c)(1)(A) authorize the Federal Reserve to require that SLHCs and supervised securities holding companies also file the FR Y–9 series of reports with the Federal Reserve. Overall, the Federal Reserve does not consider the financial data in these reports to be confidential. However, a respondent may request confidential treatment pursuant to sections (b)(4), (b)(6), and (b)(8) of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4), (b)(6), and (b)(8)). The applicability of these exemptions would need to be reviewed on a case by case basis.

Abstract: The FR Y–9 family of reporting forms continues to be the primary source of financial data on HCs that examiners rely on in the intervals between on-site inspections and off-site assessments through the Small Bank Holding Company Supervision Program. Financial data from these reporting forms are used to detect emerging financial problems, to review performance and conduct pre-inspection analysis, to monitor and evaluate capital adequacy, to evaluate HC mergers and acquisitions, and to analyze an HC's overall financial condition to ensure the safety and soundness of its operations.

The FR Y–9C consists of standardized financial statements similar to the Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031 & 041; OMB No. 7100–0036) filed by commercial banks. It collects consolidated data from HCs, and is filed by top-tier HCs with total consolidated assets of $500 million or more.[1]

Current actions: On January 28, 2014, the Federal Reserve published a notice in the **Federal Register** (79 FR 4468) requesting public comment for 60 days on the extension, with revision, of the FR Y–9C. The comment period for this notice expired on March 31, 2014. The Federal Reserve did not receive any comments. The revision will be implemented as proposed.

2. Report title: Payments Systems Surveys: Ad Hoc Payments Systems Survey (FR 3054a) and the Currency Functionality Survey (FR 3054d).

Agency form numbers: FR 3054a and FR 3054d.

OMB control number: 7100–0332.

Frequency: On occasion and annually.

Reporters: Financial, institutions (or depository institutions), individuals, law enforcement and nonfinancial businesses (banknote equipment manufacturers, or global wholesale bank note dealers).

Estimated annual reporting hours: 11,500 hours.

Estimated average hours per response: FR 3054a: 0.75 hours; FR 3054d: 2.5 hours.

Number of respondents: FR 3054a: 12,000; and FR 3054d: 250.

General description of report: This information collection is authorized pursuant to Section 11(d) of the Federal Reserve Act (12 U.S.C. 248(d)). The obligation to respond to the FR 3054a and FR 3054d is voluntary. Because survey questions may differ from survey to survey, it is difficult to determine whether the information collected will be considered confidential. However, information may be exempt from disclosure under exemption 4 of the FOIA, 5 U.S.C. 552(b)(4), if disclosure would likely have the effect of (1) impairing the government's ability to obtain the necessary information in the future, or (2) causing substantial harm to the competitive position of the respondent. Additionally, should survey responses contain any information of a private nature the disclosure of which would constitute ''a clearly unwarranted invasion of personal privacy,'' such information may be exempt from disclosure under exemption 6, 5 U.S.C. 552(b)(6). Confidentiality matters should be treated on a case-by-case basis to determine if any of the above exemptions apply.

Abstract: The FR 3054a is an event-driven survey used to obtain information specifically tailored to the Federal Reserve's operational and fiscal agency responsibilities. The FR 3054a may be conducted independently by the Federal Reserve or jointly with another government agency, a Reserve Bank, or a private firm. The FR 3054d is an annual survey used to assess the functionality of Federal Reserve notes in banknote handling equipment. The data collected from the FR 3054d are used as inputs for future designs of Federal Reserve notes. The FR 3054d may be conducted jointly with the U.S. Treasury's Bureau of Engraving and Printing, and the CTO.

Current actions: On January 28, 2014, the Federal Reserve published a notice in the **Federal Register** (79 FR 4468) requesting public comment for 60 days on the extension, with revision, of the FR 3054a and FR 3054d. The comment period for this notice expired on March 31, 2014. The Federal Reserve did not receive any comments. The revision will be implemented as proposed.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following reports:

1. Report title: Annual Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks.

Agency form number: FR 2225.

OMB control number: 7100–0216.

Frequency: Annually.

Reporters: Foreign banking organizations (FBO).

Estimated annual reporting hours: 51 hours.

Estimated average hours per response: 1 hour.

Number of respondents: 51.

General description of report: This information collection is authorized pursuant by sections 11(i), 16, and 19(f) of the Federal Reserve Act (12 U.S.C. 248(i), 248–1 and 464). An FBO is required to respond in order to obtain or retain a benefit, i.e., in order for the U.S. branch or agency of an FBO to establish and maintain a non-zero net debit cap. The information submitted by respondents is not confidential; however, respondents may request confidential treatment for portions of the report. Data may be considered confidential and exempt from disclosure under section (b)(4) of the FOIA if it constitutes commercial or financial information and public disclosure could result in substantial competitive harm to the submitting institution (5 U.S.C. 552(b)(4)).

Abstract: This report was implemented in March 1986 as part of

[1] Under certain circumstances described in the General Instructions, HCs with assets under $500 million may be required to file the FR Y–9C.

the procedures used to administer the Federal Reserve's Payment System Risk (PSR) policy. A key component of the PSR policy is a limit, or a net debit cap, on an institution's negative intraday balance in its Reserve Bank account. The Federal Reserve calculates an institution's net debit cap by applying the multiple associated with the net debit cap category to the institution's capital. For FBOs, a percentage of the FBO's capital measure, known as the U.S. capital equivalency, is used to calculate the FBO's net debit cap. FBOs that wish to establish a positive net debit cap and have a strength of support assessment (SOSA) 1 or SOSA 2 ranking or hold a financial holding company (FHC) designation are required to submit the FR 2225 to their Administrative Reserve Bank (ARB).[2,3]

Current Actions: On January 28, 2014, the Federal Reserve published a notice in the **Federal Register** (79 FR 4468) requesting public comment for 60 days on the extension, without revision, of the FR 2225. The comment period for this notice expired on March 31, 2014. The Federal Reserve did not receive any comments.

2. Report title: Report of Net Debit Cap.

Agency form number: FR 2226.

OMB control number: 7100–0217.

Frequency: Annually.

Reporters: Depository institution's board of directors.

Estimated annual reporting hours: 1,158 hours.

Estimated average hours per response: 1 hour.

Number of respondents: De Minimis Cap: 1,016; Self-Assessment Cap: [4] 139; Maximum Daylight Overdraft Capacity: 3.

General description of report: This information collection is authorized pursuant to sections 11, 16, and 19 of the Federal Reserve Act (12 U.S.C. 248(i), 248–1 and 464) authorize the Board to require the FR 2226 resolutions. Disclosure of information collected on the FR 2226 would likely cause substantial harm to the competitive position of the respondent institution. Therefore, the FR 2226 is exempt from disclosure under exemption (b)(4) of the FOIA, which exempts from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged or confidential.'' (5 U.S.C. 552(b)(4)). In addition, information reported in connection with the second and third resolutions may be protected under section (b)(8) of FOIA, to the extent that such information is based on the institution's CAMELS rating, and thus is related to examination reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions (5 U.S.C. 552(b)(8)).

Abstract: Federal Reserve Banks collect these data annually to provide information that is essential for their administration of the Federal Reserve's PSR policy. The reporting panel includes the subset of financially healthy depository institutions with access to the discount window that opt to request a De minis of self-assessed cap under the PSR Policy. The Report of Net Debit Cap comprises three resolutions, which are filed by a depository institution's board of directors depending on its needs. The first resolution is used to establish a de minimis net debit cap and the second resolution is used to establish a self-assessed net debit cap.[5] The third resolution is used to establish simultaneously a self-assessed net debit cap and maximum daylight overdraft capacity. The PSR policy requires depository institutions to submit their resolutions annually, as of the date of the board of directors' approved resolution(s).

Current Actions: On January 28, 2014, the Federal Reserve published a notice in the **Federal Register** (79 FR 4468) requesting public comment for 60 days on the extension, without revision, of the FR 2226. The comment period for this notice expired on March 31, 2014. The Federal Reserve did not receive any comments.

3. Report title: The Parent Company Only Financial Statements for Large Holding Companies (FR Y–9LP), the Parent Company Only Financial Statements for Small Holding Companies (FR Y–9SP), the Financial Statements for Employee Stock Ownership Plan Holding Companies (FR Y–9ES), the Supplement to the Consolidated Financial Statements for Holding Companies (FR Y–9CS).

Agency form number: FR Y–9LP, FR Y–9SP, FR Y–9ES, FR–9CS.

OMB control number: 7100–0128.

Frequency: Quarterly, semi-annually, annually, and quarterly.

Reporters: Holding companies.

Estimated annual reporting hours: FR Y–9LP: 29,148 hours; FR Y–9SP (BHCs): 41,008 hours; FR Y–9SP (Savings and Loan Holding Companies (SLHCs)): 8,435 hours; FR Y–9SP (SLHCs one-time implementation): 148,500; [6] FR Y–9ES: 43 hours; FR–9CS: 472 hours.

Estimated average hours per response: FR Y–9LP: 5.25 hours; FR Y–9SP (BHCs): 5.40 hours; FR Y–9SP (SLHCs): 14.20 hours; FR Y–9SP (SLHCs one-time implementation) 500 hours; [6] FR Y–9ES: 0.50 hours; FR–9CS: 0.50 hours.

Number of respondents FR Y–9LP: 1,388; FR Y–9SP (BHCs): 3,797; FR Y–9SP (SLHCs): 297; FR Y–9ES: 86; FR–9CS: 236.

General description of report: This information collection is authorized pursuant by Section 5(c) of the Bank Holding Company Act [12 U.S.C. 1844(c)]. In addition, 12 U.S.C. 1467a(b)(2)(A) and 1850a(c)(1)(A) authorize the Federal Reserve to require that SLHCs and supervised securities holding companies also file the FR Y–9 series of reports with the Federal Reserve. Overall, the Federal Reserve does not consider the financial data in these reports to be confidential. However, a respondent may request confidential treatment pursuant to sections (b)(4), (b)(6), and (b)(8) of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4), (b)(6), and (b)(8)). The applicability of these exemptions would need to be reviewed on a case by case basis.

Abstract: The FR Y–9LP and FR Y–9SP serve as standardized financial statements for the consolidated HC and its parent; the FR Y–9ES is a financial statement for HCs that are Employee Stock Ownership Plans (ESOPs). The Board also has the authority to use the FR Y–9CS (a free-form supplement) to collect additional information deemed to be (1) critical and (2) needed in an expedited manner.

[2] The Administrative Reserve Bank is responsible for managing an institution's account relationship with the Federal Reserve.

[3] Most FBOs that are ranked SOSA 3 do not qualify for a positive net debit cap. In the event a Reserve Bank grants a net debit cap or extends intraday credit to a financially healthy SOSA 3-ranked FBO, the financially healthy SOSA 3-ranked FBOs will have their U.S. capital equivalency based on their ''Net due to related depository institutions'' as reported on the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), Schedule RAL, Item 5.a, Column A, for the most recent quarter.

[4] Self-assessment cap figures do not include those self-assessed cap respondents with maximum daylight overdraft capacity.

[5] Institutions use these two resolutions to establish a capacity for daylight overdrafts above the lesser of $10 million or 20 percent of the institution's capital measure. Financially healthy U.S. chartered institutions that rarely incur daylight overdrafts in excess of the lesser of $10 million or 20 percent of the institution's capital measure do not need to file board of directors' resolutions or self-assessments with their Reserve Bank.

[6] Subsequent to initial **Federal Register** notice of January 28, 2014 (78 FR 4468), the Federal Reserve received approval to revise the FR Y–C and FR Y–9SP consistent with the regulatory capital rules approved by the Board of Governors on July 2, 2013. This revision resulted in a one-time implementation cost of 500 hours per respondent with a total increase of 148,500 hours for the FR Y–9SP.

The FR Y–9 family of reporting forms continues to be the primary source of financial data on HCs that examiners rely on in the intervals between on-site inspections and off-site assessments through the Small Bank Holding Company Supervision Program. Financial data from these reporting forms are used to detect emerging financial problems, to review performance and conduct pre-inspection analysis, to monitor and evaluate capital adequacy, to evaluate HC mergers and acquisitions, and to analyze an HC's overall financial condition to ensure the safety and soundness of its operations.

Current Actions: On January 28, 2014, the Federal Reserve published a notice in the **Federal Register** (79 FR 4468) requesting public comment for 60 days on the extension, without revision, of the FR Y–9LP, FR Y–9SP, FR Y–9ES, and FR Y–9CS. The comment period for this notice expired on March 31, 2014. The Federal Reserve did not receive any comments.

4. Report title: Payments Systems Surveys: Currency Quality Sampling Survey (FR 3054b) and the Currency Quality Survey (FR 3054c).

Agency form numbers: FR 3054b and FR 3054c.

OMB control number: 7100–0332.

Frequency: Annually and semi-annually.

Reporters: Financial, institutions (or depository institutions) individuals, law enforcement and nonfinancial businesses (banknote equipment manufacturers, or global wholesale bank note dealers).

Estimated annual reporting hours: 1,590 hours.

Estimated average hours per response: FR 3054b: 0.5 hours and FR 3054c: 30 hours.

Number of respondents: FR 3054b: 180 and FR 3054c: 25.

General description of report: This information collection is authorized pursuant to Section 11(d) of the Federal Reserve Act (12 U.S.C. § 248(d)). The obligation to respond to the FR 3054b and FR 3054c is voluntary. Because survey questions may differ from survey to survey, it is difficult to determine whether the information collected will be considered confidential. However, information may be exempt from disclosure under exemption 4 of the Freedom of Information Act, 5 U.S.C. 552(b)(4), if disclosure would likely have the effect of (1) impairing the government's ability to obtain the necessary information in the future, or (2) causing substantial harm to the competitive position of the respondent. Additionally, should survey responses contain any information of a private nature the disclosure of which would constitute ''a clearly unwarranted invasion of personal privacy,'' such information may be exempt from disclosure under exemption 6, 5 U.S.C. 552(b)(6). Confidentiality matters should be treated on a case-by-case basis to determine if any of the above exemptions apply.

Abstract: The FR 3054b is an annual survey used to assess the quality of currency in circulation and may be conducted by the Federal Reserve, jointly with the Federal Reserve Bank of San Francisco's Cash Product Office (CPO), the Federal Reserve Bank of Richmond's Currency Technology Office (CTO), and each Reserve Bank's cash department. The FR 3054c is a semi-annual survey used to determine depository institutions' and Banknote Equipment Manufacturers' opinions of currency quality and may be conducted jointly with the CPO and CTO.

Current Actions: On January 28, 2014, the Federal Reserve published a notice in the **Federal Register** (79 FR 4468) requesting public comment for 60 days on the extension, without revision, of the FR 3064b and FR 3054c. The comment period for this notice expired on March 31, 2014. The Federal Reserve did not receive any comments.

Board of Governors of the Federal Reserve System, April 10, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–08528 Filed 4–14–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 30, 2014.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *The FLH Financial Services Trust, with Frank Harrel, LaTricia Harrel, Kalee Harrel, all of Leedey, Oklahoma, and Brent Harrel, Elk City, Oklahoma, as trustees, to become part of the Harrel Family control group, and Brent Harrel as trustee of a voting trust agreement;* to acquire voting shares of Western Oklahoma Bancshares, and thereby indirectly acquire voting shares of Bank of Western Oklahoma, both in Elk City, Oklahoma.

Board of Governors of the Federal Reserve System, April 10, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–08456 Filed 4–14–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Privacy Act of 1974; Systems of Records

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Notice of alteration to existing system of records.

SUMMARY: The Federal Retirement Thrift Investment Board (Agency) proposes to add email addresses and phone numbers to the categories of records maintained in the system of records called FRTIB–1, Thrift Savings Plan Records. The Agency also proposes to change the system manager for FRTIB–1.

DATES: The alteration will become effective without further notice on May 15, 2014 unless comments received on or before that date result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Laurissa Stokes at 202–942–1645.

SUPPLEMENTARY INFORMATION: The Agency administers the Thrift Savings Plan (TSP or Plan), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The purpose of the system of records called FRTIB–1, Thrift Saving Plan Records, is to ensure the integrity of the Plan, to record activity concerning the TSP account of each Plan participant, to communicate with the participant, spouse, former spouse, and beneficiary concerning the account, and to make certain that he or she receives a correct payment from the Plan. The Agency proposes to add email

addresses and phone numbers to the categories of records maintained in FRTIB–1, and to change the system manager from Chief Financial Officer to the Deputy Chief Technology Officer. Collection and maintenance of email addresses and phone numbers is consistent with the purposes of communicating with TSP participants.

The Agency is publishing this notice pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed system reports, as required by 5 U.S.C. 552a(r), of the Privacy Act of 1974, as amended, were submitted to the House Committee on Government Reform, the Senate Committee on Homeland Security and Government Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Gregory T. Long,

Executive Director, Federal Retirement Thrift Investment Board.

FRTIB–1

SYSTEM NAME:

Thrift Savings Plan Records.

SYSTEM LOCATION:

These records are located at the office of the entity engaged by the Agency to perform record keeping services for the TSP. The current address for this record keeper is listed at *http://www.tsp.gov.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All participants (which term includes former participants, *i.e.,* participants whose accounts have been closed), as well as spouses, former spouses, and beneficiaries of TSP participants. Participants in the TSP consist of present and former Members of Congress and Federal employees covered by the Federal Employees' Retirement System Act of 1986, (FERSA) as amended, 5 U.S.C. chapter 84; all present and former Members of Congress and Federal employees covered by the Civil Service Retirement System who elect to contribute to the TSP; Supreme Court Justices, Federal judges, and magistrates who elect to contribute; certain union officials, those individuals described in 5 CFR part 1620, and any other individual for whom an account has been established.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain the following kinds of information: Records of TSP account activity, including account balances, employee contributions, agency automatic (one percent) and agency matching contributions, earnings, interfund transfers, contribution allocation elections, investment status by fund, loan and withdrawal information, employment status, retirement code and whether employee is vested, error correction information, participant's date of birth, email address, phone number, and designated beneficiary; records of spousal waivers and consents; powers of attorney and conservatorship and guardianship orders; participant's name, current or former employing agency, and servicing payroll and personnel office; records of Social Security number and home address for participants, spouses, former spouses, and beneficiaries and potential beneficiaries; records of bankruptcy actions; information regarding domestic relations court orders to divide the account; child support, child abuse, and alimony orders; information on payments to the participant's spouse, former spouse, or children and their attorneys; information on notices sent to participants, spouses, former spouses, and beneficiaries; and general correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8474.

PURPOSE(S):

The purpose of this system of records is to ensure the integrity of the Plan, to record activity concerning the TSP account of each Plan participant, to communicate with the participant, spouse, former spouse, and beneficiary concerning the account, and to make certain that he or she receives a correct payment from the Plan.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose financial data and addresses to Federal, state, and local governmental tax enforcement agencies so that they may enforce applicable tax laws.

b. To disclose to the designated annuity vendor in order to provide TSP participants who have left Federal service with an annuity.

c. To disclose to sponsors of eligible retirement plans for purposes of transferring the funds in the participant's account to an Individual Retirement Arrangement or into another eligible retirement plan.

d. To disclose to current and former spouses and their attorneys in order to protect spousal rights under FERSA and to receive benefits to which they may be entitled.

e. When a participant to whom a record pertains dies, to disclose the following types of information to any potential beneficiary: Information in the participant's record which could have been properly disclosed to the participant when living (unless doing so would constitute a clearly unwarranted invasion of privacy) and the name and relationship of any other person who claims the benefits or who is entitled to share the benefits payable.

f. When a participant to whom a record pertains dies, to disclose the following types of information to anyone handling the participant's estate: Information in the participant's record which could have been properly disclosed to the participant when living (unless doing so would constitute a clearly unwarranted invasion of privacy), the name and the relationship of any person who claims the benefits or who is entitled to share the benefits payable, and information necessary for the estate's administration (for example, post-death tax reporting).

g. To disclose information to any person who is named by the participant, spouse, former spouse, or beneficiary of the participant in a power of attorney and to any person who is responsible for the care of the participant or the spouse, former spouse, or beneficiary of the participant to whom a record pertains, and who is found by a court to be incompetent or under other legal disability, information necessary to manage the participant's account and to ensure payment of benefits to which the participant, spouse, former spouse or beneficiary of the participant is entitled.

h. To disclose information to a congressional office from the record of a participant or of the spouse, former spouse, or beneficiary of a participant in order for that office to respond to a communication from that person.

i. To disclose to agency payroll or personnel offices in order to calculate benefit projections for individual participants, to calculate error corrections, to reconcile payroll records, and otherwise to ensure the effective operation of the Thrift Savings Plan.

j. To disclose to the Department of the Treasury information necessary to issue checks from accounts of participants in accordance with withdrawal or loan procedures or to make a payment to a spouse, former spouse, child, or his or her attorney, or to a beneficiary.

k. To disclose to the Department of Labor and to private sector audit firms so that they may perform audits as provided for in FERSA.

l. To disclose to the Parent Locator Service of the Department of Health and Human Services, upon its request, the address of a participant, spouse, former spouse, or beneficiary of the participant for the purpose of enforcing child support obligations against that individual.

m. To disclose pertinent information to the appropriate Federal, foreign, state, local, or tribal agency, or to other public authority responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, upon its request, when presented with an indication that the information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility of that agency or authority.

n. To disclose information to the Office of Management and Budget at any stage of the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

o. To disclose to a Federal agency, in response to its request, the address of a participant, spouse, former spouse, or beneficiary of the participant and any other information the agency needs to contact that individual concerning a possible threat to his or her health or safety.

p. To disclose information to the Department of Justice, where:

(1) The Board or any component of it, or

(2) Any employee of the Board in his or her official capacity, or

(3) Any employee of the Board in his or her individual capacity, where the Department of Justice has agreed to represent the employee; or

(4) The United States (where the Board determines that litigation is likely to affect the agency or any of its components) is a party to litigation or has an interest in such litigation, and the Board determines that use of such records is relevant and necessary to the litigation. However, in each such case, the Board must determine that disclosure of the records to the Department of Justice is a use of the information contained in the records which is compatible with the purpose for which the records were collected.

q. In response to a court subpoena, or to appropriate parties engaged in litigation or preparing for possible litigation. Examples include disclosure to potential witnesses for the purpose of securing their testimony to courts, magistrates, or administrative tribunals, to parties and their attorneys in connection with litigation or settlement of disputes, or to individuals seeking information through established discovery procedures in connection with civil, criminal, or regulatory proceedings.

r. To disclose to contractors and their employees who have been engaged to assist the Board in performing a contract service or agreement, or who have been engaged to perform other activity related to this system of records and who need access to the records in order to perform the activity. Recipients of TSP records are required to comply with the requirements of the Privacy Act.

s. To disclose to personnel from agency personnel/payroll offices or to casualty assistance officers when necessary to assist a beneficiary or potential beneficiary.

t. To disclose to a consumer reporting agency when the Board is trying to collect a debt owed to the Board under the provisions of 5 U.S.C. 3711.

u. To disclose to quality control companies when such companies are verifying documents submitted to lenders in connection with participants' commercial loan applications.

v. To disclose to an official of another Federal agency information needed in the performance of official duties related to reconciling or reconstructing data files, compiling descriptive statistics, and making analytical studies in support of the function for which the records were collected and maintained.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on electronic or magnetic media, on microfilm, or in folders.

RETRIEVABILITY:

These records are retrieved by SSN and other personal identifiers of the individual to whom they pertain.

SAFEGUARDS:

Hard copy records are kept in metal file cabinets in a secure facility, with access limited to those whose official duties require access. Personnel are screened to prevent unauthorized disclosure. Security mechanisms for automatic data processing prevent unauthorized access to the electronic or magnetic media.

RETENTION AND DISPOSAL:

TSP documents are retained for 99 years. Manual records are disposed of by compacting and burning; data on electronic or magnetic media are obliterated by destruction or reuse, or are returned to the employing agency.

SYSTEM MANAGER(S) AND ADDRESSS:

Deputy Chief Technology Officer for Business Applications, Office of Technology Services, Federal Retirement Thrift Investment Board, 77 K Street NE., Suite 1000 Washington, DC 20002.

REOCRD ACCESS PROCEDURES:

Individuals who want notice of whether this system of records contains information pertaining to them and to obtain access to their records may contact the TSP Service Office or their employing agency, as follows:

a. Participants who are current Federal employees may call or write their employing agency for personnel or payroll records regarding the agency's and the participant's contributions and adjustments to contributions. A request to the employing agency must be made in accordance with that agency's Privacy Act regulations or that agency's procedures. For other information regarding their TSP accounts, participants who are Federal employees may call or write the TSP Service Office.

b. Participants who have separated from Federal employment and spouses, former spouses, and beneficiaries of participants may call or write the TSP Service Office.

Individuals calling or writing the TSP Service Office must furnish the following information for their records to be located and identified:

a. Name, including all former names;

b. Social Security number; and

c. Other information, if necessary. For example, a participant may need to provide the name and address of the agency, department, or office in which he or she is currently or was formerly employed in the Federal service. A spouse, former spouse, or beneficiary of a participant may need to provide information regarding his or her communications with the TSP Service Office or the Board.

Participants may also inquire whether this system contains records about them and access certain records through the account access section of the TSP Web site and the ThriftLine (the TSP's automated telephone system). The TSP Web site is located at www.tsp.gov. To use the TSP ThriftLine, the participant must have a touch-tone telephone and call the following number 1–877–968–3778. Hearing-impaired participants should dial 1–877–847–4385. The following information is available on the TSP Web site and the ThriftLine: Account balance; available loan amount; the status of a monthly withdrawal payment; the current status of a loan or withdrawal application; and an interfund transfer request.

CONTESTING RECORD PROCEDURE:

Individuals who want to amend TSP records about themselves must submit a detailed written explanation as to why information regarding them is inaccurate or incorrect, as follows:

a. Participants who are current Federal employees must write their employing agency to request amendment of personnel records regarding employment status, retirement coverage, vesting code, and TSP service computation date, or payroll records regarding the agency's and the participant's contributions and adjustments to contributions. A request to the employing agency must be made in accordance with that agency's Privacy Act regulations or that agency's procedures. For other information regarding their TSP accounts, participants who are Federal employees must submit a request to the TSP Service Office.

b. Participants who have separated from Federal employment and spouses, former spouses, and beneficiaries of participants must submit a request to the TSP Service Office.

c. Individuals must provide their Social Security number and name, and they may also need to provide other information for their records to be located and identified.

The employing agency or the TSP Service Office will follow the procedures set forth in 5 CFR part 1605, Error Correction Regulations, in responding to requests to correct contribution errors.

RECORD SOURCE CATEGORIES:

The information in this system is obtained from the following sources:

a. The individual to whom the information pertains;

b. Agency payroll and personnel records;

c. Court orders; or

d. Spouses, former spouses, other family members, beneficiaries, legal guardians, and personal representatives (executors, administrators).

[FR Doc. 2014–08398 Filed 4–14–14; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–14–14GB]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy, call (404) 639–7570 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Become a Partner—New—Office of Public Health Preparedness and Response (OPHPR), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Office of Public Health Preparedness and Response (OPHPR) provide strategic direction, ongoing support, and coordination for CDC's portfolio of emergency preparedness and response activities. CDC and OPHPR work every day to keep America safe from all-hazards, focusing on chemical, biological, radiological and nuclear as well as naturally-occurring threats, both foreign and domestic.

OPHPR's mission is critically dependent on effectively engaging outside partners to maximize resources and overall impact. Therefore, OPHPR seeks ways to improve its current partner strategy to engage new partners. Forging strategic alliances with diverse stakeholders is critical as OPHPR works to keep America safe from all health, safety, and security threats. Health security is a national challenge that calls for a national, whole community solution.

New partners who do not have an explicit mission statement related to public health preparedness and response are difficult to identify; therefore, OPHPR must use a creative method that allows groups and individuals to self-identify their interest in partnerships—such as an online form housed on CDC's public Web site. By identifying new partners, OPHPR will strengthen its ability to collaborate with a broader audience of stakeholders thereby, strengthening our collective voice on public health preparedness issues to keep our nation's health secure. OPHPR will use the information submitted through this online form to determine who in our agency would be the best liaison for this potential partner, and then follow up on this information with a phone call to further assess how we can begin building and effectively managing this new relationship.

CDC requests Office of Management and Budget (OMB) approval to collect information for three years.

Description

The ''Become a Partner'' template is a single, double-sided page that will be used as an online form for anyone voluntarily exploring how to partner with OPHPR. This form will dramatically reduce the burden on respondents and employees by allowing self-identification of partnership interests and collecting information to determine partnership needs and opportunities. The questions in the form specifically request name, address, phone, email, Web site, and a combination of five questions related to partnership interests. The questions asked will help determine if the interested party wants to receive information available through OPHPR, if they want to exchange information that is mutually beneficial for cross-promotion, if they coordinate any activities that support public health preparedness, and if they offer additional services to support public health (not already listed above). Finally, they will be asked to identify the most relevant partnership interests within OPHPR categories.

Ultimately, the form will allow OPHPR to identify and then engage interested partners in meaningful collaborations for the purpose of expanding, enhancing and sustaining public health preparedness and response infrastructure.

We estimate a total of 200 external governmental and non-governmental organizational respondents annually. The ''Become a Partner'' questionnaire is estimated to take 15 minutes and the ''Become a Partner'' follow-up questionnaire is estimated to take 30 minutes to complete. Therefore, the total estimated annualized burden for this information collection is estimated to be 75 hours.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
General public; specifically targeting external governmental and non-governmental organizations including non-profit organizations, trade associations, academic and research institutions, and the private sector.	Become a Partner	100	1	15/60
General public; specifically targeting external governmental and non-governmental organizations including non-profit organizations, trade associations, academic and research institutions, and the private sector.	Become a Partner Follow-Up Questions.	100	1	30/60

Leroy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–08446 Filed 4–14–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–0848]

Compliance Policy Guide Regarding Canned Ackee, Frozen Ackee, and Other Ackee Products—Hypoglycin A Toxin; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of the Compliance Policy Guide (CPG) Sec. 550.050 Canned Ackee, Frozen Ackee, and Other Ackee Products—Hypoglycin A Toxin. The CPG provides guidance for FDA staff on our enforcement criteria for canned ackee, frozen ackee, and other ackee products that contain hypoglycin A.

DATES: Submit either electronic or written comments on the CPG at any time.

ADDRESSES: Submit written requests for single copies of the CPG to the Office of Policy and Risk Management, Office of Regulatory Affairs, Office of Global Regulatory Operations and Policy, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–827–3670. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

Submit electronic comments on the CPG 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: Yinqing Ma, Center for Food Safety and Applied Nutrition (HFS–317), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1700.

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of CPG Sec. 550.050 Canned Ackee, Frozen Ackee, and Other Ackee Products—Hypoglycin A Toxin. The CPG is being issued consistent with our good guidance practices regulation (21 CFR 10.115). The CPG represents our 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.

In the **Federal Register** of November 8, 2012 (77 FR 67013), we announced the availability of draft CPG Sec. 550.050 Canned Ackee, Frozen Ackee, and Other Ackee Products—Hypoglycin A Toxin and gave interested parties an opportunity to submit comments by January 7, 2013, for us to consider before beginning work on the final version of the CPG. We received one comment that did not pertain to the draft CPG. We are issuing the final version of the CPG with editorial changes, but with no substantive changes.

The CPG announced in this notice finalizes the draft CPG dated November 2012.

II. Comments

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

III. Electronic Access

Persons with access to the Internet may obtain the CPG from FDA's Office of Regulatory Affairs CPG history page at *http://www.fda.gov/ICECI/ComplianceManuals/CompliancePolicyGuidanceManual/default.htm* or from *http://www.regulations.gov*. Use the FDA Web site listed in the previous sentence to find the most current version of the guidance.

Dated: April 9, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–08428 Filed 4–14–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request: NIMH Database of Cognitive Training and Remediation Studies (DCTRS) (NIMH)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Mental Health (NIMH), 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: Keisha Shropshire, NIMH Project Clearance Liaison, Science Policy and Evaluation Branch, OSPPC, NIMH, NIH, Neuroscience Center, 6001 Executive Boulevard, MSC 9667, Rockville Pike, Bethesda, MD 20892, or call 301–443–4335 or Email your request, including your address to: *kshropsh@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

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: NIMH Database of Cognitive Training and Remediation Studies, 0925–New; National Institute of Mental Health (NIMH), National Institutes of Health (NIH).

Need and Use of Information Collection: The NIMH Database of Cognitive Training and Remediation Studies (DCTRS) is an integrated database that includes study- and subject-level data from studies of cognitive remediation (CR) in schizophrenia. DCTRS will allow NIMH staff and interested investigators to examine the ways in which various patient characteristics, intervention approaches and features, and treatment combinations affect responses to remediation. The DCTRS Study Information Form and Data Submission Agreement are necessary for the ''Submitter'' to request permission to submit study data to the NIMH DCTRS for general research purposes. The primary use of this information is to collect submitter information and study information for inclusion in the NIMH DCTRS database. The DCTRS data submission agreement includes two forms: (1) The data submission form that includes the terms, agreement, submitter information and certifications, and (2) the study information form which collects de-identified data for each study.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 60.

ESTIMATED ANNUALIZED BURDEN HOURS

Form	Type of respondent	Number of respondents	Frequency of response	Average time per response (in hours)	Annual hour burden
Data Submission Agreement	Principal Investigators/Physicians	12	1	5	60

Dated: April 7, 2014.

Keisha L Shropshire,

Project Clearance Liaison, NIMH, NIH.

[FR Doc. 2014–08533 Filed 4–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Option License: Immunotherapy Vaccine for Treating Lymphoma and Leukemia

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209 and 37 CFR part 404, that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant to University of Texas MD Anderson Cancer Center, of an exclusive option license to practice the inventions embodied in the following US Patents and US Patent Applications (and all foreign counterparts) for the continued research and development of the inventions: US Patent Application Serial No. 13/890,502, entitled, ''Viral Chemokine-antigen Fusion Proteins'' [HHS Ref. No. E–194–2000/0–US–06] and in US Patent Serial No. 8,258,278 and US Patent Application Serial No.13/587,515, both entitled ''Methods and Compositions for the Treatment and Prevention of Cancer'' [HHS Ref. Nos. E–271–2006/0–US–03 and E–271–2006/0–US–04, respectively]. The patent rights in this invention have been assigned to the Government of the United States of America.

The exclusive option license may be term-limited, the prospective territory may be worldwide, and the field of use may be limited to:

Research, development, manufacture, and related non-commercial use in humans for the treatment of B-cell leukemias and B-cell lymphoma of a chemokine-tumor antigen fusion protein in which the chemokine is viral Macrophage Inflammatory Protein 3 Alpha (MIP3α) and the tumor antigen is the epitope of a malignant B-cell immunoglobulin idiotype of an antibody produced by a B-cell lymphoma.

Prior to the expiration or termination of the exclusive option license, University of Texas M.D. Anderson Cancer Center will have the exclusive right to amend the option license to include the right to sublicense for commercialization.

DATES: Only written comments or applications for a license (or both) which are received by the NIH Office of Technology Transfer on or before April 30, 2014 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, comments, and other materials relating to the contemplated exclusive option license should be directed to: Yolanda Mock Hawkins, Ph.D., M.B.A., Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5170; Facsimile: (301) 402–0220; Email: *hawkinsy@mail.nih.gov*.

SUPPLEMENTARY INFORMATION: This invention concerns a cancer treatment for B-cell lymphoma comprising a vaccine that increases the ability of a B-cell lymphoma antigen to provoke an immune response in the body. In particular, the vaccine comprises a viral chemokine fused to a tumor antigen and

is administered as either a protein or a nucleic acid.

The prospective exclusive option license, and any potential sublicense, will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive option license, may be granted unless the NIH receives within fifteen (15) days from the date of this published notice written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive option license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the *Freedom of Information Act,* 5 U.S.C. 552.

Dated: April 9, 2014.

Richard U. Rodriguez,

Director, Division of Technology Development & Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2014–08387 Filed 4–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel; Scholarly Works G13.

Date: July 30–31, 2014.

Time: July 30, 2014, 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20817.

Time: July 31, 2014, 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20817.

Contact Person: Zoe E. Huang, MD, Scientific Review Officer, Extramural Programs, National Library of Medicine, NIH, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892–7968, 301–594–4937, *huangz@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: April 9, 2014.

Michelle Trout,

Program Analyst, Office of the Federal Advisory Committee Policy.

[FR Doc. 2014–08386 Filed 4–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory General Medical Sciences Council.

The meeting will be open to the public as indicated below, with a short public comment period at the end. Attendance is limited by the 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 open session will also be videocast and can be accessed from the NIH Videocasting and Podcasting Web site (*http://videocast.nih.gov/*).

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 Advisory General Medical Sciences Council.

Date: May 22–23, 2014

Closed: May 22, 2014, 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1 & E2, 45 Center Drive, Bethesda, MD 20892.

Open: May 23, 2014, 8:30 a.m. to ADJOURNMENT.

Agenda: For the discussion of program policies and issues, opening remarks, report of the Director, NIGMS, and other business of the Council.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1 & E2, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Ann A. Hagan, Ph.D., Associate Director for Extramural Activities, NIGMS, NIH, DHHS, 45 Center Drive, Room 2AN24H, MSC 6200, Bethesda, MD 20892, (301) 594–4499, *hagana@nigms.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and, when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxis, hotel, and airport shuttles, will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit. Information is also available on the Institute's home page (*http://www.nigms.nih.gov/About/Council/*) where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: April 9, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–08390 Filed 4–14–14; 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 Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the AIDS Research Advisory Committee, NIAID.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: AIDS Research Advisory Committee, NIAID, AIDS Vaccine Research Subcommittee, NIAID.

Date: June 3, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: Presentations by invited speakers to discuss generation of reagents to improve the nonhuman primate model for AIDS vaccine research for the purpose of obtaining advice and guidance from the AVRS on targeting NIAID resources for this purpose.

Place: Omni Shoreham Hotel, Congressional Room A, 2500 Calvert Street NW., Washington, DC 20008.

Contact Person: James A. Bradac, Ph.D., Chief, Preclinical Research and Development Branch, Division of AIDS, Room 5134, National Institutes of Health/NIAID, 6700B Rockledge Drive, Bethesda, MD 20892–7628, 301–435–3754, *jbradac@mail.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: April 9, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–08389 Filed 4–14–14; 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, NIAID Peer Review Meeting.

Date: May 2, 2014.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Nancy Lewis Ernst, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–7383, *nancy.ernst@nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Investigator Initiated Program Project Applications (P01).

Date: May 9, 2014.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Jay Bruce Sundstrom, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC–7616, Bethesda, MD 20892, (301) 496–7042, *sundstromj@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: April 9, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–08388 Filed 4–14–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2013–0023]

Statewide Communication Interoperability Plan Template and Annual Progress Report

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: 30-day notice and request for comments; Reinstatement, with change, of a previously approved collection: 1670–0017.

SUMMARY: The Department of Homeland Security (DHS), National Protection and Programs Directorate (NPPD), Office of Cybersecurity and Communications (CS&C), Office of Emergency Communications (OEC), will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). NPPD is soliciting comments concerning New Information Collection Request, SCIP Template and Annual Progress Report. DHS previously published this ICR in the **Federal Register** on August 16, 2013, for a 60-day public comment period. DHS received 1 comment. When the 60-Day FRN was published the action stated indicated that it was a New Information Collection Request. NPPD would like to correct this ICR to state that this is a Reinstatement, with change, of a previously approved collection. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until May 15, 2014. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to OMB Desk Officer, Department of Homeland Security, Office of Civil Rights and Civil Liberties. Comments must be identified by DHS–2013–0023 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Email: oira_submission@omb.eop.gov.* Include the docket number in the subject line of the message.
- *Fax:* (202) 395–5806.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

OMB is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

FOR FURTHER INFORMATION CONTACT: Serena Maxey, DHS/NPPD/CS&C/OEC, *serena.maxey@hq.dhs.gov*.

SUPPLEMENTARY INFORMATION: The Department of Homeland Security, Office of Emergency Communications (OEC), formed under Title XVIII of the

Homeland Security Act of 2002, 6 U.S.C. 101 et seq., is required to develop the National Emergency Communications Plan (NECP), which includes identification of goals, timeframes, and appropriate measures to achieve interoperable communications capabilities. In 2010, the Statewide Communication Interoperability Plan (SCIP) Implementation Report was cleared in accordance with the Paperwork Reduction Act of 1995. The SCIP Template and Annual Progress Report will replace the previous SCIP Template and SCIP Implementation Report. These updated documents (SCIP Template and Annual Progress Report) streamline the information collected by OEC to track the progress states are making in implementing milestones and demonstrating goals of the NECP. There is no change to the information being collected. The only proposed change to the collection is that an online option is being added. States will have the option of submitting both documents via email at *oec@hq.dhs.gov* or through an online tool.

The SCIP Template and Annual Progress Report will assist states in their strategic planning for interoperable and emergency communications while demonstrating each state's achievements and challenges in accomplishing optimal interoperability for emergency responders. In addition, certain government grants may require states to update their SCIP Templates and Annual Progress Reports to include broadband efforts in order to receive funding for interoperable and emergency communications.

Statewide Interoperability Coordinators (SWICs) will be responsible for the development and incorporation of input from their respective stakeholders and governance bodies into their SCIP Template and Annual Progress Report. SWICs will complete and submit the reports directly to OEC through unclassified electronic submission.

Public Comment DHS–2013–0023—Summary: The comment is in Latin and when translated to English it references items about life events. (See attached Public Comment for full details).

Public Comment DHS–2013–0023—Action by Agency: No action will be taken by NPPD to update the Statewide Communication Interoperability Plan Template and Annual Progress Report. There is no specific reference to the Statewide Communication Interoperability Plan Template and Annual Report in the comment received.

Analysis

Agency: Department of Homeland Security, National Protection and Programs Directorate, Office of Cybersecurity and Communications, Office of Emergency Communications.

Title: Statewide Communication Interoperability Plan Template and Annual Progress Report.

OMB Number: 1670–0017.

Frequency: Annually.

Affected Public: Statewide Interoperability Coordinators.

Number of Respondents: 56 respondents.

Estimated Time per Respondent: 10 hours.

Total Burden Hours: 560 annual burden hours.

Total Burden Cost (capital/startup): $0.

Total Recordkeeping Burden: $0.

Total Burden Cost (operating/maintaining): $28,918.40.

Dated: April 7, 2014.

Scott Libby,

Deputy Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. 2014–08367 Filed 4–14–14; 8:45 am]

BILLING CODE 4410–9P–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2013–0949]

Collection of Information Under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding Information Collection Requests (ICRs), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collection of information: 1625–0002, Application for Vessel Inspection, Waiver, and Continuous Synopsis Record. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before May 15, 2014.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2013–0949] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) and/or to OIRA. To avoid duplicate submissions, please use only one of the following means:

(1) *Online:* (a) To Coast Guard docket at *http://www.regulations.gov.* (b) To OIRA by email via: *OIRA-submission@omb.eop.gov.*

(2) *Mail:* (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. (b) To OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Hand Delivery:* To DMF address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at Room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–612), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE. SE., STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Contact Anthony Smith, Office of Information Management, telephone 202–475–3532 or fax 202–372–8405, for questions on these documents. Contact Ms. Cheryl Collins, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a

Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICRs referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2013–0949], and must be received by May 15, 2014. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2013–0949]; indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (via *http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *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 DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**, but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2013–0949'' in the ''Serach'' box. 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 will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Search'' box insert ''USCG–2013–0949'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Numbers: 1625–0002.

Privacy Act

Anyone can search the electronic form of comments received in 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 statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (78 FR 77694, December 24, 2013) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments.

Information Collection Request

1. *Title:* Application for Vessel Inspection, Waiver, and Continuous Synopsis Record.

OMB Control Number: 1625–0002.

Type of Request: Revision of a currently approved collection.

Respondents: Vessel owners, operators, agents, masters or interested U.S. Government agencies.

Abstract: The collection of information requires the owner, operator, agent, or master of a vessel to apply in writing to the Coast Guard before the commencement of an inspection for certification, when a waiver is desired from the requirements of navigation and vessel inspection, or to request a Continuous Synopsis Record.

Forms: CG–2633, CG–3752, CG–3752A, CG–6039.

Burden Estimate: The estimated burden has decreased from 1,315 hours to 1,172 hours per year due to a decrease in the estimated annual number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: March 24, 2014.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2014–08535 Filed 4–14–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2014–0233]

Proposed Cooperative Research and Development Agreement—Maritime Smart Phone Public Safety Answering Point Forwarding Into Rescue21

AGENCY: Coast Guard, Department of Homeland Security (''DHS'').

ACTION: Notice of availability; request for public comments.

SUMMARY: The Coast Guard announces its intent to enter into a Cooperative Research and Development Agreement (CRADA) to develop, demonstrate, evaluate, and document viable technical approaches for securely forwarding maritime-related smart phone (voice image position and text) through Next Generation/Enhanced 9–1–1 (NG 911) into the Coast Guard Rescue21 System. The Coast Guard solicits public comment on the possible nature of and participation of other parties in the

proposed CRADA. The Coast Guard also invites other potential non-Federal participants, who have the interest and capability to bring similar contributions to this type of research, to consider submitting proposals for consideration in similar CRADAs.

DATES: Comments must be submitted to the online docket via *http://www.regulations.gov*, or reach the Docket Management Facility, on or before May 15, 2014.

Synopses of proposals regarding future, similar CRADAs must reach the Docket Management Facility on or before October 14, 2014.

ADDRESSES: Submit comments using one of the listed methods, and see **SUPPLEMENTARY INFORMATION** for more information on public comments.

- *Online—http://www.regulations.gov* following Web site instructions.
- *Fax*—202–493–2251.
- *Mail* or *hand deliver*—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. Hours for hand delivery are 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays (telephone 202–366–9329).

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, contact Ms. Valerie M. Arris, Project Official, C4ISR Branch, U.S. Coast Guard Research and Development Center, 1 Chelsea Street, New London, CT 06320, telephone 860–271–2849, email *Valerie.M.Arris@uscg.mi*. For information about viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826, toll free 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Public Participation and Comments

We encourage you to submit comments. Comments should be marked with docket number USCG–2014–0233 and should provide a reason for each suggestion or recommendation. You should provide personal contact information so that we can contact you if we have questions regarding your comments; but please note that all comments will be posted to the online docket without change and that any personal information you include can be searchable online (see the **Federal Register** Privacy Act notice regarding our public dockets, 73 FR 3316, Jan. 17, 2008).

Mailed or hand-delivered comments should be in an unbound 8½ x 11 inch format suitable for reproduction. The Docket Management Facility will acknowledge receipt of mailed comments if you enclose a stamped, self-addressed postcard or envelope with your submission.

Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following the Web site's instructions. You can also view the docket at the Docket Management Facility (see the mailing address under **ADDRESSES**) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Do not submit detailed proposals for future CRADAs to the Docket Management Facility. Potential non-Federal CRADA participants should submit these documents to the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**).

Discussion

The Coast Guard is authorized to enter into CRADAs by the Federal Technology Transfer Act of 1986, Public Law 99–502, codified at 15 U.S.C. 3710(a); DHS Delegation No. 0160.1, para. 2.B(34). A CRADA promotes the transfer of technology to the private sector for commercial use as well as specified research or development efforts that are consistent with the mission of the Federal parties to the CRADA. The Federal party or parties agree with one or more non-Federal parties to share research resources, but the Federal party does not contribute funding.

CRADAs are not procurement contracts. Care is taken to ensure that CRADAs are not used to circumvent the contracting process. CRADAs have a specific purpose and should not be confused with other types of agreements such as procurement contracts, grants, and cooperative agreements.

The Coast Guard reserves the right to select for CRADA participants all, some, or none of the proposals in response to this notice. The Coast Guard will provide no funding for reimbursement of proposal development costs. Proposals (or any other material) submitted in response to this notice will not be returned. Proposals submitted are expected to be unclassified and have no more than four single-sided pages (excluding cover page and resumes). The Coast Guard will select proposals at its sole discretion on the basis of:

(1) How well they communicate an understanding of, and ability to meet, the proposed CRADA's goal; and

(2) How well they address the following criteria:

(a) Technical capability to support the non-Federal party contributions described; and

(b) Resources available for supporting the non-Federal party contributions described.

Currently, the Coast Guard is considering General Dynamics for participation in this CRADA. This consideration is based on (a) their expertise, experience and interest in maritime-related smart phone NG911 (voice image position and text) forwarding, (b) their capability to provide the significant in-kind contributions required for the CRADA work and (c) their compatibility with the Coast Guard's situational awareness system(s). However, we do not wish to exclude other viable participants from this or future similar CRADAs.

This is a technology transfer/development effort. Presently, the Coast Guard has no plan to procure a maritime-related smart phone NG911 forwarding (voice image position and text) capability. Since the goal of this CRADA is to identify and investigate the advantages, disadvantages, required technology enhancements, performance, costs, and other issues associated with using maritime-related smart phone NG911 forwarding (voice image position and text) capabilities, non-Federal CRADA participants will not be excluded from any future Coast Guard procurements based solely on their participation in this CRADA.

Special consideration will be given to small business firms/consortia, and preference will be given to business units located in the U.S.

This notice is issued under the authority of 5 U.S.C. 552(a) and 15 U.S.C. 3710(a).

Dated: April 4, 2014.

Captain Alan N. Arsenault,

USCG, Commanding Officer, U.S. Coast Guard Research and Development Center.

[FR Doc. 2014–08547 Filed 4–14–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

United States Coast Guard

[Docket No. USCG–2010–0455]

Availability of Final Environmental Impact Statement for the Proposed Construction of a Highway Bridge Across the Manatee River at Parrish, Manatee County, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability.

SUMMARY: The Coast Guard announces the availability of the final environmental impact statement (FEIS) for the proposed construction of a

highway bridge across the Manatee River at Parrish, Manatee County, Florida. As a structure over navigable waters of the United States, the proposed bridge would require a Coast Guard bridge permit. The FEIS presents an analysis of the potential for impact to the natural, human and cultural environment of the proposed bridge.

ADDRESSES: The FEIS is available online at *http://www.regulations.gov*. It can also be viewed at the Coast Guard's Seventh District Bridge Office, 909 SE 1st Avenue, Brickell Plaza Federal Building, Ste 432, Miami, Florida, 33131, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Randall Overton, Bridge Management Specialist, Seventh Coast Guard District, U.S. Coast Guard; telephone 305–415–6736, email *Randall.D.Overton@uscg.mi*. 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: This notice is issued under the authority of 5 U.S.C. 552(a) and the regulations governing NEPA (40 CFR 1501, et. seq.). Under the General Bridge Act of 1946 (33 U.S.C. 525–533), construction of a bridge over a navigable U.S. waterway requires the Coast Guard to grant a bridge permit. Such a permit would be needed for the proposed Manatee River highway bridge, and under the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 et seq.), a FEIS is necessary before the permit can be issued. The environmentally preferred alternative is identified as a bridge connecting Upper Manatee River Road and Fort Hamer Road near mile 15.0 of the Manatee River at Parrish, Florida. The purpose of the proposed bridge is to facilitate local transportation east of Interstate 75 due to the high population growth in this area. It would provide vertical clearance of at least 26 feet. Public comments on a draft environmental impact statement were received and are discussed in section 5.4 of the FEIS.

In addition to making the FEIS available as noted under **ADDRESSES**, copies of the FEIS are available from the Manatee County Chamber of Commerce (telephone 941–748–3411) and at county library locations (Central Library telephone 941–748–5555 and Rocky Bluff Library telephone 941–723–4821). Also, the U.S. Environmental Protection Agency (EPA) will issue its own notice of the FEIS's availability. The FEIS will be considered final 30 days after publication of the EPA notice, and the Coast Guard will thereafter issue its Record of Decision, completing its NEPA analysis.

Dated: April 7, 2014.

Brian L. Dunn,

Chief, Office of Bridge Programs, U.S. Coast Guard.

[FR Doc. 2014–08552 Filed 4–14–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0124]

Agency Information Collection Activities: Consideration of Deferred Action for Childhood Arrivals, Form I–821D, OMB Control No. 1615–0124; Correction

ACTION: 30-Day notice of proposed information collection; correction.

On April 4, 2013, the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) published a 30-day Notice of Information Collection in the **Federal Register** at 79 FR 18925, requesting public comments in connection with Consideration of Deferred Action for Childhood Arrivals, Form I–821D in accordance with the Paperwork Reduction Act of 1995.

USCIS instructed the public to visit *http://www.regulations.gov* to review a copy of the information collection instrument and the supplementary documents. In the Notice, USCIS did not include the e-Docket ID number which would allow for easier access to these documents. For a copy of the information collection instrument with the supplementary documents, please visit *www.regulations.gov* under e-Docket ID number USCIS–2012–0012.

The remainder of the published Notice is correct as presented and no changes have been made. The comment period as listed in the original Notice publication remains unchanged and closes as posted.

Dated: April 9, 2014.

Laura Dawkins,

Chief Regulatory Coordinator, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–08410 Filed 4–14–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5759–N–07]

60-Day Notice of Proposed Information Collection: Public Housing Financial Management Template

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 16, 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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–5564 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Public Housing Financial Management Template.

OMB Approval Number: 2535–0107.

Type of Request: Extension of currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: To meet the requirements of the Uniform Financial Standards Rule (24 CFR part 5, Subpart H) and the continued implementation of asset management contained in 24 CFR part 990, the Department has developed the financial management template that public housing agencies (PHAs) use to annually submit electronically financial information to HUD. HUD uses the financial information it collects from each PHA to assist in the evaluation and assessment of the PHAs' overall condition. Requiring PHAs to report electronically has enabled HUD to provide a comprehensive financial assessment of the PHAs receiving federal funds from HUD.

Respondents: Public Housing Agencies.

Estimated Number of Respondents: 4,055.

Estimated Number of Responses: 7,614.

Frequency of Response: 4,055 PHAs submit one unaudited financial management template annually and 3,599 PHAs also submit one audited financial management template annually.

Average Hours per Response: Average of 5.31 hours per response, for a total reporting burden of 40,448 hours.

Total Estimated Burdens: Average cost of $196.54 per response, for a total annual cost of $1,496,434.66 for both unaudited and audited templates.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35 as amended.

Dated: April 9, 2014.

Merrie Nichols-Dixon,

Deputy Director, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2014–08536 Filed 4–14–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–39]

Notice of Emergency Approval of an Information Collection: Closeout Instructions for Community Development Block Grant (CDBG) Programs Grants

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, HUD has requested from the Office of Management and Budget (OMB) emergency approval of the information collection described in this notice.

DATES: *Comments Due Date:* April 29, 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.

A. Overview of Information Collection

Title of Information Collection: Closeout Instructions for Community Development Block Grant (CDBG) Program Grants.

OMB Approval Number: 2506–0193.

Type of Request: Revision of currently approved collection.

Form Number: Notice CPD–14–02 Includes HUD Forms: 40151, 40152, 40153, 40154, 40155, 40156, 40157, 40158, 40159, 40161, 40164, 40175, 40176, 40177, 40178, 40179, 40180, 40181.

Description of the need for the information and proposed use: This information collection is being conducted by CPD Office of Block Grant Assistance to assist the Administrator of HUD in determining, as required by Section 104(e) of the (HCDA) of 1974, and outlined in Subpart I (for States) and Subpart J (for entitlements) of the CDBG regulation, whether Grantees, have carried out eligible activities and its certifications in accordance with the statutory and regulatory requirements governing State CDBG, CDBG–R, Disaster Recovery, NSP1, NSP2 and NSP3 grants prior to closing the grant allocation.

Respondents (describe): Entitlement communities, Nonprofits, States and units of general local governments.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Totals	3,088	Once the during grant.	204.5	17	738.5	$24.10	$17,797.85

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of

the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 9, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–08540 Filed 4–14–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DEPARTMENT OF AGRICULTURE

[HUD FR–5647–N–01; RIN 2501–ZA01; USDA RIN 0575–ZA00]

Preliminary Affordability Determination—Energy Efficiency Standards

AGENCIES: U.S. Department of Housing and Urban Development and U.S. Department of Agriculture.

ACTION: Notice of preliminary determination.

SUMMARY: The Energy Independence and Security Act of 2007 (EISA) establishes procedures for the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Agriculture (USDA) to adopt revisions to the 2006 International Energy Conservation Code (IECC) and to the 2004 energy codes of the American Society of Heating, Refrigerating, and Air-conditioning Engineers (ASHRAE), referred to as ASHRAE 90.1–2004, subject to: (1) A determination that the revised codes do not negatively affect the availability or affordability of new construction of single and multifamily housing covered by EISA, and (2) a determination by the Secretary of Energy that the revised codes ''would improve energy efficiency.'' [1] This Notice announces the preliminary determination of HUD and USDA, as required under section 481(d) of EISA, that the 2009 IECC and (with the exception of the State of Hawaii) ASHRAE 90.1–2007 will not negatively affect the affordability and availability of housing covered by EISA. As of September 2013, 32 States plus the District of Columbia have already adopted the 2009 IECC, its equivalent, or a higher standard for single family homes. Thirty-eight States plus the District of Columbia have already adopted ASHRAE 90.1–2007, its equivalent, or a higher standard for multifamily buildings. For those States that have not yet adopted either of these standards, this Notice relies on several studies that show that these codes are cost effective, in that the incremental cost of the additional efficiency measures pays for itself with energy cost savings on a life-cycle basis.

DATES: *Comment Due Date:* May 30, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this Notice. There are two methods for submitting public comments. All submissions must refer to the above-referenced docket number (FR–5647–N–01) and title of this Notice.

1. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov*. HUD and USDA strongly encourage commenter to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables HUD and USDA to make them immediately available to the public. Comments submitted electronically through the Web site can be viewed by other commenter and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Submission of Comments by Mail. HUD: Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. USDA: Comments may be submitted by mail to Rural Housing Service, Department of Agriculture, 1400 Independence Avenue SW., Room 5014–S, Washington, DC 20250.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of this Notice.

No Facsimile Comments. Facsimile comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Relay Service at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: HUD: Michael Freedberg, Office of Sustainable Housing and Communities, Department of Housing and Urban Development, 451 7th Street SW., Room 10180, Washington, DC 20410; telephone number 202–402–4366 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339. USDA: Meghan Walsh, Rural Housing Service, Department of Agriculture, 1400 Independence Avenue SW., Room 6900–S, Washington, DC 20250; telephone number 202–205–9590 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Requirements

Section 481 of EISA (or the Act) amends section 109 of the Cranston-Gonzalez National Affordable Housing Act of 1990 (Cranston-Gonzalez) (42 U.S.C. 12709), which establishes procedures for setting minimum energy standards for the following housing that is assisted by HUD and USDA:

(A) New construction of public and assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act; [2]

(B) New construction of single family housing (other than manufactured homes) subject to mortgages insured, guaranteed, or made by the Secretary of

[1] Energy Independence and Security Act of 2007, Section 481(d).

[2] This subsection of EISA refers only to HUD programs. See Appendix 1 for specific HUD programs covered by the Act.

Agriculture under title V of the Housing Act of 1949; [3] and,

(C) Rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v).

EISA references two standards: the IECC and the ASHRAE Standard 90.1. The IECC standard referenced in EISA applies to *single family homes and multifamily low-rise buildings (up to 3 stories),* while the ASHRAE 90.1 standard applies to *multifamily high-rise residential buildings (4 or more stories).*[4]

See Appendix 1 for the specific HUD and USDA programs covered by this Notice. Several exclusions are worth noting. EISA's application to the ''rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants'' is no longer applicable, since funding for HOPE VI has been discontinued. HUD's Housing Choice Voucher program (also known as Section 8 tenant-based assistance) is excluded since the agency does not have the authority to establish, a priori, housing standards for properties rented by tenant households under that program. Indian housing programs, including the Section 184 guaranteed loan program, are excluded because they are authorized under section 184 of the Housing and Community Development Act of 1992 (42 U.S.C. 1715z–13a), not the National Housing Act (12 U.S.C. 1701 *et seq.*) as specified in EISA. Similarly, housing financed with Community Development Block Grant (CDBG) funds is not included, since CDBG is separately authorized by the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*). Finally, only single family USDA programs are covered by EISA, whereas for HUD programs both single family and multifamily programs are covered.

Section 109(d) of Cranston-Gonzalez, as amended by EISA, establishes procedures for updating HUD and USDA energy standards following periodic revisions to the 2006 IECC and ASHRAE 90.1–2004 codes. Specifically, section 109(d) provides that revisions to the IECC or ASHRAE codes will apply to HUD and/or USDA's programs if: (1) Either agency ''make(s) a determination that the revised codes do not negatively affect the availability or affordability'' of new construction housing covered by the Act, and (2) the Secretary of Energy has made a determination under section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) that the revised codes would improve energy efficiency (see 42 U.S.C. 12709(d)). Otherwise, the 2006 IECC and ASHRAE 90.1–2004 will continue to apply.

B. Adoption of These Standards

Section 109(d) of Cranston-Gonzalez automatically applies to all covered programs upon completion of the specified affordability determinations by HUD and USDA, and the energy efficiency determinations by the U.S. Department of Energy (DOE). Accordingly, once a final affordability determination has been made by HUD and USDA under section 109(d), additional notice and comment rulemaking will not be required for the covered programs; the new codes, if found not to negatively affect the availability or affordability of covered housing, will automatically apply, subject to administrative actions such as mortgagee letters, notices, or amendments to handbooks. However, conforming rulemaking will be required for two HUD programs to update obsolete regulatory standards: The Federal Housing Administration's (FHA) single family minimum property standards, for which the HUD regulations are codified at 24 CFR 200.926d, and the energy standard of the HOME Investment Partnerships (HOME) program, for which the HUD regulations are codified at 24 CFR 92.251. In addition, USDA will update minimum energy requirements in the USDA regulations codified at 7 CFR 1924.

The adoption of the 2009 IECC or ASHRAE 90.1–2007 new construction standards described in this Notice will take effect as follows:

(1) For FHA-insured multifamily programs, to those properties for which mortgage insurance applications are received by HUD 90 days after the effective date of a Final Determination;

(2) For public housing competitive grant programs, to those properties for which grant applications are received by HUD 90 days after the effective date of a Final Determination;

(3) For public housing formula grant programs, to properties for which building permits are issued 180 days after the effective date of a Final Determination.

(4) For FHA-insured and USDA-guaranteed single family loan programs, to properties for which building permits are issued 180 days after the effective date of a Final Determination.

C. Current HUD–USDA Standards or Requirements

Pursuant to the energy alignment framework adopted by the interagency Rental Policy Working Group in December 2011, when funds are awarded by competition some of the programs covered by EISA (as well as other programs not covered by EISA) already require or incentivize grantees to comply with energy efficiency standards that exceed the prevailing IECC and ASHRAE 90.1 standards.[5] This standard is typically Energy Star Certified New Homes for single family properties or Energy Star for Multifamily High Rise for multifamily properties. Nothing in this Notice will preclude these competitive programs from maintaining these higher standards, or raising them further. A list of current program requirements or incentives is shown in Table 1, below.

[3] This subsection of EISA refers to USDA programs. See Appendix 1 for specific USDA programs covered by the Act.

[4] The IECC addresses both residential and commercial buildings. ASHRAE 90.1 covers commercial buildings only, including multifamily buildings four or more stories above grade. The IECC adopts, by reference, ASHRAE 90.1; that is, compliance with ASHRAE 90.1 qualifies as compliance with the IECC for commercial buildings.

[5] Rental Policy Working Group, Federal Rental Alignment: Administration Proposals, December 31, 2011, Available at *www.huduser.org/portal/aff_rental_hsg/rpwg_conceptual_proposals_fall_2011.pdf.*

TABLE 1—CURRENT ENERGY STANDARDS AND INCENTIVES FOR HUD AND USDA PROGRAMS

[New construction only]

Program	Type	Current energy efficiency requirements and incentives
HUD		
Choice Neighborhoods—Implementation.	Competitive Grant	Single family and low-rise multifamily: Energy Star Certified New Homes. Multifamily high-rise (4 or more stories): Energy Star for Multifamily High Rise. Additional 2 rating points for achieving Certified LEED–ND or similar standard; or 1 point if project complies with goal of achieving LEED–ND or similar standard.
Choice Neighborhoods—Planning.	Competitive Grant	Eligible for Stage 1 Conditional Approval of all or a portion of the neighborhood targeted in their Transformation Plan for LEED for Neighborhood Development from the U.S. Green Building Council.
HOPE VI	Competitive Grant	3 points if new units are certified to one of several recognized green building programs, including Enterprise Green Communities, National Green Building Standard, LEED for Homes, LEED New Construction, or local or regional standards such as Earthcraft; 2 points if new construction is certified to Energy Star for New Homes standard; 1 point if only Energy Star-certified products and appliances are used in new units.
Section 202 Supportive Housing for the Elderly.	Competitive Grant	Single family and low-rise multifamily: Energy Star Certified New Homes. Multifamily high rise (4 or more stories): Energy Star for Multifamily High Rise. Applicants earn additional points if they meet one of several recognized green building standards. *http://archives.hud.gov/funding/2010/202elderly.pdf*. (Note: capital advances for new construction last awarded in FY 2010.)
Section 811 for Persons with Disabilities Project Rental Assistance.	Competitive Grant	Energy Star Certified New Homes for single family homes, or Energy Star for Multifamily High Rise for multifamily buildings. *http://archives.hud.gov/funding/2012/sec811pranofa.pdf*. (Note that HUD is no longer awarding Section 811 grants for new units.)
Rental Assistance Demonstration (RAD).	Conversion of Existing Units.	Minimum 2006 IECC or ASHRAE 90.1–2004 for new construction or any successor code adopted by HUD; applicants encouraged to build to Energy Star Certified New Homes or Energy Star for Multifamily High Rise. Minimum WaterSense and Energy Star appliances required and the most cost-effective measures identified in the Physical Condition Assessment (PCA). (Note that most RAD units will be conversions of existing units, not new construction.)
FHA Multifamily Mortgage Insurance.	Mortgage Insurance	2006 IECC or ASHRAE 90.1–2004 (Multifamily Accelerated Processing Guide at *http://portal.hud.gov/hudportal/documents/huddoc?id=4430GHSGG.pdf*.)
FHA Single Family Mortgage Insurance.	Mortgage Insurance	2006 IECC (See Builder Certification Form at *http://portal.hud.gov/hudportal/documents/huddoc?id=92541.pdf*.)
HOME Investment Partnerships Program.	Formula Grant	''(C)urrent edition of the Model Energy Code published by the Council of American Building Officials'' (24 CFR part 92, September 16, 1996). Final Rule at *www.onecpd.info/home/home-final-rule/* reserves the energy standard for a separate rulemaking at 24 CFR 92.251. (July 24, 2013.)
Public Housing Capital Fund	Formula Grant	2009 IECC and ASHRAE 90.1–2010, or successor standards, Capital Final Rule October 24, 2013, at *http://www.gpo.gov/fdsys/pkg/FR-2013-10-24/pdf/2013-23230.pdf*. Energy Star appliances are also required unless not cost effective.
USDA		
Section 502 Guaranteed Housing Loans.	Loan Guarantee	2006 IECC at minimum.* Rural Energy Plus program requires compliance with most recent version of IECC, which is currently IECC 2012.
Section 502 Rural Housing Direct Loans.	Loan Guarantee	2006 IECC at minimum.* A pilot is being created that gives incentive points for participation in Energy Star Certified New Homes, Green Communities, Challenge Home, NAHB National Green Building Standard, and LEED for Homes.
Section 502 Direct Loans for Section 523 Mutual Self Help Loan program homeowner participants.	Loan Guarantee	2006 IECC at minimum.* A pilot is being created that gives incentive points for participation in Energy Star Certified New Homes, Green Communities, Challenge Home, NAHB National Green Building Standard, and LEED for Homes.

* USDA programs updated annually per Administrative Notice.

D. Additional Background

Section 109(a) of Cranston Gonzalez, as amended by EISA, allowed for HUD and USDA to collaborate and develop their own energy efficiency building standards if they met or exceeded the 2006 IECC or ASHRAE 90.1–2004, but if the two agencies did not act on this option, EISA specifies that the 2006 IECC and ASHRAE 90.1–2004 standards would apply.

The two agencies did not develop independent energy efficiency building standards, and therefore, the 2006 IECC or ASHRAE 90.1–2004 currently apply to covered HUD and USDA programs. HUD and USDA have not undertaken prior rulemaking to implement EISA because the statutory requirement to comply with the 2006 IECC and ASHRAE 90.1–2004 codes for covered HUD and USDA programs applied without rulemaking.[6]

[6] HUD will undertake conforming rulemaking to conform its existing regulations to the requirements of EISA for single family Minimum Property Standards at 24 CFR 200.926d(e) and for the HOME Investment Partnership Act at 24 CFR 92.251. HUD has also modified Builder Certification Form HUD–92451 to reflect the minimum 2006 IECC for FHA-insured single family housing. Similar conforming rulemaking will be required to update USDA's standard at 7 CFR 1924.

DOE reports that as of September 2013, 32 States plus the District of Columbia have already adopted codes that require equal or better energy efficiency than the 2009 IECC for residential buildings. Thirty-eight States plus the District of Columbia have also adopted ASHRAE 90.1–2007 or codes that require equal or better energy efficiency for commercial buildings. (See *www.energycodes.gov/adoption/states*). The International Code Council (ICC) also provides information, in the form of a chart, on States' adoption of building/energy efficient codes. The chart confirms that a significant number of States plus the District of Columbia have already adopted the more recent 2009 IECC, or its equivalent. (See *www.iccsafe.org/gr/Documents/stateadoptions.pdf*).

As required by the Energy Conservation and Production Act, as amended (ECPA) (42 U.S.C. 6801 *et seq.*), DOE has published Final Determinations that the 2009 IECC and ASHRAE 90.1–2007 standards would improve energy efficiency.[7] This Notice therefore announces the results of HUD and USDA's analysis of housing impacted by the 2009 IECC and ASHRAE 90.1–2007.

Note that this Notice does not address the more recent IECC and ASHRAE codes for which DOE has published efficiency determinations: i.e., the 2012 IECC and ASHRAE 90.1–2010. DOE has published Final Determinations of energy efficiency for both of these codes and, more recently (October 2012), completed a cost analysis of the 2012 IECC for 43 of the 50 States and the District of Columbia.[8] The impact of these more recent codes on the affordability and availability of HUD- and USDA-funded new construction is currently being assessed by the two agencies. Since HUD and USDA's affordability determination relies on DOE's affordability analysis, HUD and USDA will address the affordability of the 2012 IECC code and ASHRAE 90.1–2010 in a subsequent notice in the near future. It is HUD's and USDA's intention that adoption of future IECC and ASHRAE 90.1 standards can be implemented with a Preliminary Notice such as this one, followed by a Final Notice for all the covered programs. However, every program will need to update its handbooks, mortgagee letters, relevant forms, or other administrative documents each time HUD determines that the new standard will not negatively impact the affordability or availability of housing under the covered programs.

E. Market Failures in the Residential Energy Sector

Before focusing on the specific costs and benefits associated with adoption of the IECC and ASHRAE codes addressed in this Notice, the extent to which market failures or barriers exist in the residential sector that may prompt the need for these higher codes is discussed below. There is a wide body of literature on a range of market failures that have resulted in an ''energy efficiency gap'' between the actual level of investment in energy efficiency and the higher level of investment that would be cost-beneficial from the consumer's (i.e., the individual's or firm's) point of view.[9] Brown (2001) cites a range of market failures and barriers including, for example, the fact that energy is typically a small part of owning and operating a building and, as a result, the public places a low priority on energy issues and energy efficiency opportunities. More broadly, market *failures* include misplaced incentives or unpriced public goods. Market *barriers* include capital market barriers and incomplete markets for energy efficiency; i.e., the fact that energy efficiency is generally purchased as an attribute of another product (in this case shelter or a building).

Within this broader world of market disincentives, barriers to energy efficient investment in housing impose two primary costs: Increased energy expenditures for households and an increase in the negative externalities associated with energy consumption. In addition to complying with the EISA statute, HUD and USDA have two primary motivations in the promulgation of this Notice: (1) To reduce the total cost of operating and thereby increasing the affordability of housing by promoting the adoption of cost-effective energy technologies, and (2) to reduce the social costs (negative externalities) imposed by residential energy consumption.

The first justification (lowering housing costs) requires that there exist significant market failures or other barriers that deter builders from supplying the energy efficiency demanded by consumers of housing. Alternatively, there may be market barriers that limit consumer demand for energy efficiency, which builders might readily supply if such demand existed. While the gains from cost-effective investments in energy efficiency are potentially very large, the argument that the market will not provide energy efficient housing demanded by households is somewhat complex.

The second justification (reducing social costs) requires that the consumption of energy imposes external costs that are not internalized by the market. There is near universal agreement among scientists and economists that energy consumption leads to indirect costs. The challenge is to measure those costs.

Under Investment in Energy-Saving Technologies

The production of energy efficient housing may be substantial, but if there are market failures or barriers that are not reflected in the return on the investment, then the market penetration of energy efficient investments in housing will be less than optimal.

When analyzing energy efficiency standards, the generation of savings is typically the greatest of the different categories of benefits. Using potential private benefits to justify costly energy efficiency standards is often criticized (Allcott and Greenstone, 2012). A skeptic of this approach of measuring the benefits discussed in this Notice would indicate that if, indeed, there were net private benefits to energy efficient housing, then consumers would place a premium on that characteristic and builders would respond to market incentives and provide energy-efficient homes. The noninterventionist might argue that the analyst who finds net benefits of implementing a standard did not measure the benefits and costs correctly (for a detailed example see Allcott and Greenstone, 2012). The existence of unobserved costs (either upfront or periodic) is a potential explanation for low levels of investment in energy-saving technology. Finally, a proponent

[7] Since the publication of the 2006 IECC, the ICC has revised the IECC twice, in both 2009 and 2012. The ICC published the 2009 IECC on January 28, 2009. (Available at *http://shop.iccsafe.org/2009-international-energy-conservation-code.html*). On July 19, 2011, DOE determined that the 2009 IECC would achieve greater energy efficiency in low-rise residential buildings than the 2006 IECC (**Federal Register** Notice 76 FR 42688). On May 17, 2012, DOE published a Final Determination that the 2012 IECC would achieve greater energy efficiency than the 2009 IECC. (Available at *http://www.gpo.gov/fdsys/pkg/FR-2012-05-17/pdf/2012-12000.pdf.*) For multifamily properties, ASHRAE published ASHRAE 90.1–2007 on January 22, 2008. On July 20, 2011 (**Federal Register** Notice July 20,2011, 76 FR 43287), DOE determined that ASHRAE 90.1–2007 would achieve greater energy efficiency in commercial buildings (including high-rise residential buildings) than ASHRAE 90.1–2004. On October 19, 2011, DOE published a similar determination for ASHRAE 90.1–2010 (published October 27, 2010), FR 76 64904. (Available at *http://www.gpo.gov/fdsys/pkg/FR-2011-10-19/pdf/2011-27057.pdf*). ASHRAE 90.1–2013 was published on October 9, 2013; DOE has not yet determined the efficiency or published a cost-benefit analysis of this code.

[8] See *http://www.energycodes.gov/development/residential/iecc_analysis.*

[9] The existence of this gap has been documented in many cases (Brown, 2001).

of the market approach could argue that the very existence of energy efficient homes is ample proof that the market functions well. If developers build energy efficient housing, then the theoretical challenge is to explain why there is an undersupply.

Despite the economic argument for nonintervention, there are many compelling economic arguments for the existence of an energy efficiency gap. Thaler and Sunstein (2008) attribute the energy efficiency gap to incentive problems that are exaggerated because upfront costs are borne by the builder, whereas the benefits are enjoyed over the long term by tenants. Four justifications deserve special consideration: (1) Imperfect information concerning energy efficiency, (2) inattention to energy efficiency, (3) disincentives to energy efficient investments in the housing market, and (4) lack of financing for energy efficient retrofits (Allcott and Greenstone, 2012).

(1) Lack of adequate information. Assuming information concerning energy efficiency affects investment, one can imagine two scenarios in which imperfect information would lead to an underinvestment in energy efficiency. First, consumers may be unaware of the potential gains from energy efficiency or even of the existence of a particular energy-saving investment. Second, imperfect information may inhibit energy efficient investments. A consumer may be perfectly capable of evaluating energy efficiency and making rational economic decisions but researching the options is costly. Establishing standards reduces search costs: Consumers will know that newer housing possesses a minimal level of efficiency. Similarly, because it may be costly for consumers to identify energy efficient housing, the real estate industry may hesitate to invest in energy efficiency.

(2) Consumer inattention to energy efficiency. Consumers may be inattentive to long-run operating costs (energy bills) when purchasing durable energy-using goods (p. 21, Allcott and Greenstone, 2012). Procrastination and self-control also may affect the rationality of long-run decisions (Ariely, 2009). These behavioral phenomena may deter energy efficiency choices. Establishing minimal standards that do not impose excessive costs but generate economic gains will benefit consumers who, when making housing choices, concentrate on other characteristics of the property.

(3) Market disincentives. For owner-occupied homes, the prospect of ownership transfer may create a barrier to energy efficient investment (McKinsey, 2009). If owners, builders, or buyers do not believe that they will be able to recapture the value of the investment upon selling their home, then they will be deterred from investing in energy efficiency. As indicated by McKinsey (2009), the length of the payback period and lifetime of the stream of benefits is longer than a large proportion of households' tenure. This concern may lead to the exclusive pursuit of investments for which there is an immediate payback.

For rental housing, split incentives exist that lead to sub-optimal housing (Gillingham *et al,* 2011). There is an agency problem when the landlord pays the energy bill and cannot observe tenant behavior or when the tenant pays the energy bill and cannot observe the landlord's investment behavior.[10]

(4) Lack of financing. Energy efficient investment may require a significant investment that cannot be equity financed. Capital constraints are a formidable barrier to energy efficiency for low-income households (McKinsey, 2009). While there is a wide variety of financing alternatives for home purchases, there are not many financing alternatives specifically for undertaking energy retrofits of for-sale housing (McFarlane, 2011). Building energy efficiency into housing at the time of construction allows homeowners and landlords to finance the energy-saving improvement with a lower mortgage interest rate, as opposed to a less affordable home improvement loan specifically for energy retrofits.[11]

Non-Energy Benefits

Even if there were no investment inefficiencies and individual consumers who were able to satisfy their need for energy efficiency, non-energy consumption externalities could justify energy conservation policy. The primary non-energy co-benefits of reducing energy consumption are the reduction of emissions and health benefits. The emission of pollutants (such as particulate matter) cause health and property damage. Greenhouse gases (such as carbon dioxide) cause global warming, which imposes a cost on health, agriculture, and other sectors. Greater energy efficiency allows households to afford energy for heating during severe cold or cooling during intense heat, which could have positive health effects for vulnerable populations. For example, studies have found a strong link between health outcomes and indoor environmental quality, of which temperature, lighting, and ventilation are important determinants (Fisk, 2002). Clinch and Healy (2001) discuss how to value the effect on mortality and morbidity in a benefit-cost analysis of energy efficiency. In addition to the direct health benefits of residents of energy efficient housing, there will be indirect public health benefits. First, the local population will gain from reducing emissions of particulate matter that have harmful health effects. Second, Schweitzer (2002) indicates there may be a positive safety effect from reducing the probability of fires by eliminating the need for supplemental heating sources.

II. 2009 IECC Affordability Determination

The IECC is a model energy code developed by the ICC through a public hearing process involving national experts for single family residential and commercial buildings.[12] The code contains minimum energy efficiency provisions for residential buildings, defined as single family homes and low-rise residential buildings up to three stories, offering both prescriptive- and performance-based approaches. Key elements of the code are building envelope requirements for thermal performance and air leakage control.

The IECC is typically published every 3 years, though there are some exceptions. In the last 2 decades, full editions of its predecessor, the Model Energy Code, came out in 1989, 1992, 1993, and 1995, and full editions of the IECC came out in 1998, 2000, 2003, 2006, 2009, and 2012. Though there were changes in each edition of the IECC from the previous one, the IECC can be categorized into two general eras:

[10] Such agency problems are not unique to energy. A landlord does not know in advance of extending a lease to what extent a tenant will inflict damage, make an effort to take care of the property, or report urgent problems (Henderson and Ioannides, 1983). The response is to raise rent and lower quality.

[11] With the exception of a few small programs serving specific markets and a Federal Housing Administration (FHA) pilot program (*PowerSaver*), affordable financing for home energy improvements that reflects sound lending principles is limited. Unsecured consumer loans or credit card products for home improvements typically charge high interest rates. Home equity lines of credit require owners to be willing to borrow against the value of their homes during a period when home values are flat or declining in many markets. Utility ''on bill'' financing (in which a home energy retrofit loan is amortized through an incremental change on a utility bill) serves only a handful of markets on a small scale. Property Assessed Clean Energy (PACE) financing programs have encountered resistance because of their general requirement to have priority over existing liens on a property.

[12] The IECC also covers commercial buildings. States may choose to adopt the IECC for residential buildings only, or may extend the code to commercial buildings (which include multifamily residential buildings of four or more stories).

2003 and before, and 2004 and after. The residential portion of the IECC was heavily revised in 2004. The climate zones were completely revised (reduced from 17 zones to 8 primary zones) and the building envelope requirements were restructured into a different format.[13] The post-2004 code became much more concise and simpler to use, but these changes complicate comparisons of State codes based on pre-2004 versions of the IECC to the 2009 IECC.

The 2009 IECC substantially revised the 2006 code as follows: [14]

- The duct system has to be tested and the air leakage out of ducts must be kept to an acceptable maximum level. Testing is not required if all ducts are inside the building envelope (for example in heated basements), though the ducts still have to be sealed.
- 50 percent of the lighting (bulbs, tubes, etc.) in a building has to be energy efficient. Compact fluorescents qualify; standard incandescent bulbs do not.
- Trade-off credit can no longer be obtained for high-efficiency heating, ventilation, and air conditioning (HVAC) equipment. For example, if a high-efficiency furnace is used, no reduction in wall insulation is allowed.
- Vertical fenestration U-factor requirements are reduced from 0.75 to 0.65 in Climate Zone 2, 0.65 to 0.5 in Climate Zone 3, and 0.4 to 0.35 in Climate Zone 4.
- The maximum allowable solar heat gain coefficient for glazed fenestration (windows) is reduced from 0.40 to 0.30 in Climate Zones 1, 2, and 3.
- R–20 walls in climate zones 5 and 6 (increased from R–19).
- Modest basement wall and floor insulation improvements.
- R–3 pipe insulation on hydronic distribution systems (increased from R–2).
- Limitation on opaque door exemption both size and style (side hinged).
- Improved air-sealing language.
- Controls for driveway/sidewalk snow melting systems.
- Pool covers are required for heated pools.

Current Adoption of the 2009 IECC

As of September 2013, 32 States and the District of Columbia have voluntarily adopted the 2009 IECC, its equivalent, or a more recent energy code (Table 2).[15] The remaining 18 States have not yet adopted the 2009 IECC.[16] (In certain cases, cities or counties within a State have a different code from the rest of the State. For example, the cities of Austin and Houston, Texas, have adopted energy codes that exceed the minimum Texas statewide code).[17] [18] HUD and USDA are primarily interested in the States that have not yet adopted the 2009 IECC, since it is in these States that any affordability impacts will be felt relative to the cost of housing built to current State codes. As noted, in instances where a local entity has a more stringent standard, the affordability impacts within a State will differ.

An increasing number of States have in recent years adopted, or plan to adopt, the 2009 IECC, in part due to section 410 of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 111–5, approved February 17, 2009), which established as a condition of receiving State energy grants the adoption of an energy code that meets or exceeds the 2009 IECC (and ASHRAE 90.1–2007), and achievement of 90 percent compliance by 2017. All 50 State governors subsequently submitted letters notifying DOE that the provisions of section 410 would be met.[19]

TABLE 2—CURRENT STATUS OF IECC ADOPTION BY THE STATES [20]

[As of September 2013]

2009 IECC or equivalent or higher (32 States and DC)	Prior Codes (18 States)
Alabama	2006 IECC or Equivalent (8 States)
California (2012 IECC)	Hawaii
Connecticut	Kentucky
Delaware	Louisiana
District of Columbia	Minnesota
Florida	Oklahoma
Georgia	Tennessee
Idaho	Utah
Illinois (2012 IECC)	Wisconsin
Indiana	2003 IECC or Equivalent (2 States)
Iowa	Arkansas
Maryland (2012 IECC)	Colorado
Massachusetts (2012 IECC)	No Statewide Code (8 States)
Michigan	Alaska
Montana	Arizona
Nebraska	Kansas
Nevada	Maine
New Hampshire	Mississippi
New Jersey	Missouri
New Mexico	South Dakota
New York	Wyoming
North Carolina	
North Dakota	
Ohio	
Oregon	
Pennsylvania	
Rhode Island (2012 IECC)	
South Carolina	
TexasVermont	
Virginia	
Washington (2012 IECC)	
West Virginia	

2009 IECC Affordability Analysis

In this Notice, HUD and USDA address two aspects of housing affordability in assessing the impact that the revised code will have on housing affordability. As described further below, the primary affordability test is a life-cycle cost savings (LCC) test, the extent to which the additional, or incremental, investments required to

[13] In the early 2000s, researchers at the U.S. Department of Energy's Pacific Northwest National Laboratory prepared a simplified map of U.S. climate zones. The map was based on analysis of the 4,775 U.S. weather sites identified by the National Oceanic and Atmospheric Administration, as well as widely accepted classifications of world climates that have been applied in a variety of different disciplines. This PNNL-developed map divided the United States into eight temperature-oriented climate zones. See *http://apps1.eere.energy.gov/buildings/publications/pdfs/building_america/4_3a_ba_innov_buildingscienceclimatemaps_011713.pdf.*

[14] Pacific Northwest National Laboratory for the U.S. Department of Energy, *Impacts of the 2009 IECC for Residential Buildings at State Level,* September 2009. Available at *https://www.energycodes.gov/impacts-2009-iecc-residential-buildings-state-level-0.*

[15] Not shown in Table 2 are the U.S. Territories. The status of IECC code adoption in these jurisdictions is as follows: Guam, Puerto Rico, and the U.S. Virgin Islands have adopted the 2009 IECC for residential buildings. The Northern Mariana Islands have adopted the Tropical Model Energy Code, which is equivalent to the 2003 IECC. American Samoa does not have a building energy code. These territories are all covered by the Act, for any covered HUD and USDA program that operates in these localities.

[16] In addition, there are two territories that have not yet adopted the 2009 IECC: the Northern Mariana Islands and American Samoa. Accordingly, they will be covered by the affordability and availability determinations of this Notice.

[17] Pacific Northwest National Laboratory for the U.S. Department of Energy, *Impacts of the 2009 IECC for Residential Buildings at State Level,* September 2009. Available at *https://www.energycodes.gov/impacts-2009-iecc-residential-buildings-state-level-0.*

[18] HUD and USDA do not currently maintain a list of local communities that may have adopted a different code than their state code. There are cities and counties that have adopted the 2009 or even the 2012 IECC in states that have not adopted the 2009 IECC or equivalent/better. For example, most major cities or counties in Arizona have adopted the 2009 IECC or better. And Maine has adopted the 2009 IECC but allows towns under 4,000 people to be exempt. The code requirements can also vary; Kentucky, for example, adopted the 2009 IECC for all homes except those that have a basement. The following Web site notes locations that have adopted the 2012 (but not the 2009) IECC: *http://energycodesocean.org/2012-iecc-and-igcc-local-adoptions.*

[19] American Recovery and Reinvestment Act, P.L. 111–5, Division A, Section 410(a)(2).

[20] Department of Energy, Office of Efficiency and Renewable Energy, Building Energy Codes Program, *Status of Codes.* May 2013. Available at: *http://www.energycodes.gov/adoption/states.*

comply with the revised code are cost effective; i.e., the additional measures pay for themselves with energy cost savings over a typical 30-year mortgage period. A second test is whether the incremental cost of complying with the code as a share of total construction costs—regardless of the energy savings associated with the investment—is affordable to the borrower or renter of the home.

In determining the impact that the 2009 IECC will have on HUD- and USDA-assisted or insured new homes, the agencies have relied on a cost-benefit analysis of the 2009 IECC completed by the Pacific Northwest National Laboratory (PNNL) for DOE.[21] This study provides an assessment of both the initial costs and the long-term estimated savings and cost-benefits associated with complying with the 2009 IECC. It offers evidence that the 2009 IECC may not negatively impact the affordability of housing covered by the Act.

Note that there may be other benefits associated with energy efficient homes. A March 2013 study by the University of North Carolina (UNC) Center for Community Capital and the Institute for Market Transformation (IMT) shows a correlation between greater energy efficiency and lower mortgage default risk for new homes. The UNC study surveyed 71,000 Energy Star-rated homes and found that mortgage default risks are 32 percent lower for these more energy efficient homes than homes without Energy Star ratings.[22]

Cost Effectiveness Analysis and Results

The DOE study, *National Energy and Cost Savings for New Single and Multifamily Homes: A Comparison of the 2006, 2009, and 2012 Editions of the IECC,* published in April 2012 (2012 DOE study), shows positive results for the cost effectiveness of the 2009 IECC for new homes. This national study projects energy and cost savings, as well as life-cycle cost (LCC) savings that assume that the initial costs are mortgaged over 30 years. The LCC method is a ''robust cost-benefit metric that sums the costs and benefits of a code change over a specified time frame. LCC is a well-known approach to assessing cost-effectiveness.'' [23] In September 2011, DOE solicited input via **Federal Register** Notice on their proposed cost benefit methodology [24] and this input was incorporated into the final methodology posted on DOE's Web site in April 2012.[25] A further Technical Support Document was published in April 2013.[26]

In summary, DOE calculates energy use for new homes using EnergyPlus™ energy modeling software, Version 5.0. Two buildings are simulated: a 2,400 square foot single family home and an apartment building (a three-story multifamily prototype having six dwelling units per floor) with 1,200 square foot dwelling units. DOE combines the results into a composite average dwelling unit based on 2010 Census building permit data for each State and eight climate zones. Single family home construction is more common than low-rise multifamily construction; the results are weighted accordingly to reflect this. Census data also is used to determine climate zone and national averages weighted for construction activity.

Four heating systems are considered: Natural gas furnaces, oil furnaces, electric heat pumps, and electric resistance furnaces. The market share of heating system types are obtained from the U.S. Department of Energy Residential Energy Consumption Survey (2009). Domestic water heating systems are assumed to use the same fuel as the space heating system.

For all 50 States, DOE estimates that the 2009 IECC saves 10.8 percent of energy costs for heating, cooling, water heating, and lighting over the 2006 IECC. LCC savings over a 30-year period are significant in all climate zones: Average consumer savings range from $1,944 in Climate Zone 3, to $9,147 in Climate Zone 8 when comparing the 2009 IECC to the 2006 IECC.[27]

The published cost and savings data for all 50 States provides weighted average costs and savings for both single family and low-rise multifamily buildings. For the 18 States impacted by this Notice, disaggregated data for single family homes only was provided to HUD and USDA by DOE. These disaggregated data are shown in Table 3. Front-end construction costs range from $550 (Kansas) to $1,950 (Hawaii) for the 2009 IECC over the 2006 IECC. On the savings side, average LCC savings over a 30-year period of ownership range from $1,633 in Utah to $6,187 in Alaska when comparing the 2009 IECC to the 2006 IECC.[28]

In addition to LCC savings, the 2012 DOE study also provides simple paybacks and ''net positive cash flows'' for these investments. These are additional measures of cost effectiveness. Simple payback is a measure, expressed in years, of how long it will take for the owner to repay the initial investment with the estimated annual savings associated with that investment. Positive cash flow assumes that the measure will be financed with a 30-year mortgage, and reflects the break-even point—equivalent to the number of months or years after loan closing—at which the cost savings from the incremental energy investment exceeds the combined cost of: (1) The additional downpayment requirement and (2) the additional monthly debt service resulting from the added investment.

For example, the average LCC for Minnesota's adoption of the 2009 IECC over its current standard (the 2006 IECC) is estimated at $3,904, with a simple payback of 4.3 years, and a net positive cash flow (mortgage payback) of just one year. Missouri homeowners will save $2,674 over 30 years under the 2009 IECC, with a simple payback of 3.8 years, and a positive cash flow of one year on the initial investment. As shown in Table 3, below, similar results were obtained for the remaining States analyzed, with simple paybacks ranging from a high of 8.3 years (Louisiana) to a low of 2.6 years (Alaska). The positive cash flow for all 18 impacted States is always one or 2 years, while the simple

[21] Department of Energy, *National Energy and Cost Savings for new Single- and Multifamily Homes: A Comparison of the 2006, 2009 and 2012 Editions of the IECC.* April 2012. Available at: *http://www.energycodes.gov/sites/default/files/documents/NationalResidentialCostEffectiveness.pdf.*

[22] Available at: *http://www.imt.org/uploads/resources/files/IMT_UNC_HomeEEMortgageRisksfinal.pdf.*

[23] Department of Energy, *National Energy and Cost Savings for new Single- and Multifamily Homes: A Comparison of the 2006, 2009 and 2012 Editions of the IECC.* April 2012. p. A–1 Available at: *http://www.energycodes.gov/sites/default/files/documents/NationalResidentialCostEffectiveness.pdf.*

[24] **Federal Register** Notice September 13, 2011, 76 FR 56413.

[25] Pacific Northwest National Laboratory for the Department of Energy (Z. Taylor, R. Lucas, N. Fernandez) *Methodology for Evaluating Cost-Effectiveness of Residential Energy Code Changes.* April 2012. Available at: *http://www.energycodes.gov/methodology-evaluating-cost-effectiveness-residential-energy-code-changes.*

[26] Pacific Northwest National Laboratory for the Department of Energy (V. Mendon, R. Lucas, S. Goel), *Cost-Effectiveness Analysis of the 2009 and 2012 IECC Residential Provisions—Technical Support Document. April 2013,* Available at *http://www.energycodes.gov/sites/default/files/documents/State_CostEffectiveness_TSD_Final.pdf.*

[27] Department of Energy, *National Energy and Cost Savings for new Single- and Multifamily Homes: A Comparison of the 2006, 2009 and 2012 Editions of the IECC.* April 2012, p. 3.

[28] Disaggregated single family data provided by DOE to HUD and USDA. Data shows LCC savings disaggregated for single family homes only (subset of LCC savings for both single family and low-rise multifamily shown in an April 2012 DOE study. Data available at *www.hud.gov/sustainability.*

payback averages 5.1 years, and is always less than 10 years (the longest payback is 8.3 years in Louisiana).

As noted, the costs and savings estimates for the 18 States presented here do not use the composite single family/low-rise multifamily data presented in the 2012 DOE study. Rather, DOE provided HUD and USDA with the underlying disaggregated data for single family housing only, to more accurately reflect the housing type receiving FHA single family insurance or USDA loan guarantees. These disaggregated data for single family homes are available at *www.hud.gov/sustainability.*

TABLE 3—LIFE-CYCLE COST (LCC) SAVINGS, NET POSITIVE CASH FLOW, AND SIMPLE PAYBACK FOR THE 2009 IECC [29]

State	Weighted average incremental cost ($ per unit)	Weighted average cost savings per year	Life-cycle cost (LCC) savings ($ per unit)	Net positive cash flow (years)	Simple payback (years)
Alaska	$940	$357	$6,187	1	2.6
Arizona	1,090	173	3,411	1	5.6
Arkansas	1,364	242	2,320	2	6.3
Colorado	902	902	1,782	2	6.7
Hawaii	1,950	393	5,861	1	5.0
Kansas	550	176	2,934	1	3.1
Kentucky	584	163	2,629	1	3.6
Louisiana	1,291	155	1,733	2	8.3
Maine	910	305	5,261	1	3.0
Mississippi	1,043	245	2,174	2	7.2
Minnesota	643	168	3,904	1	4.3
Missouri	1,275	176	2,674	1	3.8
Oklahoma	1,293	202	2,680	2	6.4
South Dakota	869	196	3,070	1	4.4
Tennessee	643	143	2,158	1	4.5
Utah	925	128	1,633	2	7.2
Wisconsin	1,027	239	3,788	1	4.3
Wyoming	885	155	2,215	1	5.7
Avge of U.S.	980	203	3,069	1.4	5.1
Avge of 18 States	1,010	208	3,134	1.3	5.1

Note that only the 18 States that have not yet adopted the 2009 IECC are included in this table.

Limitations

HUD and USDA are aware of studies that discuss limitations associated with cost-savings models such as these developed by PNNL for DOE. For example, Alcott and Greenstone (2012) suggest that ''it is difficult to take at face value the quantitative conclusions of the engineering analyses'' associated with these models, as they suffer from several empirical problems. They cite two problems in particular. First, engineering costs typically incorporate upfront capital costs only and omit opportunity costs or other unobserved factors. For example, one study found that nearly half of the investments that engineering assessments showed in energy audits for medium-size businesses would have short payback periods were not adopted due to unaccounted physical costs, risks, or opportunity costs. Second, engineering estimates of energy savings can overstate true field returns, sometimes by a large amount, and that some engineering simulation models have still not been fully calibrated to approximate actual returns.[30] HUD and USDA nevertheless believe that the PNNL–DOE model used to estimate the savings shown in this Notice represents the current state-of-the art for such modeling, is the product of significant public comment and input, and is now the standard for all of DOE's energy code simulations and models.

Distributional Impacts on Low-Income Consumers or Low Energy Users

For reasons discussed below, HUD and USDA project that affordability will not decrease for many low-income consumers of HUD- or USDA-funded units as a result of the determination in this Notice. The purpose of the regulatory action is to lower gross housing costs. For rental housing, the gross housing cost equals the contract rent plus utilities (unless the contract rent includes utilities, in which case gross housing costs equal the contract rent). For homeowners, housing cost equals mortgage payments, property taxes, insurance, utilities, and other maintenance expenditures. Reducing periodic utility payments is achieved through an upfront investment in energy efficiency. The cost of building energy efficient housing will be passed on to residents (either renters or homeowners) through the price of the unit (either rent or sales price). Households will gain so long as the net present value of energy savings to the consumer is greater than the cost to the builder of providing energy efficiency. The DOE study cited in this Notice provides compelling evidence that this is the case for the energy standards in question; i.e., that they would have a positive impact on affordability. In the 18 States impacted by the 2009 IECC, one of two codes addressed in the Notice, the average incremental cost of going to the higher standard is just $1,010 per unit, with average annual savings of $208, for a 5.1 year simple payback, and a 1.3 year net positive cash flow (Department of Energy 2012).

Households that would gain the most from this regulatory action would be those that consume energy the most intensively. However, it is possible, although unlikely, that a minority of households could experience a net increase in housing costs as a result of the regulatory action. Households that

[29] Data provided by DOE to HUD and USDA showing disaggregated LCC savings for single family homes only (subset of LCC savings for both single family and low-rise multifamily published in April 2012 DOE study).

[30] Hunt Alcott and Michael Greenstone, ''Is there an energy efficiency gap?'' Journal of Economic Perspectives, Volume 26, Number 1, Winter 2012, pp. 3–28.

consume significantly less energy than the average household could experience a net gain in housing costs if their energy expenditures do not justify paying the cost of providing energy efficient housing.

There are a few reasons why a significant number of these households is not expected to be inconvenienced. First, in the rare case that a household does not value the benefits of energy efficient housing, much of the pre-existing housing stock is available at a lower standard. Those that would lose from the capitalization of energy savings in more efficient housing could choose alternative housing from the large stock of existing and less energy efficient housing.

Second, to the extent that the majority of users of HUD/USDA programs are likely to be lower-income households, these households may suffer more from the ''energy efficiency gap'' than higher income households. Low-income households pay a larger portion of their income on utilities and so are not likely to be adversely affected by requiring energy efficiency rules. According to data from the 2012 Consumer Expenditure Survey, utilities represent almost 10 percent of total expenditures for the lowest-income households, as opposed to just 5 percent for the highest income. A declining expenditure share indicates that utilities are a necessary good. One study of earlier data from the Consumer Expenditure Survey (Branch, 1993) found a short-run income elasticity of demand of 0.23 (indicating that energy is a normal and necessary good). Given these caveats, the expectation is that the overwhelming majority of low-income households will gain from this regulatory action.

TABLE 4—QUINTILES OF INCOME BEFORE TAXES AND SHARES OF AVERAGE ANNUAL EXPENDITURES

[Figures represent percent.]

Item	Lowest 20 percent	Second 20 percent	Third 20 percent	Fourth 20 percent	Highest 20 percent	All consumer units
Total Housing*	40	38	34	31	30	33
Shelter	25	22	20	18	18	19
Utilities, fuels, and public services	9.8	9.1	8.3	7.0	5.4	7.1
Natural gas	0.9	0.8	0.8	0.7	0.6	0.7
Electricity	4.3	3.7	3.2	2.5	1.9	2.7
Fuel oil and other fuels	0.3	0.3	0.3	0.2	0.2	0.3
Telephone services	3.0	3.0	2.9	2.5	1.8	2.4
Water and other public services	1.3	1.3	1.2	1.0	0.8	1.0

*Housing expenditures are composed of shelter, utilities, household operations, housekeeping expenses, furniture, and appliances.
Source: Consumer Expenditure Survey, 2012, shares calculated by HUD.

Third, as noted above, the standards under consideration in this Notice are not overly restrictive and are expected to yield a high benefit-cost return.

Conclusion

For the 32 States and the District of Columbia that have already adopted the 2009 IECC or a stricter code, there will be little or no impact of HUD and USDA's adoption of this standard for the programs covered under EISA, since all housing in these States is already required to meet this standard as a result of State legislation. For the remaining 18 States that have not yet adopted the 2009 IECC, HUD and USDA expect no negative affordability impacts from adoption of the code as a result of the low incremental first costs, the rapid simple payback times, and the life-cycle cost savings documented above.

For the States that have not yet adopted the 2009 IECC the evidence shows, however, that the 2009 IECC is cost effective in all climate zones and on a national basis. Cost effectiveness is based on LCC cost savings estimated by DOE for energy-savings equipment financed over a 30-year period. In addition, simple paybacks on these investments are typically less than 10 years, and positive cash flows are in the one- to 2-year range. HUD and USDA therefore determine that the adoption of the 2009 IECC code for HUD- and USDA-assisted and insured new single family home construction does not negatively impact the affordability of those homes.

III. ASHRAE 90.1–2007 Affordability Determination

EISA requires HUD to consider the adoption of ASHRAE 90.1 for HUD-assisted multifamily programs (USDA multifamily programs are not covered). ASHRAE 90.1 is an energy code published by the American Society of Heating, Refrigerating, and Air-conditioning Engineers for commercial buildings, which, by definition, includes multifamily residential buildings of more than three stories. The standard provides minimum requirements for the energy efficient design of commercial buildings, including high-rise residential buildings (four or more stories). By design of the standard revision process, ASHRAE 90.1 sets requirements for the cost-effective use of energy in commercial buildings.

Beginning with ASHRAE 90.1–2001, the standard moved to a 3-year publication cycle. Substantial revisions to the standard have occurred since 1989. Significant requirements in ASHRAE 90.1–2007 over the previous (2004) code included stronger building insulation, simplified fenestration requirements, demand control ventilation requirements for higher density occupancy, and separate simple and complex mechanical requirements.

ASHRAE 90.1–2007 included 44 changes, or addenda, to ASHRAE 90.1–2004.[31] In an analysis of the code, DOE preliminarily determined that 30 of the 44 would have a neutral impact on overall building efficiency; these included editorial changes, changes to reference standards, changes to alternative compliance paths, and other changes to the text of the standard that may improve the usability of the standard, but do not generally improve or degrade the energy efficiency of the building. Eleven changes were determined to have a positive impact on energy efficiency and two changes to have a negative impact.[32]

The 11 addenda with positive impacts on energy efficiency include: Increased requirement for building vestibules, removal of data processing centers from

[31] Department of Energy, *Impacts of Standard 90.1–2007 for Commercial Buildings at State Level,* September 2009. Available at *https://www.energycodes.gov/impacts-standard-901-2007-commercial-buildings-state-level.*

[32] The two negative impacts on energy efficiency are: (1) Expanded lighting power exceptions for use with the visually impaired, and (2) allowance for louvered overhangs.

exceptions to HVAC requirements, removal of hotel room exceptions to HVAC requirements, modification of demand-controlled ventilation requirements, modification of fan power limitations, modification of retail display lighting requirements, modification of cooling tower testing requirements, modification of commercial boiler requirements, modification of part load fan requirements, modification of opaque envelope requirements, and modification of fenestration envelope requirements.

Current Adoption of ASHRAE 90.1–2007

Thirty-eight States and the District of Columbia have adopted ASHRAE 90.1–2007, its equivalent, or a stronger commercial energy standard (Table 5).[33] In many cases, that standard is adopted by reference through adoption of the commercial buildings section of the 2009 IECC, while in other cases ASHRAE 90.1 is adopted separately. Twelve States either have previous ASHRAE codes in place or no statewide codes. ASHRAE 90.1–2007 was also the baseline energy standard established under ARRA for commercial buildings (including multifamily properties), to be adopted by all 50 States and for achieving a 90 percent compliance rate by 2017.

TABLE 5—CURRENT STATUS OF ASHRAE CODE ADOPTION BY STATE [34]

[as of August 2012]

ASHRAE 90.1–2007 or higher (38 states and District of Columbia)	Prior or no statewide codes (12 states)
Alabama	ASHRAE 90.1–2004 or Equivalent (4 States)
Arkansas	Hawaii
California	Minnesota
Connecticut	Oklahoma
Delaware	Tennessee
District of Columbia	
Florida	
Georgia	
Idaho	ASHRAE 90.1–2001 or Equivalent (1 State)
Indiana	Colorado
Illinois	
Iowa	
Kentucky	
Louisiana	
Maryland	No Statewide Code (7 States)
Massachusetts	Alaska
Michigan	Arizona
Mississippi (Effective July 1, 2013)	Kansas
Montana	Maine
Nebraska	Missouri
Nevada	South Dakota
New Hampshire	Wyoming
New Jersey	
New Mexico	
New York	
North Carolina	
North Dakota	
Ohio	
Oregon	
Pennsylvania	
Rhode Island	
South Carolina	
Texas	
Utah	
Vermont	
Virginia	
Washington	
West Virginia	
Wisconsin	

[33] Not shown in Table 5 are the U.S. Territories. Guam, Puerto Rico, and the U.S. Virgin Islands have adopted ASHRAE 90.1–2007 for multifamily buildings. The Northern Mariana Islands have adopted the Tropical Model Energy Code, equivalent to ASHRAE 90.1–2001. American Samoa does not have a building energy code

[34] Department of Energy, Office of Efficiency and Renewable Energy, Building Energy Codes Program, *Status of Codes.* August, 2012. Available at: *https://www.energycodes.gov/adoption/states.*

ASHRAE 90.1–2007 Affordability Analysis

Section 304(b) of ECPA requires the Secretary of DOE to determine whether a revision to the most recent ASHRAE standard for energy efficiency in commercial buildings will improve energy efficiency in those buildings.[35] In its determination of improved energy efficiency for commercial buildings, DOE developed both a ''qualitative'' analysis and a ''quantitative'' analysis to assess increased efficiency of ASHRAE Standard 90.1.[36] The qualitative analysis evaluates the changes from one version of Standard 90.1 to the next and assesses if each individual change saves energy overall. The quantitative analysis estimates the energy savings associated with the change, and is developed from whole building simulations of a standard set of buildings built to the standard over a range of U.S. climates.

Energy Savings Analysis

DOE's quantitative analysis for ASHRAE 90.1–2007 concluded that on average for mid-rise apartment buildings nationwide, electric energy use intensity would decrease by 2.1 percent and natural gas energy use intensity would decrease by 11.5 percent, for a total site decrease in energy use intensity of 4.3 percent under ASHRAE 90.1–2007.[37] The energy cost index for this building type was also calculated to decrease by 3 percent.

DOE also completed a state-by-state assessment of the impacts of ASHRAE 90.1–2007 on residential (mid-rise apartments), nonresidential, and semi-heated buildings subject to commercial building codes.[38] This analysis included energy and cost savings over current commercial building codes by State and climate zone, by comparing each State's base code at the time of the study to Standard 90.1–2007. Results of this savings analysis for the 12 States that have not yet adopted Standard 90.1–2007 can be found in Appendix 2. Results are shown for the percent reduction estimated by DOE in both overall site energy use and energy cost resulting from adoption of Standard 90.1–2007 over the base case.[39] ASHRAE 90.1–2007 was projected to generate both energy and cost savings in all States in all climate zones over existing codes.

The highest energy and cost savings projected by DOE for residential buildings, for example, was in Topeka, Kansas (Climate Zone 4A), where adoption of ASHRAE 90.1–2007 would provide 10.3 percent energy savings and 6.8 percent cost savings over the current energy code of the State of Kansas. The lowest energy and cost savings estimated by DOE for residential buildings were in Honolulu, Hawaii (Climate Zone 1A), at 0.8 percent in reduced electricity consumption and costs. (Differentials between energy savings and cost savings reflect price differences and varying shares of the total for different fuel sources.)

Cost Effectiveness Analysis and Results

As discussed above, while DOE has completed an analysis of projected *savings* that will result from ASHRAE 90.1–2007, an equivalent to the *cost* studies conducted by DOE of the 2009 IECC does not exist for ASHRAE 90.1–2007. However, PNNL completed an analysis for DOE of the incremental costs and associated cost benefits of complying with the new standard for

[35] 42 U.S.C. 6833(b)(2)(A).

[36] 76 FR 43287, July 20, 2011.

[37] Pacific Northwest National Laboratory for Department of Energy, *Impacts of Standard 90.1–2007 for Commercial Buildings at State Level,* September 2009. Available at *http://www.energycodes.gov/impacts-standard-901-2007-commercial-buildings-state-level.*

[38] Id.

[39] Energy cost savings were estimated using national average energy costs of $0.0939 per kWh for electricity and $1.2201 per therm for natural gas.

the State of New York, and this analysis was used as the basis for determining the overall affordability impacts of the new standard.[40] Note that PNNL compared ASHRAE 90.1–2007 to the prevailing code in New York at the time, the 2003 IECC, whereas the current standard for HUD-assisted multifamily buildings is ASHRAE 90.1–2007 or the 2006 IECC.

In its New York analysis, PNNL found that adoption of ASHRAE 90.1–2007 would be cost effective for all commercial building types, including multifamily buildings, in all climate zones in the State. The incremental first cost of adopting the revised standard for a hypothetical 31-unit mid-rise residential prototype building in New York was projected to be $21,083, $10,423, and $9,525 per building for each of three climate zones in New York (climate zones 4A, 5A, and 6A, respectively), for an average across all climate zones of $13,677 per building, or $441 per dwelling unit. (Costs in climate zone 4A were high because the sample location chosen for construction costs was New York City.)

Annual cost savings in New York were projected to be $2,050, $1,234, and $1,185 for climate zones 4A, 5A, and 6A per building, respectively, for an average building, yielding cost savings of $1,489 per building for all climate zones, and average savings of $45 per unit. The average simple payback period for this investment in New York is 9.8 years, with a range of approximately 8 to 10 years.

Using New York as a baseline, HUD and USDA used Total Development Cost (TDC) adjustment factors developed by HUD in order to determine an estimate of the incremental costs associated with ASHRAE 90.1–2007 in the 12 States that have not yet adopted this code. HUD develops annual TDC limits for multifamily units for major metropolitan areas in each State. The average TDC for each State was derived by averaging TDCs for walkup- and elevator-style building types in each of several metropolitan areas in that State. (Note that since TDC costs include soft costs, site improvement costs, and management costs, the TDC differentials may not always correspond directly with ASHRAE-related cost differentials.) For the State of New York, TDCs were averaged for all of the State's metro areas, and arrived at an average New York TDC of $221,607 per unit.[41] HUD and USDA then developed a TDC adjustment factor, which consists of the ratio of the average New York TDC of $221,607 for a two-bedroom unit against the average TDC for a similar unit in other States (Appendix 3). This TDC adjustment factor was then applied to the average cost per unit of $441.19 for complying with ASHRAE 90.1–2007 in New York, to arrive at an incremental cost per unit for the remaining 12 States that have not yet adopted ASHRAE 90.1–2007 (Appendix 4).

HUD and USDA then averaged DOE's estimated energy savings across climate zones in each State to generate statewide energy savings estimates and for calculating simple payback periods for the ASHRAE 90.1–2007 investments. For example, as shown in Appendices 2 and 4, the average cost savings resulting from adopting ASHRAE 90.1–2007 in the State of Arizona was estimated by DOE to be 4.9 percent of $1,107 per unit per year, or $54.22. For an estimated average incremental cost of $341 per unit, the simple payback in Arizona was determined to be 6.3 years.[42] Note that the same baseline code used for the New York analysis (the IECC 2003) is assumed for these States; the actual codes in these States may vary from the New York baseline.

Conclusion

USDA's multifamily programs are not covered by EISA, and therefore will not be impacted by ASHRAE 90.1. For impacted HUD programs, in the 38 States and the District of Columbia that have adopted ASHRAE 90.1–2007 or a higher standard, there will, by default, be no adverse affordability impacts of adopting this standard. For the remaining 12 States that have not yet adopted ASHRAE 90.1–2007, in all cases, HUD and USDA estimate the incremental cost of ASHRAE 90.1–2007 compliance at under $500 per dwelling unit, with the highest incremental cost at $489.52 per dwelling unit (Alaska), and the lowest cost at $309.64 per dwelling unit (Oklahoma). This estimate compares favorably to the cost of complying with the 2009 IECC for single family homes, which showed an average incremental cost of $840 per dwelling unit. These incremental costs are a very small percent of initial construction costs—less than 0.2 percent of the average TDC of $221,000 for the State of New York, for example. With one exception (Hawaii), simple payback times are well under 15 years.

Given the low incremental cost of compliance with the new standard and the generally favorable simple payback times, HUD and USDA have determined that, with one exception, adoption of ASHRAE 90.1–2007 by the covered HUD programs will not negatively impact the affordability of multifamily buildings built to the revised standard in the 12 States that have not yet adopted this standard.[43] The exception is Hawaii. Since energy and cost savings are estimated by PNNL for Hawaii at less than one percent (.08%), and PNNL estimates the payback on the initial investment at 58.8 years, HUD and USDA determine that adoption of ASHRAE 90.1–2007 in Hawaii may negatively impact the affordability of housing in that State. Note that PNNL uses a national average kWh cost of .0939/kWh to estimate energy savings; using the current Hawaii energy price of .3204/kWh, the simple payback improves dramatically, to 17 years, but not sufficiently to justify adoption of the ASHRAE 90.1–2007 standard.

Given the differential between the payback at the average national electricity price compared to the payback at the current State energy price, this Notice specifically seeks comment on whether this exclusion of Hawaii is appropriate based on the available data.

IV. Impact on Availability of Housing

EISA requires that HUD and USDA assess both the affordability *and* availability of housing covered by the Act. This section of this Notice addresses the impact that the EISA requirements would have on the ''availability'' of housing covered by the Act. ''Affordability'' is assumed to be a measure of whether a home built to the updated energy code is affordable to potential homebuyers or renters, while ''availability'' of housing is a measure associated with whether builders will make such housing available to consumers at the higher code level; i.e., whether the higher cost per unit as a result of complying with the revised code will impact whether that unit is likely to be built or not. A key aspect of determining the impact on availability is the proportion of affected units in

[40] Krishan Gowri *et al, Cost Effectiveness and Impact Analysis of Adoption of ASHRAE 90.1–2007 for New York State,* June 2009. Available at *http://www.pnl.gov/main/publications/external/technical_reports/PNNL-16770.pdf.*

[41] Department of Housing and Urban Development, *2011 Unit Total Development Cost (TDC) Limits,* 2011. Available at *http://portal.hud.gov/huddoc/2011tdcreport.pdf.*

[42] While the 13 States that have not yet adopted ASHRAE 90.1–2007 have a variety of different energy codes, for the purposes of these estimates, the current codes in those States are assumed to be roughly equivalent to those in New York (ASHRAE 90.1–2004) at the time of the DOE study. States that have pre-2004 codes in place are likely to yield greater savings.

[43] Alaska, Arizona, Colorado, Kansas, Maine, Minnesota, Missouri, North Dakota, Oklahoma, South Dakota, Tennessee, and Wyoming.

relation to total units funded by HUD and USDA or total for sale units. These issues are discussed below.

Impact of Increases in Housing Prices and Hedonic Effects

At the margins, HUD and USDA do not project that the projected increase in housing prices, as a result of higher construction costs and hedonic effects, would decrease the quantity of housing. More efficient energy standards are expected to reduce operating costs for reasons explained in the above discussion of market failures. Thus, while there will theoretically be a negative impact on the supply of housing as a result of an increase in construction cost, there will also be a positive increase in demand for housing if it is more energy efficient. The capitalization of energy efficiency into housing prices may be hindered by difficulties in identifying and assessing energy efficiency. However, so long as the regulatory action leads to investments with positive net present value, the quantity of housing will increase.

Measuring the hedonic value (demand effect) of energy efficiency improvements is fraught with difficulty and there is little consensus in the empirical literature concerning the degree of capitalization (Laquatra *et al,* 2002). However, whatever their methodology, studies do suggest a significant and positive influence of energy efficiency on real estate values. One of the most complete studies on the hedonic effects of energy efficiency is on commercial buildings (Eicholtz *et al,* 2010). The results indicate that a commercial building with an Energy Star certification will rent for about 3 percent more per square foot, increase effective rents by 7 percent, and sell for as much as 16 percent more. The authors skillfully disentangle the energy savings required to obtain a label from the unobserved effects of the label itself. Energy savings are important: A 10 percent decrease in energy consumption leads to an increase in value of about 1 percent, over and above the rent and value premium for a labeled building. According to the authors of the study, the ''intangible effects of the label itself'' seem to play a role in determining the value of green buildings.

Impact of 2009 IECC on Housing Availability

For the 32 States and the District of Columbia that have already adopted the 2009 IECC, there will be few negative effects on the availability of housing covered by the Act as a result of HUD and USDA establishing the 2009 IECC as a minimum standard.

For those 18 States that have not yet adopted the revised codes, HUD and USDA have estimated the number of new construction units built under the affected programs in FY 2011. As detailed in Table 6, in FY 2011 a total of 23,262 units of HUD- and USDA-assisted new single family homes were built in these States, including 17,098 that were FHA-insured new homes, 1,170 that received USDA Section 502 direct loans, and 4,563 that received Section 502 guaranteed loans. Overall, this represented 7.0 percent of all new single family home sales in the United States, and 0.4 percent of all U.S. single family home sales in FY 2011.[44]

Assuming similar levels of production as in 2011, the share of units estimated as likely to be impacted by the IECC in the 18 States that have not yet adopted this code is likely to be similar; i.e., approximately 7.0 percent of all new single family home sales in those 18 States, and 0.4 percent of all single family home sales in those 18 States.

TABLE 6—FY 2011 ESTIMATED NUMBER OF HUD- AND USDA-SUPPORTED UNITS IMPACTED BY ADOPTION OF 2009 IECC

States not yet adopted 2009 IECC	HOME	FHA Single family	USDA Sec 502 direct	USDA Sec 502 guaranteed	Total
AK	16	207	25	53	301
AR	10	672	127	412	1,221
AZ	46	2,885	94	384	3,409
CO	46	1,946	46	79	2,117
HI	10	109	35	165	319
KS	5	686	28	52	771
KY	86	888	110	254	1,338
LA	93	906	103	1,105	2,207
ME	0	175	50	95	320
MN	14	1,659	20	72	1,765
MO	13	1,456	48	284	1,801
MS	10	506	114	361	991
OK	15	1,074	100	275	1,464
SD	6	182	30	80	298
TN	28	1,609	57	349	2,043
UT	14	1,224	156	314	1,708
WI	19	743	15	66	843
WY	0	171	12	163	346
Total	431	17,098	1,170	4,563	23,262

Adoption of the 2009 IECC for affected HUD and USDA programs represents an estimated one-time incremental cost increase for new construction single family units of $23.6 million nationwide, and an estimated annual benefit of $4.4 million, for an estimated simple payback of 5.4 years, as shown in Appendix 5.

[44] New single family home sales totaled 333,000 in 2011; all single family home sales totaled 5,236,000. Federal Housing Administration, *FHA Single Family Activity in the Home-Purchase Market Through November 2011,* February 2012. Available at *http://portal.hud.gov/hudportal/documents/huddoc?id=fhamkt1111.pdf.*

Impact of ASHRAE 90.1–2007 on Housing Availability

ASHRAE 90.1–2007 has been adopted by 38 States and the District of Columbia; the availability of HUD-assisted housing will therefore not be negatively impacted in these States with the adoption of this standard by the two agencies. As shown in Table 7, in the 12 States that have not yet adopted this code, 7,489 new multifamily units were funded or insured through HUD programs in FY 2011. HUD and USDA project that of the units produced in the programs shown in Table 7, only future units under the HOME Investment Partnerships (HOME) program and FHA multifamily units will be affected by this Notice. Using FY 2011 unit production as the baseline, HUD and USDA project this to be approximately 5,438 units annually. Although covered under EISA, HUD's Public Housing Capital Fund, the Sections 202 and 811 Supportive Housing, and HOPE VI programs are not projected to be covered by the codes addressed in this Notice, due to the fact that the Public Housing Capital Fund currently already requires a more recent building energy code for new construction (ASHRAE 90.1–2010); the Sections 202 and 811 Supportive Housing programs no longer fund new construction and in any case have established higher standards for new construction in recent notices of funding availability (NOFAs) (Energy Star Certified New Homes and Energy Star Certified Multifamily High Rise buildings), and HOPE VI is no longer active.

TABLE 7—FY 2011 ESTIMATED NUMBER OF UNITS POTENTIALLY IMPACTED BY ADOPTION OF ASHRAE 90.1–2007

States not yet adopted ASHRAE 90.1–2007	Public housing capital fund	Section 202/811	HOME	HOPE VI	FHA-Multifamily	Total
AK		16	53		0	69
AZ		0	584		274	858
CO		14	146		1,654	1,814
HI		0	[138]		0	[138]
KS		24	35		0	59
ME		0	0		0	0
MN		204	80		180	464
MO		134	532		144	810
OK		10	215		1,086	1,311
SD		0	79		60	139
TN		33	91		144	268
WY		0	9		72	81
Unallocated	1,155			323		
Total Units Produced in FY2011	1,155	435	1,962	323	3,614	7,489
Total Units Projected to be Covered Under this Notice			1,824		3,614	[45] 5,438

Twenty-four projects with 3,614 new multifamily units were endorsed by FHA in 2011. Two States, Colorado and Oklahoma, accounted for nearly half of this total, with five States accounting for less than 200 units each. The 3,614 multifamily units endorsed by FHA in FY 2011 in States that have not yet adopted ASHRAE 90.1–2007 represented 2 percent of a total of 180,367 units receiving FHA multifamily endorsements in FY 2011. The 24 projects with affected units represented a mortgage value of $396 million, or 3.4 percent of a total FHA-insured mortgage amount of $11.68 billion in FY 2011. Assuming a similar share of impacted units as in FY 2011 in future years, HUD and USDA assume that less than 2 percent of FHA multifamily endorsements will be impacted by ASHRAE 90.1–2007, and approximately 3 percent of total loan volume.

Adoption of ASHRAE 90.1–2007 by the covered HUD and USDA programs represents an estimated one-time incremental cost increase for new multifamily residential units of $1.87 million nationwide, and an estimated annual benefit of $177,800 nationwide, resulting in an estimated simple payback time of under 11 years, as shown in Appendix 6.

Combined Energy Costs and Savings

For both the single family units complying with the 2009 IECC and the multifamily units complying with ASHRAE 90.1–2007, the combined cost of implementing the updated date is estimated at $25.5 million, with an estimated annual energy cost savings of $4.6 million. Annualized costs for this initial investment over 10 years are $2.9 million. Over 10 years, the present value of these cost savings, using a discount rate of 3 percent, is $40.1 million, for a net present value savings of $14.4 million over 10 years.

Social Benefits of Energy Standards: Reducing CO_2 Emissions

In addition to energy savings, additional cost benefits will be achieved from the resulting reductions in carbon emissions. The effect of a decline on energy consumption is to reduce emissions of pollutants (such as particulate matter) that cause health and property damage and greenhouse gases (such as carbon dioxide) that cause global warming. To calculate the social cost of carbon dioxide in any given year, the Interagency Working Group on Social Cost of Carbon estimated the future damages to agriculture, human health, and other market and nonmarket sectors from an additional unit of carbon dioxide emitted in a particular year in terms of reduced consumption due to the impacts of elevated temperatures.[46] The interagency group provides estimates of the damage for every year of the analysis from a future value of $39 in 2013 to $96 in 2027 (a

[45] Although 138 HOME units would be projected to be affected in Hawaii, Hawaii has been excluded from coverage under ASHRAE 90.1–2007 due to insufficient cost savings and relatively long paybacks, projected from the adoption of ASHRAE 90.1–2007. These units are therefore excluded from the affected unit count.

[46] Interagency Working Group on Social Cost of Carbon, *Technical Support Document: Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866,* United States Government, 2010.

25-year stream of benefits). A worst-case scenario was presented by the Interagency Working Group with costs starting at $110 in 2013 and rising to $196 by 2037.

The emission rate of metric tons of carbon dioxide (CO_2) per British thermal unit (BTU) consumed varies by power source. The primary source for these data is the U.S. Energy Information Administration's Voluntary Reporting of Greenhouse Gases Program. HUD uses a range for its emission factor of 0.107 to 0.137 metric tons of CO_2 per million BTUs. Based on studies by DOE, HUD estimates energy savings of 2.06 million BTUs per housing unit per year from the ASHRAE 90.1–2007 standard and a reduction of 7.06 million BTUs per housing unit per year from the 2009 IECC. The expected aggregate energy savings (technical efficiency) is approximately 175,000 million BTUs annually.[47]

Whatever the predicted energy savings (technical efficiencies) of an energy efficiency upgrade, the actual energy savings by a household are likely to be smaller due to a behavioral response known as the ''rebound effect.'' A rebound effect has been observed when an energy efficient investment effectively lowers the price of the outputs of energy (heat, cooling, and lighting), which may lead to both income and substitution effects by raising the demand for energy. Increasing energy efficiency reduces the expense of physical comfort and may thus increase the demand for comfort. To account for the wide range of estimates for the scale of the rebound effect and the uncertainty surrounding these estimates, HUD assumes a range of between 10 and 30 percent (Sorrel 2007). The size of the rebound effect does not reduce the benefit to a consumer of energy efficiency but indicates how those benefits are allocated between reduced energy costs and increased comfort. Taking account of the rebound effect, the technical efficiencies provided by the energy standards discussed in this Notice produce an estimated energy savings of from 122,500 million to 157,500 million BTUs.

The table below summarizes the aggregate social benefits realized from reducing carbon emissions for different marginal social cost scenarios (average and worst case), lifecycles, and scenario assumptions. The highest benefits will be for a high marginal social cost of carbon, long lifecycle, low rebound factor, and high emissions factor.

TABLE 8—ANNUALIZED VALUE OF REDUCTION IN CO_2 EMISSIONS OVER 305,000 UNITS

[$2,012 million]

Lifecycle	Emission factor of 0.107				Emission factor of 0.137			
	Rebound 30%		Rebound 10%		Rebound of 30%		Rebound of 10%	
	Median MSC*	High MSC	Median MSC	High MSC	Median MSC	High MSC	Median MSC	High MSC
10 years	0.58	1.68	0.73	2.15	0.73	2.14	0.94	2.75
15 years	0.60	1.77	0.77	2.29	0.77	2.28	0.99	2.97
20 years	0.63	1.87	0.81	2.40	0.81	2.39	1.03	3.12
25 years	0.65	1.97	0.84	2.52	0.85	2.51	1.07	3.22

* MSC = marginal social cost.

The annualized value of the social benefits of reducing carbon emissions, discounted at 3 percent, ranges from $580,000 to $3.22 million.[48] The corresponding present values range from $5 million to $24.2 million over 10 years, to $58 million over 25 years.

Conclusion

Given the extremely low incremental costs associated with adopting both the 2009 IECC and ASHRAE 90.1–2007 described above, and that the estimated number of new construction units built under the affected programs in FY 2011 in States that have not yet adopted the revised codes is a small percentage of the total number of new construction units in those programs nationwide, HUD and USDA have determined that adoption of the codes will not adversely impact the availability of the affected units.

V. Impact on HUD and USDA Programs

Implementation

Based on DOE findings on improvements in energy efficiency and energy savings, and HUD and USDA determinations on housing affordability and availability outlined in this Notice, HUD and USDA programs specified under EISA will implement procedures to ensure that recipients of HUD funding, assistance, or insurance comply with the 2009 IECC and (except in Hawaii) ASHRAE 90.1–2007 code requirements, commencing no later than 30 days after the date of publication of a Notice of Final Determination.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). That finding is posted at *www.regulations.gov* and *www.hud.gov/sustainability* and is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the finding by calling the Regulations Division at 202–402–3055 (this is not a toll-free number).

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[47] 2.06 MMBTU × 5,438 multifamily units + 7.06 MMBTU × 23,262 single family units.

[48] Because the Interagency Group used a 3 percent rate to calculate the present value of damage, HUD uses the same rate in order to be consistent with the federally approved estimates of damage.

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Dated: April 9, 2014.

Shaun Donovan,

Secretary, U.S. Department of Housing and Urban Development.

Thomas J. Vilsack,

Secretary, U.S. Department of Agriculture.

APPENDIX 1—COVERED HUD AND USDA PROGRAMS

	Legal Authority	Regulations
HUD Programs:		
Public Housing Capital Fund ...	Section 9(d) and Section 30 of the U.S. Housing Act of 1937 (42 U.S.C. 1437g(d) and 1437z–2).	24 CFR parts 905, 941, and 968.
HOPE VI Revitalization of Severely Distressed Public Housing.	Section 24 of the U.S. Housing Act of 1937 (42 U.S.C. 1437v)	24 CFR part 971.
Choice Neighborhoods Implementation Grants.	Section 24 of the U.S. Housing Act of 1937 (42 U.S.C. 1437v)	24 CFR part 971.
Choice Neighborhoods Planning Grants.	Section 24 of the U.S. Housing Act of 1937 (42 U.S.C. 1437v)	24 CFR part 971.
Section 202 Supportive Housing for the Elderly.	Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended.	24 CFR part 891.
Section 811 Supportive Housing for Persons with Disabilities.	Section 811 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended..	24 CFR part 891.
HOME Investment Partnerships (HOME).	Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 *et seq.*).	24 CFR part 92.
FHA Single Family Mortgage Insurance Programs.	National Housing Act Sections 203(b) (12 U.S.C. 1709(b)), Section 251 (12 U.S.C. 1715z–16), Section 247 (12 U.S.C. 1715z–12), Section 203(h) (12 U.S.C. 1709(h)), Housing and Economic Recovery Act of 2008 (Public Law 110–289), Section 248 of the National Housing Act (12 U.S.C. 1715z–13).	24 CFR parts 203, Subpart A; 203.18(i); 203.43i; 203; 203.49; 203.43h.
FHA Multifamily Mortgage Insurance Programs.	Sections 213, 220, 221, 231, and 232 of the National Housing Act (12 U.S.C. 1715e, 12 U.S.C. 1715v, 12 U.S.C. 1715k, 12 U.S.C. 17151, 12 U.S.C. 1715w)..	24 CFR parts 200, subpart A, 213; 231; 220; 221, subparts C and D; and 232.
USDA Programs:		
Section 502 Guaranteed Housing Loans.	Section 502 of Housing Act (42 U.S.C. 1472)	7 CFR part 1980.
Section 502 Rural Housing Direct Loans.	Section 502 of Housing Act (42 U.S.C. 1472)	7 CFR part 3550.
Section 502 Mutual Self Help Loan program, homeowner participants.	Section 502 of Housing Act (42 U.S.C. 1472)	7 CFR part 3550.

APPENDIX 2—ESTIMATED ENERGY AND COST SAVINGS FROM ADOPTION OF ASHRAE 90.1–2007 [49]

State	Location	Climate zone	Energy savings (%)	Baseline energy cost ($/unit/year)	Cost savings (%)
AK ...	Anchorage	7	6.5	1,281	4.7
	Fairbanks	8	4.7	1,475	3.7
	Average	.....	*5.6*	*1,378*	*4.2*
AZ ...	Phoenix	2B	6.6	1,070	5.8
	Sierra Vista	3B	6.1	1,037	5.4
	Prescott	4B	8.7	1,	5.6
	Flagstaff	5B	5.7	1,059	3.0

APPENDIX 2—ESTIMATED ENERGY AND COST SAVINGS FROM ADOPTION OF ASHRAE 90.1–2007 [49]—Continued

State	Location	Climate zone	Energy savings (%)	Baseline energy cost ($/unit/year)	Cost savings (%)
	Average		*6.8*	*1,106*	*4.9*
CO ..	La Junta	4B	7.4	1,092	4.5
	Boulder	5B	7.5	1,101	4.6
	Eagle	6B	1.7	1,102	0.9
	Alamosa	7B	2.7	1,118	1.6
	Average		*4.8*	*1,103*	*2.9*
HI	Honolulu	1A	0.8	1,013	0.8
	Average		*0.8*	*1,013*	*0.8*
KS ...	Topeka	4A	10.3	1,192	6.8
	Goodland	5A	5.2	1,177	3.2
	Average		*7.8*	*1,185*	*5.0*
ME ..	Portland	6A	4.5	1,175	2.8
	Caribou	7	5.4	1,311	4.0
	Average		*5.0*	*1,243*	*3.4*
MN ..	St. Paul	6A	2.2	1,245	1.3
	Duluth	7	5.2	1,342	3.9
	Average		*3.7*	*1,294*	*2.6*
MO ..	St. Louis	4A	3.5	1,147	2.2
	St. Joseph	5A	3.6	1,161	2.3
	Average		*3.6*	*1,154*	*2.3*
OK ..	Oklahoma City	3A	1.5	1,074	1.7
	Guymon	4A	3.6	1,098	2.2
	Average		*2.6*	*1,086*	*2.0*
SD ...	Yankton	5A	4.1	1,264	2.7
	Pierre	6A	4.2	1,258	2.8
	Average		*4.2*	*1,261*	*2.8*
TN ...	Memphis	3A	3.4	1,047	3.0
	Nashville	4A	3.2	1,083	1.9
	Average		*3.3*	*1,065*	*2.4*
WY ..	Torrington	5B	4.2	1,145	2.6
	Cheyenne	6B	4.5	1,179	2.8
	Rock Springs	7B	4.7	1,205	3.0
	Average		*4.5*	*1,176*	*2.8*

APPENDIX 3—AVERAGE 2011 TWO-BEDROOM TOTAL DEVELOPMENT COST LIMITS FOR 13 STATES THAT HAVE NOT ADOPTED ASHRAE 90.1–2007 AND TDC ADJUSTMENT FACTORS

State	TDC Limit ($)	TDC Adjustment Factor
NY	221,607	1.00
AK	245,882	1.11
AZ	171,058	0.77

APPENDIX 3—AVERAGE 2011 TWO-BEDROOM TOTAL DEVELOPMENT COST LIMITS FOR 13 STATES THAT HAVE NOT ADOPTED ASHRAE 90.1–2007 AND TDC ADJUSTMENT FACTORS—Continued

State	TDC Limit ($)	TDC Adjustment Factor
CO	178,241	0.80
HI	239,412	1.08
KS	170,213	0.77
ME	187,802	0.85
MN	207,475	0.94

APPENDIX 3—AVERAGE 2011 TWO-BEDROOM TOTAL DEVELOPMENT COST LIMITS FOR 13 STATES THAT HAVE NOT ADOPTED ASHRAE 90.1–2007 AND TDC ADJUSTMENT FACTORS—Continued

State	TDC Limit ($)	TDC Adjustment Factor
MO	184,221	0.83
OK	155,578	0.70
SD	159,576	0.72
TN	160,222	0.72
WY	160,431	0.72

APPENDIX 4—ESTIMATED COSTS AND BENEFITS PER DWELLING UNIT FROM ADOPTION OF ASHRAE 90.1–2007 [50]

State	Incremental Cost/Unit ($)	Energy cost savings/unit ($/year) *	simple pay-back/unit (years)
AK	489	57.90	8.5
AZ	340	54.22	6.3

[49] Source: Pacific Northwest National Laboratory, Department of Energy, *Impacts of Standard 90.1–2007 for Commercial Buildings at State Level,* September 2009. States for which figures are provided are states that have not yet adopted ASHRAE 90.1–2007. Those States for which cost and savings are shown as zero percent had adopted ASHRAE 90.1–2007 as of August 2012. Available at *http://www.energycodes.gov/impacts-standard-901-2007-commercial-buildings-state-level.*

[50] *Sources:* HUD Estimate of Incremental Costs and Dollar Savings associated with ASHRAE 90.1–2007. Incremental Cost/Unit was estimated by adjusting the New York incremental cost of $441.19 by Total Development Cost (TDC) adjustment factors in Appendix 2B. Energy Cost Savings/Unit is derived from PNNL estimates of energy saved, using national average of .0939/kWh for electricity and $1.2201/therm. Simple Payback/Unit is derived by dividing Incremental Cost/Unit by Energy Cost Savings/Unit.

APPENDIX 4—ESTIMATED COSTS AND BENEFITS PER DWELLING UNIT FROM ADOPTION OF ASHRAE 90.1–2007 [50]—Continued

State	Incremental Cost/Unit ($)	Energy cost savings/unit ($/year) *	simple payback/unit (years)
CO	354	32.01	11.1
HI	476	8.11	58.8
KS	338	59.26	5.7
ME	373	42.27	8.8
MN	413	33.65	12.3
MO	366	26.55	13.8
NY	441	45.07	9.8
OK	309	21.73	14.3
SD	317	35.32	9.0
TN	318	25.57	12.5
WY	319	32.95	9.7

* Note on Energy Cost Savings: This table uses PNNL methodology of national average cost of electricity of .0939/kWh and $1.2201/therm for natural gas.

APPENDIX 5—ESTIMATED TOTAL COSTS AND BENEFITS FROM ADOPTION OF 2009 IECC OVER EXISTING STATE CODE

State	Total incremental cost per state ($)	Total energy cost savings per state ($ per year)
AK	282,940	107,457
AR	1,330,890	211,233
AZ	4,649,876	824,978
CO	1,909,534	283,678
HI	622,050	125,367
KS	424,050	135,696
KY	781,392	218,094
LA	2,849,237	342,085
ME	291,200	97,600
MN	1,840,895	432,425
MO	1,158,043	302,568
MS	1,263,525	174,416
OK	1,892,952	295,728
SD	258,962	58,408
TN	1,313,649	292,149
UT	1,579,900	218,624
WI	865,761	201,477
WY	306,210	53,630
Total	23,621,066	4,375,613

APPENDIX 6—ESTIMATED TOTAL COSTS AND BENEFITS FROM ADOPTION OF ASHRAE 90.1–2007

State	Total incremental cost/ state ($)	Total energy cost savings/ state ($/year)
AK	25,945	3,069
AZ	292,192	46,521
CO	638,730	57,618
HI [51]	0	0
KS	11,860	2,074
ME [52]	0	0
MN	107,396	8,749
MO	247,930	17,948
OK	402,972	28,271
SD	44,159	4,909
TN	74,960	6,009
WY	25,871	2,669

APPENDIX 6—ESTIMATED TOTAL COSTS AND BENEFITS FROM ADOPTION OF ASHRAE 90.1–2007—Continued

State	Total incremental cost/ state ($)	Total energy cost savings/ state ($/year)
Total	1,872,015	177,837

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BILLING CODE 4210–67–P

[51] Hawaii has been excluded from this notice due to insufficient cost savings and a resulting long simple payback projected from the adoption of ASHRAE 90.1–2007. These costs and savings are therefore excluded from this table.

[52] No units were produced under affected programs in Maine in FY 2011: therefore, no costs or savings are shown.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2014–N060; FXES11120800000–145–FF08EVEN00]

Low-Effect Habitat Conservation Plan for the Endangered Mount Hermon June Beetle, Bonny Doon, Santa Cruz County, California

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from Steven C. Sohl for a 5-year incidental take permit under the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for ''take'' of the federally endangered Mount Hermon June beetle likely to occur incidental to the construction of a single-family residence, garage, and associated landscaping/infrastructure on an existing legal parcel in Bonny Doon, Santa Cruz County, California. We invite comments from the public on the application package includes the Sohl Low-Effect Habitat Conservation Plan for the Endangered Mount Hermon June Beetle.

DATES: To ensure consideration, please send your written comments by May 15, 2014.

ADDRESSES: You may download a copy of the Habitat Conservation Plan, draft Environmental Action Statement and Low-Effect Screening Form, and related documents on the Internet at *http://www.fws.gov/ventura/,* or you may request copies of the documents by U.S. mail or phone (see below). Please address written comments to Stephen P. Henry, Acting Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. You may alternatively send comments by facsimile to (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Chad Mitcham, Fish and Wildlife Biologist, by U.S. mail at the above address, or by telephone (805) 644–1766.

SUPPLEMENTARY INFORMATION: We have received an application from Steven C. Sohl for a 5-year incidental take permit under the Endangered Species Act of 1973, as amended. The application addresses the potential for ''take'' of the federally endangered Mount Hermon June beetle (*Polyphylla barbata*) likely to occur incidental to the construction of a single-family residence, garage, and associated landscaping/infrastructure on an existing legal parcel in Bonny Doon, Santa Cruz County, California. The applicant would implement a conservation program to minimize and

mitigate project activities that are likely to result in take of the Mount Hermon June beetle as described in the plan. We invite comments from the public on the application package, which includes the Sohl Low-Effect Habitat Conservation Plan for the Endangered Mount Hermon June Beetle. This proposed action has been determined to be eligible for a Categorical Exclusion under the National Environmental Policy Act of 1969, as amended.

Background

The U.S. Fish and Wildlife Service (Service) listed the Mount Hermon June beetle as endangered on January 24, 1997 (62 FR 3616). Section 9 of the Act (16 U.S.C. 1531 et seq.) and its implementing regulations prohibit the take of fish or wildlife species listed as endangered or threatened. ''Take'' is defined under the Act to include the following activities: ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed species. The Act defines ''Incidental Take'' as take that is not the purpose of carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are provided at 50 CFR 17.32 and 17.22, respectively. Issuance of an incidental take permit must not jeopardize the existence of federally listed fish, wildlife, or plant species.

Take of listed plants is not prohibited under the Act unless such take would violate State law. As such, take of plants cannot be authorized under an incidental take permit. Plant species may be included on a permit in recognition of the conservation benefits provided them under a habitat conservation plan. All species, including plants, covered by the incidental take permit receive assurances under our ''No Surprises'' regulations (50 CFR 17.22(b)(55) and 17.32(b)(5)). In addition to meeting other specific criteria, actions undertaken through implementation of the Habitat Conservation Plan (HCP) must not jeopardize the continued existence of federally listed animal or plant species.

Applicant's Proposal

Steven C. Sohl (hereafter, the applicant) has submitted a Low-Effect HCP in support of his application for an incidental take permit (ITP) to address take of Mount Hermon June beetle that is likely to occur as the result of direct impacts to up to 0.0625 acres (ac) (2,720 square feet (sf)) of degraded sandhills habitat occupied by the species. Take would be associated with the construction of a single-family residence on an existing parcel legally described as Assessor Parcel Number 063–061–28. This parcel lacks an assigned street address, but is located next to 1055 Martin Road in Ben Lomond, Santa Cruz County, California. The applicant is requesting a permit for take of Mount Hermon June beetle that would result from ''covered activities'' that are related to the construction of a single-family residence and associated landscaping/infrastructure.

The applicant proposes to avoid, minimize, and mitigate take of Mount Hermon June beetle associated with the covered activities by fully implementing the HCP. The following measures will be implemented: (1) Siting of the residence in an area of the property where habitat is considered degraded and less suitable for the species; (2) avoiding construction during the flight season (considered to be between May and October, annually), if possible; (3) covering of exposed soils with erosion control fabric to prevent the Mount Hermon June beetles from burrowing into exposed soil at the construction site if soil disturbing activities must occur between May and October; (4) employment of a Service-approved entomologist to capture and relocate into suitable habitat out of harm's way any Mount Hermon June beetle larvae unearthed during construction activities; (5) outdoor night lighting that will use light bulbs certified not to attract nocturnally active insects, in order to minimize disruption of Mount Hermon June beetle breeding behavior during the adult flight season, and (6) secure off-site mitigation at a ratio of 1:1 to mitigate for temporary and permanent habitat impacts through the acquisition of 0.0625 ac (2,720 sf) of conservation credits in the Zayante Sandhills Conservation Bank. The applicant will fund up to $31,100 to ensure implementation of all minimization measures, monitoring, and reporting requirements identified in the HCP.

In the proposed HCP, the applicant considers two alternatives to the proposed action: ''No Action'' and ''Project Design.'' Under the ''No Action'' alternative, an ITP for the Sohl single-family residence would not be issued. The Sohl single-family residence would not be built, and the purchase of conservation credits would not be provided to effect recovery actions for Mount Hermon June beetle. Additionally, since the property is privately owned, there are ongoing economic considerations associated with continued ownership without use, which include payment of associated taxes. The sale of this property for purposes other than the identified activity is not considered economically feasible. Because of economic considerations and because the proposed action results in a net benefit for the covered species, the No Action Alternative has been rejected. Under the ''Project Redesign'' alternative, the project would be redesigned to avoid or further reduce take of Mount Hermon June beetle. The proposed project has already been designed to minimize impacts to the species by locating the residence, garage, and associated landscaping/infrastructure in degraded habitat and constructing the residence vertically (two stories) instead of horizontally. A redesigned project does not realize a reduction in take and is not practical. As such, the ''Project Redesign'' alternative has also been rejected.

Our Preliminary Determination

We are requesting comments on our preliminary determination that the applicant's proposal will have a minor or negligible effect on the Mount Hermon June beetle and that the plan qualifies as a low-effect HCP as defined by our Habitat Conservation Planning Handbook (November 1996). We base our determinations on three criteria: (1) Implementation of the proposed project as described in the HCP would result in minor or negligible effects on federally listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor negligible effects on other environmental values or resources; and (3) HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. In our analysis of these criteria, we have made a preliminary determination that the approval of the HCP and issuance of an ITP qualify for categorical exclusion under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.), as provided by the Department of Interior Manual (516 DM 2 Appendix 2 and 516 DM 8); however, based upon our review of public comments that we receive in response to this notice, this preliminary determination may be revised.

Next Steps

We will evaluate the permit application, including the plan and comments we receive, to determine whether the application meets the

requirements of Section 10(a)(1)(B) of the Act. We will also evaluate whether issuance of the ITP would comply with Section 7(a)(2) of the Act by conducting an intra-Service Section 7 consultation.

Public Review

We provide this notice under section 10(c) of the Act and the National Environmental Policy Act of 1969, as amended (NEPA), NEPA's public involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6). We are requesting comments on our determination that the applicants' proposal will have a minor or neglible effect on the Mount Hermon June beetle and that the plan qualifies as a low-effect HCP as defined by our 1996 Habitat Conservation Planning Handbook. We will evaluate the permit application, including the plan and comments, we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will use the results of our internal Service consultation, in combination with the above findings, in our final analysis to determine whether to issue the permits. If the requirements are met, we will issue an ITP to the applicant for the incidental take of Mount Hermon June beetle. We will make the final permit decision no sooner than 30 days after the date of this notice.

Public Comments

If you wish to comment on the permit applications, plans, and associated documents, you may submit comments by any one of the methods in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 et seq.) and NEPA regulations (40 CFR 1506.6).

Dated: April 8, 2014.

Stephen P. Henry,

Acting Field Supervisor, Ventura Fish and Wildlife Office, Ventura, California.

[FR Doc. 2014–08464 Filed 4–14–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX14LR000F60100]

Agency Information Collection Activities: Request for Comments

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of an extension of a currently approved information collection (1028–0070).

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. This collection consists of one form, '9–4117–MA, Consolidated Consumers' Report'. As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This collection is scheduled to expire on April 30, 2014.

DATES: To ensure that your comments are considered, OMB must receive them on or before May 15, 2014.

ADDRESSES: Please submit your written comments on this information collection directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, at *OIRA_SUBMISSION@omb.eop.gov* (email); or (202) 395–5806 (fax). Please also forward a copy of your comments to the Information Collection Clearance Officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, VA 20192 (mail); 703–648–7195 (fax); or *gs-info_collections@usgs.gov* (email). Reference ''Information Collection 1028–0070, Consolidated Consumers' Report'' in all correspondence.

FOR FURTHER INFORMATION CONTACT: Michael J. Magyar at 703–648–4910 (telephone); *mmagyar@usgs.gov* (email); or by mail at U.S. Geological Survey, 988 National Center, 12201 Sunrise Valley Drive, Reston, VA 20192. You may also find information about this ICR at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Respondents to this form supply the USGS with domestic consumption data for 12 metals and ferroalloys, some of which are considered strategic and critical to assist in determining stockpile goals. These data and derived information will be published as chapters in Minerals Yearbooks, monthly Mineral Industry Surveys, annual Mineral Commodity Summaries, and special publications, for use by Government agencies, industry education programs, and the general public.

II. Data

OMB Control Number: 1028–0070.
Form Number: 9–4117–MA.
Title: Consolidated Consumers' Report.
Type of Request: Extension of a currently approved collection.
Affected Public: Business or Other-For-Profit Institutions: U.S. nonfuel minerals consumers of ferrous and related metals.
Respondent Obligation: None. Participation is voluntary.
Frequency of Collection: Monthly and Annually.
Estimated Number of Annual Responses: 1,904.
Annual Burden Hours: 1,428 hours, based on an estimated average of 45 minutes per response.
Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: There are no ''non-hour cost'' burdens associated with this collection of information.
Public Disclosure Statement: The PRA (44 U.S.C. 3501, et seq.) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number and current expiration date.

III. Request for Comments

On December 24, 2013, a 60-day **Federal Register** notice (78 FR 77704) was published announcing this information collection. Public comments were solicited for 60 days ending February 24, 2014. We did not receive any public comments in response to that notice. We again invite comments as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden time to the proposed collection of information; (c) how to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address,

or other personally identifiable information in your comment, you should be aware that your entire comment, including your personally identifiable information, may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public view, we cannot guarantee that it will be done.

Michael J. Magyar,

Associate Director, National Minerals Information Center, U.S. Geological Survey.

[FR Doc. 2014–08394 Filed 4–14–14; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[145A21000DDAAK3000000/ A0T00000.00000]

Nisqually Indian Tribe—Title 29—Liquor—Nisqually Liquor Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the amendment to Nisqually Indian Tribe's Title 29—Liquor—Nisqually Liquor Ordinance. The Ordinance regulates and controls the possession, sale and consumption of liquor within the Nisqually Indian Tribe's Reservation and Indian country. The Ordinance will increase the ability of the tribal government to control the distribution and possession of liquor within their reservation and Indian country, and at the same time will provide an important source of revenue, the strengthening of the tribal government and the delivery of tribal services.

DATES: *Effective Date:* This Amendment is effective 30 days after April 15, 2014.

FOR FURTHER INFORMATION CONTACT: Betty Scissions, Tribal Government Officer, Northwest Regional Office, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, OR 97232, Phone: (503) 231–6723; Fax: (503) 231–6731: or De Springer, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW., MS/4513/MIB, Washington, DC 20240; Telephone (202) 513–7641.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Nisqually Tribal Council adopted this amendment to Title 29—Liquor—Nisqually Liquor Ordinance by Tribal Council Resolution No. 107–2013 on July 2, 2013.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the Nisqually Tribal Council duly adopted this amendment to Title 29—Liquor—Nisqually Liquor Ordinance by Tribal Council Resolution No. 107–2013 on July 2, 2013.

Dated: April 1, 2014.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

Title 29—Liquor—Nisqually Liquor Ordinance has been amended to bring the ordinance in compliance with other tribal Titles and the Tribe's Constitution, and reads as follows:

29.01 General

29.01.01 Liquor Control

This Title shall be known as the ''Nisqually Liquor Ordinance.''

29.01.02 Sovereign Immunity Preserved

Except for the limited waiver of sovereign immunity provided for in subsection 29.03.06, nothing in this Title is intended or shall be construed as a waiver of the sovereign immunity of the Nisqually Indian Tribe. The Board and its members and employees shall not be authorized, nor shall they attempt to waive the immunity of the Tribe.

29.01.03 Findings and Purpose

(a) The introduction, possession and sale of liquor within Indian country have, since treaty time, been clearly recognized as matters of special concern to Indian tribes and to the United States government. The control of liquor within Indian country remains exclusively subject to United States and tribal government authority.

(b) Beginning with the Treaty of Medicine Creek, 10 Stat. 1132, Art. 9, to which the ancestors of the Nisqually Indian Tribe were parties, the Federal government has respected this Tribe's determinations regarding liquor-related transactions and activities on the Nisqually Indian Reservation. At treaty time, this Tribe's ancestors desired to exclude ''ardent spirits'' from their Reservation. Federal law currently prohibits the introduction of liquor into Indian country (18 U.S.C. 1154), leaving to tribes a decision regarding when and to what extent liquor transactions shall be permitted (18 U.S.C. 1161).

(c) Present-day circumstances make a complete ban of liquor within the Nisqually Indian Reservation ineffective and unrealistic. At the same time, a need still exists for strict tribal regulation and control over liquor distribution.

(d) The enactment of a tribal ordinance governing liquor possession and sales on the Reservation will increase the ability of the tribal government to control Reservation liquor distribution and possession and at the same time, will provide an important source of revenue for the continued operation and strengthening of tribal government in the delivery of tribal governmental services.

(e) In order to provide for increased tribal control over liquor distribution and possession on the Reservation and to provide for an urgently needed additional revenue source, the Nisqually General Council adopts this liquor ordinance pursuant to the powers vested in it by Article VI, Sec. 1(e), 1(i) and 1(h) of the Constitution and Bylaws of the Nisqually Indian Community of the Nisqually Reservation, Washington and the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C., Sec. 1161.

29.01.04 Relation to Other Tribal Laws

All prior ordinances and resolutions of the Nisqually Indian Tribe regulating, authorizing, prohibiting or in any way dealing with the sale of liquor are hereby repealed and are of no further force and effect.

29.01.05 Definitions

As used in this Title, the following definitions shall apply unless the context clearly indicates otherwise:

(a) ''Liquor'' includes the four varieties of liquor hereinafter defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous or malt liquor, or combinations thereof and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating. Every liquid or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption and any liquid, semi-solid, solid or other substance which contains more than one percent of alcohol by weight shall be conclusively deemed to be liquor within the meaning of this Title.

(b) ''Alcohol'' is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other

substances including all dilutions and mixtures of this substance.

(c) ''Spirits'' means any beverage which contains alcohol by distillation, including wines exceeding seventeen percent of alcohol by weight.

(d) ''Wine'' means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, etc.) or other agricultural products containing sugar, to which any saccharine substances may have been added before, during or after fermentation and containing not more than seventeen percent of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding seventeen percent of alcohol by weight.

(e) ''Beer'' means any beverage obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than four percent of alcohol by weight and not less than one-half of one percent of alcohol by volume. For the purposes of this Title, any such beverage, including ale, stout and porter, containing more than four percent of alcohol by weight shall be referred to as ''strong beer.''

(f) ''Sale'' and ''sell'' include the exchange, barter, traffic, donation with or without consideration, in addition to the selling, supplying or distributing, by any means whatsoever, of liquor or of any liquid known or described as beer or by any name whatsoever commonly used to describe malt or brewed liquor or wine, by any person to any person; and also includes a sale or selling within an area of tribal jurisdiction to a foreign consignee or his agent.

(g) ''Tribal Court'' means, for purposes of this Title, the Nisqually Tribal Court, which is herewith granted jurisdiction to hear and determine all matters and disputes which may arise under this Title subject to the limitations set forth in subsection 29.01.02.

(h) ''Restaurant'' means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public.

(i) ''Board'' means the Nisqually Tribal Liquor Board.

(j) ''Licensee'' means the holder of a liquor license issued by the Board, and includes any employee or agent of the licensee.

(k) ''Package'' means any container or receptacle used for holding liquor.

(l) ''Council'' means the Nisqually Tribal Council.

(m) ''Reservation'' means the Nisqually Indian Reservation.

(n) ''Tribe'' means the Nisqually Indian Tribe.

(o) ''Nisqually Tribal Enterprise'' means any business or activity managed or operated directly by the Tribe, acting through its Council, or Board.

29.02 Regulation

29.02.01 Regulation and Control of Liquor

The purpose, sale or dealing in liquor for commercial purposes, other than when done by the Nisqually Indian Tribe acting through its Liquor Board, or by an individual or entity pursuant to a license issued under this Title, is prohibited. The federal Indian liquor laws are intended to remain applicable to any act or transaction which is not authorized by this Title and violations of this Title shall be subject to federal prosecution as well as to legal action pursuant to the laws of the Nisqually Indian Tribe.

29.02.02 Conformity With State Law

Tribally authorized liquor transactions shall comply with Washington State Liquor law standards to the extent required by 18 U.S.C., Section 1161.

29.02.03 Nisqually Tribal Liquor Board

The Tribal Council of the Nisqually Indian Tribe is hereby constituted as the ''Nisqually Tribal Liquor Board'' and empowered to administer this Title, including general control, management, and supervision of all liquor sales, places of sale and sales outlets and to exercise all of the powers and accomplish all of the purposes thereof as herein set forth and may do the following acts and things for and on behalf of and in the name of the Nisqually Indian Tribe:

(a) To adopt and enforce rules and regulations for the purpose of carrying into effect the provisions of this Title and the performance of its functions;

(b) Collecting, auditing and issuing fees, licenses, taxes and permits;

(c) Purchasing, warehousing and selling of liquor in an original package;

(d) Executing all contracts, papers and documents in the name of the Nisqually Indian Tribe or the Nisqually Tribal Liquor Board;

(e) Providing housing for its activities and all necessary equipment and fixtures with which to do business;

(f) Paying all customs, duties, excises, charges and obligations whatsoever related to the business of the Board;

(g) Performing all matters and things incidental to and necessary to conduct its business and carry out its duties and functions.

29.03 Licensing

29.03.01 Liquor Licenses

The Board may license one or more liquor retail outlets within the jurisdiction of the Nisqually Indian Tribe. Licenses shall be issued only to an enrolled member of the Nisqually Indian Tribe or to a Nisqually Tribal Enterprise and each outlet shall be located on Indian trust or restricted or tribally owned land within the exterior boundaries of the Nisqually Indian Reservation.

29.03.02 Application Fee

(a) Each application for a liquor license shall be accompanied by a processing fee in the amount of $250.00, except that the processing fee is hereby waived for an application by a tribal enterprise.

(b) The Board shall receive and process applications and shall be the official representative of the Tribe in matters relating to liquor licenses, taxes, fees or other matters arising under this Title.

(c) Each license must be approved by the Liquor Board prior to issuance.

29.03.03 Annual Fees

Every liquor license issued under this Title shall be subject to the payment of an annual fee in an amount determined by Tribal Council and shall be subject to all conditions and restrictions imposed by this Title or duly promulgated regulations in force from time to time.

29.03.04 Issuance

(a) Applications for liquor licenses shall be submitted in a form to be prescribed by the Board. The Board may, within its sole discretion, subject to the provisions of this Title and the provisions of the Indian Civil Rights Act (25 U.S.C. 1301 et seq.), issue, condition the issuance of, or refuse to issue a liquor license applied for by a member of the Nisqually Tribe or by a Nisqually Tribal Enterprise.

(b) For the purpose of considering any application for a license, the Board may cause an inspection of the premises to be made or by approval of detailed engineering or architectural plans for construction and may inquire into all matters in connection with the construction and operation of the premises and may require that a bond be posted in an amount sufficient to assure that plans be followed.

(c) No liquor license shall be issued to:

(i) A person who is not a member of the Nisqually Indian Tribe;

(ii) A partnership or limited partnership, unless all of the partners thereof are qualified to obtain a license, as provided in this section;

(iii) A corporation organized under the laws of any state;

(iv) A person who has been convicted of a violation of any federal, tribal or state law concerning the manufacture, possession or sale of alcoholic liquor within the last preceding five years, or has forfeited his or her bond to appear in court within the last preceding five years to answer charges for any such violation when such conviction or bail forfeiture is a felony;

(v) A person who is not twenty-one (21) years of age.

(d) The preceding prohibitions against the issuance of a liquor license to certain persons or entities shall in no way be construed to prevent the issuance of a liquor license to a Nisqually Tribal Enterprise.

(e) Every license shall be issued in the name of the applicant and no license shall be transferable, nor shall the holder thereof allow any other person to use the license.

(f) Before the Board shall issue a liquor license, notice of the application for the license shall be posted in public places on the Reservation and comments shall be received on the application for a period of twenty (20) days at the Board's office.

(g) Before the Board shall issue any license, it shall give due consideration to the location of the business to be conducted under such license with respect to existing or planned land uses in adjacent or proximately adjacent areas.

(h) Every licensee shall post and keep posted its license or licenses in a conspicuous place on the licensed premises.

29.03.05 Inspection

(a) All licensed premises used in the storage or sale of liquor or any premises or parts of premises used or in any way connected physically or otherwise with the licensed business, shall at all times be opened to inspection by any tribal inspector, tribal police officer or Board member.

(b) Every person, being on any such premises and having charge thereof, who refuses or fails to admit a tribal inspector, tribal police officer or Board member, demanding to enter therein in pursuance of this section in the execution of his duty, or who obstructs or attempts to obstruct the entry of such inspector or officer of the peace, or who refuses or neglects to make any return required by this Title or the regulations passed pursuant thereto, shall thereby be deemed to have violated this Title.

29.03.06 Suspension and Cancellation

(a) The Board may, for violation of this Title, suspend or cancel any license; and all rights of the licensee to keep or sell liquor thereunder shall be suspended or terminated as the case may be. Prior to suspension or cancellation, the Board shall send notice of its intent to suspend or cancel the license to the licensee. The Board shall provide notice to the licensee at least ten (10) days prior to the suspension or cancellation. The licensee shall have the right, prior to the suspension or cancellation date, to apply to the Tribal Court for a hearing to determine whether the license was rightfully suspended or cancelled. The sovereign immunity of the Nisqually Tribe is waived for this hearing; provided, however, that such waiver shall not be construed to allow an award of money damages against the Tribe nor any other relief other than a declaration of rights, nor shall it be construed to waive the sovereign immunity of the Tribe in any court but the Tribal Court.

(b) Upon suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the Board. Where the license has been suspended only, the Board shall return the license to the licensee at the expiration or termination of the period of suspension with a memorandum of the suspension written or stamped upon the face thereof in red ink.

29.03.07 Expiration

Unless sooner cancelled, every liquor license issued by the Board shall expire three years from the date of issuance.

29.03.08 Liquor Purchase by Licensees

All licensees under this Title shall purchase their liquor for ultimate resale from the Nisqually Tribal Liquor Board.

29.04 Illegal Activities

29.04.01 Illegal Activities Defined

(a) Contraband: No liquor, other than that sold pursuant to a retail tribal license, shall be sold on the Nisqually Indian Reservation. Any sales made in violation of this provision shall be a violation of this Title, which shall be remedied as set out in subsection 29.04.02. All liquor, other than beer or wine sold pursuant to a tribal license, which is sold or held for sale on the Nisqually Indian Reservation in contravention of this Title is hereby declared contraband and in addition to any penalties imposed by the Tribal Court for violation of this section, it may be confiscated and forfeited in accordance with the procedures set out in subsection 29.03.06 herein.

(b) Proof of Unlawful Sale—Intent: In any proceeding under this Title, proof of one unlawful sale of liquor shall suffice to establish prima facie the intent or purpose of unlawfully keeping liquor for sale in violation of this Title.

(c) Use of Seal: No person other than an employee of the Nisqually Tribal Liquor Board shall keep or have in his or her possession any legal seal prescribed under this Title unless the same is attached to a package which has been purchased from a tribal liquor outlet, nor shall any person keep or have in his or her possession any design in imitation of any official seal prescribed under this Title or calculated to deceive by its resemblance to any official seal, or any paper upon which such design is stamped, engraved, lithographed, printed or otherwise marked. Any person violating this provision shall be in violation of this Title.

(d) Illegal Sale of Liquor by Drink or Bottle: Any person who sells any liquor by the drink or by the bottle without a license to do so, shall be in violation of this Title.

(e) Illegal Transportation, Still or Sale Without Permit: Any person who shall sell or offer for sale or transport in any manner, any liquor in violation of this Title, or who shall operate or have in his or her possession without a permit, any mash capable of being distilled into liquor, shall be in violation of this Title.

(f) Illegal Purchase of Liquor: Any person within the boundaries of the Nisqually Indian Reservation who buys liquor from any person other than at a properly authorized tribal liquor outlet or tribal licensee shall be in violation of this Title.

(g) Illegal Possession of Liquor—Intent to Sell: Any person who keeps or possesses liquor on his or her person or in any place or on premises conducted or maintained by him or her as a principal agent with the intent to sell it contrary to the provisions of this Title, shall be in violation of this Title.

(h) Sales to Persons Apparently Intoxicated: Any person who sells liquor to a person apparently under the influence of liquor shall be in violation of this Title.

(i) Intoxication in a Public Place: Any person who is intoxicated who remains in any public place shall be in violation of this Title.

(j) Drinking in a Public Conveyance: Any person engaged wholly or in part in the business of carrying passengers for hire and every agent, servant or employee of such person who shall

knowingly permit any person to drink any liquor in any public conveyance shall be in violation of this Title. Any person who shall drink any liquor in a public conveyance shall be in violation of this Title.

(k) Furnishing Liquor to Minors: No person under the age of twenty-one (21) years shall consume, acquire, or have in his or her possession any alcoholic beverages except when such beverage is being used in connection with religious services or for medicinal purposes by a licensed physician's written direction. No person shall give or otherwise supply liquor to any person under the age of twenty-one (21) years to consume liquor on his or her premises or on any premises under his or her control, except as allowed in this section. Any person violating this section shall be in violation of this Title.

(l) Sales of Liquor to Minors: Any person who shall sell any liquor to any person under the age of twenty-one (21) years shall be in violation of this Title.

(m) Unlawful Transfer of Identification: Any person who transfers in any manner an identification of age to a minor for the purpose of permitting such minor to obtain liquor shall be in violation of this Title, provided that corroborative testimony of a witness other than the minor shall be a requirement for a judgment against the defendant.

(n) Possession of False or Altered Identification: Any person who attempts to purchase liquor through the use of false or altered identification which falsely purports to show the individual to be over the age of twenty-one (21) years shall be in violation of this Title.

(o) Identification—Proof of Minimum Age: Where there may be question of a person's right to purchase liquor by reason of his or her age, such person shall be required to present any one of the following officially issued cards of identification which shows correct age and bears his or her signature and photograph:

(i) Liquor Control Authority Card of Identification of any State;

(ii) Driver's license of any State or ''Identi-Card'', issued by any State Department of Motor Vehicles;

(iii) United States Active Duty Military Identification;

(iv) Passport; and

(v) Nisqually Tribal Identification or Enrollment card.

(p) Defense to Action for Sale to Minors: It shall be a defense to a suit for serving liquor to a person under twenty-one (21) years of age if such person has presented a card of identification and;

(i) In addition to the presentation by the holder and verification by the licensee of such card of identification, the licensee shall require the person whose age may be in question to sign a card and place a date and number of his or her card of identification thereon. Such statement shall be upon a five-inch by eight-inch file card, which card shall be filed alphabetically by the licensee at or before the close of business on the day on which the statement is executed, in the file box containing a suitable alphabetical index and the card shall be subject to examination by any tribal police officer, employee of the Board or Board member at all times.

(ii) Such card in the possession of a licensee may be offered as a defense in any hearing held by the Tribal Court for serving liquor to the person who signed the card.

(q) Pharmaceutical Exceptions: Nothing in this Title shall apply to or prevent the sale, purchase or consumption of:

(i) Any pharmaceutical preparation containing liquor which is prepared by a druggist according to a formula of the pharmacopoeia of the United States, or the dispensatory of the United States; or

(ii) Any proprietary or patent medicine; or

(iii) Wood alcohol or denatured alcohol, except in the case of the sale, purchase or consumption of wood alcohol or denatured alcohol for beverage purposes either alone or combined with any other liquid or substance.

29.04.02 Contraband—Seizure—Forfeiture

(a) All liquor within the Nisqually Reservation held, owned or possessed by any person or licensee operating in violation of this Title is hereby declared to be contraband and subject to forfeiture to the Tribe. Upon presentation of a sworn affidavit, the Tribal Judge shall issue an order directing a Tribal Law Enforcement Officer to seize contraband liquor within this Reservation and deliver it to the Board. A copy of the court order shall be delivered to the person from whom the property was seized or shall be posted at the place where the property was seized.

(b) Within three weeks following the seizure of the contraband, a hearing shall be held in Tribal Court, at which time the operator or owner of the contraband shall be given an opportunity to present evidence in defense of his or her activities.

(c) Notice of the hearing of at least ten (10) days shall be given to the person from whom the property was seized if known. If the person is unknown, notice of the hearing shall be posted at the place where the contraband was seized and at other public places on the Reservation. The notice shall describe the property seized, and the time, place and cause of seizure and give the name and place of residence, if known, of the person from whom the property was seized.

(d) Judgment of Forfeiture—Disposition of Proceeds of Property: If, upon the hearing, the evidence warrants, or, if no person appears as claimant, the Tribal Court shall thereupon enter a judgment of forfeiture, and order such articles sold or destroyed forthwith.

29.04.03 Abatement

(a) Declaration of Nuisance: Any room, house, building, boat, vessel, vehicle, structure or other place where liquor is sold, manufactured, given away, furnished, or otherwise disposed of in violation of the provisions of this Title or any lawful regulations made pursuant thereto, or of any other tribal law relating to the manufacture, importation, transportation, possession, distribution and sale of liquor and all property kept in and used in maintaining such a place, are hereby declared to be a public nuisance.

(b) Institution of Action: The Board shall institute and maintain an action in the Tribal Court in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this Title. The plaintiff shall not be required to give bond in this action. Restraining orders, temporary injunctions and permanent injunctions may be granted in the cause and upon final judgment against the defendant, the Court may also order the room, house, building, boat, vessel, vehicle, structure or place closed for a period of up to one (1) year or until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient surety to be approved by the court in the penal sum of not less than One Thousand Dollars ($1,000.00), payable to the Tribe and conditioned that liquor will not be thereafter manufactured, kept, sold, given away, furnished, or otherwise disposed of thereof in violation of the provisions of this Title or any other applicable tribal law, and that he or she will pay all fines, costs and damages assessed against him or her for any violations of this Title or other tribal liquor laws. If any conditions of the bond be violated, the whole amount may be recovered as a penalty for the use of the Tribe. Any action taken under this section shall be in addition to any other penalties provided in this Title.

(c) Abatement: In all cases where any person has been found by the Tribal Court to have violated this Title, applicable tribal regulations or tribal laws relating to the manufacture, importation, transportation, possession, distribution and sale of liquor, an action may be brought in Tribal Court by the Board to abate as a nuisance any activity involved in the commission of the offense, and in any such action a certified copy of the record of such conviction shall be admissible in evidence and prima facie evidence that the room, house, building, boat, vessel, vehicle, structure or place against which such action is brought is a public nuisance.

29.05 Liquor Revenue

29.05.01 Revenues

All revenues received, funds collected and property acquired by the Nisqually Tribal Council, or by the Nisqually Liquor Board pursuant to this Title shall be the property of the Nisqually Indian Tribe. The net proceeds shall be paid through the tribal treasurer into the general tribal fund of the Nisqually Indian Tribe for the general governmental services of the Tribe.

29.05.02 Liquor Sales Excise Tax

(a)(i) There is hereby levied and shall be collected a tax upon each sale of liquor; except beer and wine, in whatever packages or container, in the amount of twelve (12) dollars per gallon or fraction thereof contained in such package or container.

(ii) There is hereby levied and shall be collected a tax upon each sale of beer and wine in the amount of five percent (5%) of the selling price.

(b) These excise taxes shall be added to the sale price of the liquor sold by the licensee and shall be paid to the Nisqually Tribal Liquor Board which shall collect the same and hold these taxes in trust until remitted to the Treasurer of the Nisqually Indian Tribe to be deposited in the Tribal Treasury. The taxes provided for herein shall be the only taxes applicable to activities of the Nisqually Liquor Board or licensees.

(c) All tax revenues transferred to the Tribal Treasurer for deposit in the Tribal funds shall be used for the benefit of the Reservation and the Tribal community. In appropriating from these revenues, the Council, acting through the Nisqually Liquor Board, shall give priority to:

(i) Strengthening tribal government, which shall include, but not be limited to, strengthening Tribal Court and Law Enforcement systems and the system for administering and enforcing this Title.

(ii) Alcohol and drug dependency awareness and treatment.

(iii) Health, education and other social services and land acquisition and development needs. The Council shall have the discretion to determine which of the above priorities shall receive an appropriation and the amount of the appropriation for a given priority.

(d) The Nisqually Liquor Board and all licensees shall keep such records required by the Tribal Treasurer to determine that amount of taxes owing and shall complete the tax returns in accordance with instructions from the Tribal Treasurer.

(e) Amendments to the amounts and types of taxes levied on the sale of liquor in this section may be made from time to time by the Nisqually Tribal Liquor Board.

29.06 Violations, Penalties, and Remedies

29.06.01 Violations—Remedies

If any person is found to have violated this Title or any lawful regulation or rule made pursuant thereto for which no penalty has been specifically provided, he or she shall be liable for a civil penalty of not more than One Thousand ($1,000.00) plus court costs per violation.

29.06.02 Jurisdiction and Other Relief

The Nisqually Tribal Court shall have jurisdiction over any case brought by the Nisqually Tribe for violations of this Title. The Tribal Court may, in addition to the above penalty, grant to the Tribe such other relief as is necessary and proper for the enforcement of this Title, including but not limited to injunctive relief against acts in violation of this Title.

29.07 Other

29.07.01 Severability

(a) If any clause, part or section of this Title shall be adjudged invalid, such judgment shall not affect or invalidate the remainder of the Title, but shall be confined in its operation to the clause, part or section directly involved in the controversy in which such judgment was rendered.

(b) If any application of this Title or any clause, part or section thereof, is adjudged invalid, such judgment shall not be deemed to render that provision inapplicable to other persons or circumstances.

29.07.02 Effective Date

This Title shall be and become effective upon the date that the Secretary of the Interior or his designee certifies this Title and publishes it in the **Federal Register.**

[FR Doc. 2014–08486 Filed 4–14–14; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[14X.LLAZ956000.L14200000.BJ0000.241A]

Notice of Filing of Plats of Survey; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey; Arizona.

SUMMARY: The plats of survey of the described lands were officially filed in the Arizona State Office, Bureau of Land Management, Phoenix, Arizona, on dates indicated.

SUPPLEMENTARY INFORMATION:

The Gila and Salt River Meridian, Arizona

The plat representing the Amended Protraction Diagram (APD), Township 2 North, Range 15 East, accepted November 26, 2013, and officially filed November 26, 2013. This plat supercedes the APD approved June 18, 2003.

This plat was prepared at the request of the Bureau of Land Management.

The plat representing the Amended Protraction Diagram (APD), Township 2 North, Range 15 ½ East, accepted November 26, 2013, and officially filed November 26, 2013.

This plat supercedes the APD approved February 6, 2006.

This plat was prepared at the request of the Bureau of Land Management.

The plat representing the Amended Protraction Diagram (APD), Township 2 North, Range 16 East, accepted November 26, 2013, and officially filed November 26, 2013. This plat supercedes the APD approved July 23, 2003.

This plat was prepared at the request of the Bureau of Land Management.

The plat representing the Amended Protraction Diagram (APD), Township 3 North, Range 16 East, accepted November 26, 2013, and officially filed November 26, 2013. This plat supercedes the APD approved July 23, 2003.

This plat was prepared at the request of the Bureau of Land Management.

The plat representing the Amended Protraction Diagram (APD), Township 9 North, Range 3 East, accepted November 26, 2013, and officially filed November 26, 2013. This plat supercedes the APD approved February 10, 2006.

This plat was prepared at the request of the Bureau of Land Management.

The plat representing the Amended Protraction Diagram (APD), Township 10 North, Range 9 East, accepted November 26, 2013, and officially filed November 26, 2013.

This plat supercedes the APD approved February 10, 2006.

This plat was prepared at the request of the Bureau of Land Management.

The plat representing the Amended Protraction Diagram (APD), Township 10 North, Range 13 East, accepted November 26, 2013, and officially filed November 26, 2013. This plat supercedes the APD approved February 10, 2006.

This plat was prepared at the request of the Bureau of Land Management.

The plat representing the Amended Protraction Diagram (APD), Township 11 North, Range 10 East, accepted November 26, 2013, and officially filed November 26, 2013. This plat supercedes the APD approved February 17, 2006.

This plat was prepared at the request of the Bureau of Land Management.

The plat representing the survey and subdivision of certain sections, Township 39 North, Range 10 East, accepted March 26, 2014, and officially filed March 28, 2014, for Group 1117, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs.

A person or party who wishes to protest against any of these surveys must file a written protest with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona, 85004–4427. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

Daniel L. Maxey,

Chief Cadastral Surveyor of Arizona.

[FR Doc. 2014–08453 Filed 4–14–14; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–L13100000–EI0000]

Notice of Filing of Plats of Survey; North Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on May 15, 2014.

DATES: Protests of the survey must be filed before May 15, 2014 to be considered.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Blaise Lodermeier, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5128 or (406) 896–5009, *bloderme@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the BLM Montana State Office, Division of Resources, and was necessary to determine federal leasable mineral lands.

The lands we surveyed are:

Fifth Principal Meridian, North Dakota

T. 152 N., R. 99 W.

The plat, in one sheet, representing the supplemental plat of secs. 5 and 6, showing the amended lottings, Township 152 North, Range 99 West, Fifth Principal Meridian, North Dakota, was accepted February 13, 2014.

T. 153 N., R. 99 W.

The plat, in two sheets, representing the supplemental plat of secs. 26, 31, 32, 33, 34, and 35, showing the amended lottings, Township 153 North, Range 99 West, Fifth Principal Meridian, North Dakota, was accepted February 13, 2014.

T. 153 N., R. 94 W.

The plat, in two sheets, representing the supplemental plat of secs. 2, 3, 4, 9, 10, and 11, showing the amended lottings, Township 153 North, Range 94 West, Fifth Principal Meridian, North Dakota, was accepted February 28, 2014.

T. 152 N., R. 93 W.

The plat, in two sheets, representing the supplemental plat of secs. 22, 23, 27, 28, 32, and 33, showing the amended lottings, Township 152 North, Range 93 West, Fifth Principal Meridian, North Dakota, was accepted March 19, 2014.

T. 154 N., R. 94 W.

The plat, in two sheets, representing the supplemental plat of secs. 27, 28, 29, 30, 31, 32, 33, 34, and 35, showing the amended lottings, Township 154 North, Range 94 West, Fifth Principal Meridian, North Dakota, was accepted March 31, 2014.

We will place a copy of the plats, in nine sheets, in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on these plats, in nine sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file these plats, in nine sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap. 3.

Josh Alexander,

Acting Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2014–08459 Filed 4–14–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[14XL1109AF LLUT925000–L14200000–BJ0000–24–1A]

Notice of Filing of Plat of Survey; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plat of Survey.

SUMMARY: The Bureau of Land Management (BLM) will file a plat of survey of the lands described below in

the BLM-Utah State Office, Salt Lake City, Utah, on May 15, 2014.

FOR FURTHER INFORMATION CONTACT: Daniel W. Webb, Chief Cadastral Surveyor, Bureau of Land Management, Branch of Geographic Sciences, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101–1345, telephone (801) 539–4135, or *dwebb@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of Michael G. Nelson, Assistant Field Manager, BLM-Salt Lake Field Office. The lands surveyed are:

Salt Lake Meridian, Utah

T. 3 S., R. 3 W., dependent resurvey, subdivision of section 4, and the metes-and-bounds survey of the Salt Lake and Tooele County boundary in sections 3 and 4, accepted March 28, 2014, Group No. 1183, Utah.

A copy of the plat and related field notes will be placed in the open files. They will be available for public review in the BLM-Utah State Office as a matter of information.

Authority: 43 U.S.C. Chap. 3.

Jenna Whitlock,

Associate State Director.

[FR Doc. 2014–08461 Filed 4–14–14; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0026]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Report of Theft or Loss of Explosives

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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 16, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Brian Muller, Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Bomb Data Center, 99 New York Avenue NE., Washington, DC 20226.

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 agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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:* Revision of an existing collection.

2. *The Title of the Form/Collection:* Report of Theft or Loss of Explosives.

3. *The agency form number, if any, and the applicable component of the Department* sponsoring the collection:

Form number: ATF Form 5400.5.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: Losses or theft of explosives must, by statute be reported within 24 hours of the discovery of the loss or theft. This form contains the minimum information necessary for ATF to initiate criminal investigations.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 300 respondents will take 1 hour and 48 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 540 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: April 9, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–08379 Filed 4–14–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0100]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Report of Multiple Sale or Other Disposition of Certain Rifles

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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 16, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Natisha Taylor at *fipb-*

informationcollection@atf.gov, Bureau of Alcohol, Tobacco, Firearms and Explosives, Firearms Industry Programs Branch, Washington, DC 20226.

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 agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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 without change of an existing collection.

2. *The Title of the Form/Collection:* Report of Multiple Sale or Other Disposition of Certain Rifles.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 3310.12.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: The purpose of this information collection is to require Federal Firearms Licensees to report multiple sales or other dispositions whenever the licensee sells or otherwise disposes of two or more rifles within any five consecutive business days with the following characteristics: (a) Semi automatic; (b) a caliber greater than .22; and (c) the ability to accept a detachable magazine.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 2,509 respondents will take 12 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 3,615 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: April 9, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–08381 Filed 4–14–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0007]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Release and Receipt of Imported Firearms, Ammunition and Implements of War

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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 16, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Desiree Dickinson, Bureau of Alcohol, Tobacco, Firearms and Explosives, Firearms and Explosives Imports Branch, 244 Needy Road, Martinsburg, WV 25405.

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 agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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:* Revision of an existing collection.

2. *The Title of the Form/Collection:* Release and Receipt of Imported Firearms, Ammunition and Implements of War.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 6A (5330.3C).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other: Business or other for-profit; and Not-for-profit institutions.

Abstract: The data provided by this information collection request is used by ATF to determine if articles imported meet the statutory and regulatory criteria for importation and if the articles shown on the permit application have been actually imported.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 20,000 respondents will take 35 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the*

collection: The estimated annual public burden associated with this collection is 11,667 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: April 9, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–08378 Filed 4–14–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0084]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application and Permit for Temporary Importation of Firearms and Ammunition by Nonimmigrant Aliens

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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 16, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Desiree Dickinson, Bureau of Alcohol, Tobacco, Firearms and Explosives, Firearms and Explosives Imports Branch, 244 Needy Road, Martinsburg, WV 25405.

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 agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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:* Revision of an existing collection.

2. *The Title of the Form/Collection:* Application and Permit for Temporary Importation of Firearms and Ammunition by Nonimmigrant Aliens.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 6NIA (5330.3D)).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other: None.

Abstract: This information collection is needed to determine if the firearms or ammunition listed on the application qualify for importation and to certify that a nonimmigrant alien is in compliance with 18 U.S.C. 922(g) (5) (B). This application will also serve as the authorization for importation.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 15,000 respondents will take 30 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 7,500 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: April 9, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–08380 Filed 4–14–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0006]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application and Permit for Importation of Firearms, Ammunition and Implements of War

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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 16, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Desiree Dickinson, Bureau of Alcohol, Tobacco, Firearms and Explosives, Firearms and Explosives Imports Branch, 244 Needy Road, Martinsburg, WV 25405.

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 agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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:* Revision of an existing collection.

2. *The Title of the Form/Collection:* Application and Permit for Importation of Firearms, Ammunition and Implements of War.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 6 Part II (5330.3B).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other: Business or other for-profit; Federal Government; and State, Local, or Tribal Government.

Abstract: The information collection is needed to determine whether firearms, ammunition and implements of war are eligible for importation into the United States. The information is used to secure authorization to import such articles. The form is used by persons who are members of the United States Armed Forces.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 9,000 respondents will take 30 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 4,500 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: April 9, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–08377 Filed 4–14–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On April 2, 2014 the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Central District of California in the lawsuit entitled *United States* v. *Maxim Lighting,* Civil Action No. 14–cv–02489–ABC (MAN).

The Consent Decree resolves claims under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. § 9607 related to releases and threatened releases of hazardous substances at the Puente Valley Operable Unit (''PVOU'') of the San Gabriel Valley Superfund Site, Area 4, Los Angeles County, California (the ''Site''). The Consent Decree resolves a claim against Maxim Lighting, (''Maxim''), and recovers $10,000 in response costs. The Consent Decree contains a covenant not to sue for past and certain future costs and response work at the Site under Sections 106 and 107 of CERCLA and Section 7003 of RCRA.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Maxim Lighting.,* D.J. Ref. No. 90–11–2–354/36. 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 e-mail	*pubcomment-ees.enrd@usdoj.gov*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Under section 7003(d) of RCRA, a commenter may request an opportunity for a public meeting in the affected area.

During the public comment period, the Consent Decree 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 the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $8.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–08409 Filed 4–14–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research

And Production Act of 1993—American Massage Therapy Association

Notice is hereby given that, on March 18, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), American Massage Therapy Association (''AMTA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, since its initial filing, AMTA, in cooperation with the Alliance for Massage Therapy Education, Associated Bodywork & Massage Professionals, the Commission on Massage Therapy Accreditation, the Federation of State Massage Therapy Boards, the Massage Therapy Foundation, and the National Certification Board for Therapeutic Massage & Bodywork, has published a final report and curriculum blueprint of basic, voluntary standards for the entry-level curriculum necessary for safe and competent practice in an early massage career, including the recommended minimum number of hours required to teach the essential components of the entry-level curriculum.

On June 24, 2013, AMTA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 18, 2013 (78 FR 42975).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–08521 Filed 4–14–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993 —Commission on Massage Therapy Accreditation

Notice is hereby given that, on February 28, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Commission on Massage Therapy Accreditation (''COMTA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: Commission on Massage Therapy Accreditation, Washington, DC. The nature and scope of COMTA's standards development activities are: developing, planning, establishing, coordinating, and publishing accreditation standards for both educational institutions and programs offering instruction in massage therapy and bodywork or esthetics and skin care and curriculum standards development as part of the Coalition of National Massage Therapy Organizations. Specifically, COMTA developed, planned, established, coordinated, and published voluntary consensus standards in the form of basic standards for the entry-level curriculum necessary for safe and competent practice in an early massage career and the number of hours required to teach the essential components of the entry-level curriculum. COMTA developed and published these standards in cooperation with the Alliance for Massage Therapy Education, the American Massage Therapy Association, Associated Bodywork & Massage Professionals, the Federation of State Massage Therapy Boards, the Massage Therapy Foundation, and the National Certification Board for Therapeutic Massage & Bodywork.

Through its standards development activities, COMTA seeks to ensure the highest quality of training and education in massage therapy. COMTA's standards development activities are ongoing in nature, and existing standards may be updated and/or amended from time to time.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–08522 Filed 4–14–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum Project No. 2011–07, Flare Combustion Efficiency Tools and Best Practices

Notice is hereby given that, on March 11, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Petroleum Environmental Research Forum Project No. 2011–07, Flare Combustion Efficiency Tools and Best Practices (''PERF Project No. 2011–07'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: ExxonMobil Research and Engineering Company, Fairfax, VA; Total SA, Total Petrochemical and Refining, U.S.A., La Porte, TX; Suncor Energy Services, Inc., Calgary, Alberta, Canada; Chevron U.S.A., INC., a Pennsylvania Corporation acting through its CHEVRON Energy Technology Company Division, San Ramon, CA; and BP Products North America Inc., Naperville, IL.

The general area of PERF Project No. 2011–07's planned activity is through cooperative research efforts, to share information, methods, and tools needed for developing improved flare emissions estimating methodologies and to summarize flare operating practices that are expected to provide high combustion/destruction efficiancy.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–08523 Filed 4–14–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Interchangeable Virtual Instruments Foundation, Inc.

Notice is hereby given that, on March 11, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Interchangeable Virtual Instruments Foundation, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, RADX Technologies, Inc., San Diego, CA, has been added as a party to this venture.

Also, Modular Methods, LLC, Steamboat Springs, CO, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Interchangeable Virtual Instruments Foundation, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 29, 2001, Interchangeable Virtual Instruments Foundation, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 30, 2001 (66 FR 39336).

The last notification was filed with the Department on February 22, 2013. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on March 21, 2013 (78 FR 17431).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–08520 Filed 4–14–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Members of SGIP 2.0, Inc.

Notice is hereby given that, on March 11, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Members of SGIP 2.0, Inc. (''MSGIP 2.0'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, The Associated General Contractors of America, Arlington, VA, has been added as a party to this venture.

Also, Cooper Power Systems, LLC, Pewaukee, WI; Energy Information Standards Alliance (EIS Alliance), Santa Clara, CA; FirstEnergy Service Company, Akron, OH; Milenthal-DelGrosso, Columbus, OH; Southern California Edison, Westminster, CA; Johnson Controls, Inc., Milwaukee, WI; Intel Corporation, Hillsboro, OR; Cisco Systems, Inc., Boxborough, MA; and Ingersoll Rand, Davidson, NC, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MSGIP 2.0 intends to file additional written notifications disclosing all changes in membership.

On February 5, 2013, MSGIP 2.0 filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 7, 2013 (78 FR 14836).

The last notification was filed with the Department on December 27, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 28, 2014 (79 FR 4492).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–08519 Filed 4–14–14; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI System Alliance, Inc.

Notice is hereby given that, on March 11, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), PXI Systems Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Digalog Systems, Inc., New Berlin, WI; Anritsu Company, Morgan Hill, CA; Contec Co. Ltd., Nishiyodogawa-ku, Osaka, JAPAN; and Beijing Aerospace Measurement & Control Technology Co., Ltd., Shijingshan District, Beijing, People's Republic of China, have been added as parties to this venture.

Also, Tracewell Systems, Westerville, OH, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On November 22, 2000, PXI Systems Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on December 26, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 28, 2014 (79 FR 4492).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–08516 Filed 4–14–14; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act Of 1993; DVD Copy Control Association

Notice is hereby given that, on March 6, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), DVD Copy Control Association (''DVD CCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Hakuto Co., Ltd., Tokyo, JAPAN; Hitachi High—Technologies Taiwan Corporation, Taipei, TAIWAN; Jiangsu Xinguanglian Technology Co., Ltd., Wuxi, Jiangsu, PEOPLE'S REPUBLIC OF CHINA; Kyoei Sangyo Co., Ltd., Tokyo, JAPAN; and Shinko Shoji Co., Ltd., Osaka, JAPAN, have been added as parties to this venture.

Also, Coby Electronics Co., Ltd., Foshan, Guangdon, PEOPLE'S REPUBLIC OF CHINA; Crystal Ton 2 Ltd., Sofia, BULGARIA; Digital Acoustic Corporation, Osaka, JAPAN; Duplium Corporation, Thornhill, Ontario, CANADA; Huawei Device Co., Ltd., Longgang District, Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Infodisc Technology Co., Ltd., Taoyuan, TAIWAN; Marvell International Ltd., Hamilton, BERMUDA; Marubun/Arrow(S) Pte Ltd., Singapore, SINGAPORE; Novatek Microelectronics Corp., Hsinchu, TAIWAN; Shenzhen Yidong Technology Co., Ltd., (Shenzhen E-Dong Technology Co., Ltd.), Futian District, Shenzhen, PEOPLE'S REPUBLIC OF CHINA; and Skypine Electronics (Shenzhen) Co., Ltd., Shenzhen City, PEOPLE'S REPUBLIC OF CHINA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DVD CCA intends to file additional written notifications disclosing all changes in membership.

On April 11, 2001, DVD CCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal**

Register pursuant to Section 6(b) of the Act on August 3, 2001 (66 FR 40727).

The last notification was filed with the Department on August 30, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 28, 2013 (78 FR 64248).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–08518 Filed 4–14–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act of 1998 (WIA); Notice of Incentive Funding Availability Based on Program Year (PY) 2012 Performance

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), in collaboration with the Department of Education (ED), announces that eight States are eligible to apply for WIA (Pub. L. 105–220, 29 U.S.C. 2801 et seq.) incentive grant awards authorized by section 503 of the WIA.

DATES: The eight eligible States must submit their applications for incentive funding to the DOL by May 30, 2014.

ADDRESSES: Submit applications to the Employment and Training Administration, Office of Policy Development and Research, Division of Strategic Planning and Performance, 200 Constitution Avenue NW., Room N–5641, Washington, DC 20210, *Attention:* Karen Staha and Luke Murren. Telephone number: 202–693–3733 (this is not a toll-free number). Fax: 202–693–2766. Email: *staha.karen@dol.gov* and *murren.luke@dol.gov.* Information may also be found at the ETA Performance Web site: *http://www.doleta.gov/performance.* Additional information on how to apply can be found in Training and Employment Guidance Letter 20–01 Change 12, which will be forthcoming.

FOR FURTHER INFORMATION CONTACT: Luke Murren at *Murren.Luke@dol.gov.*

SUPPLEMENTARY INFORMATION: Eight States (see Appendix) qualify to receive a share of the $9,884,265 available for incentive grant awards under WIA section 503. These funds, which were contributed by ED from appropriations for the Adult Education and Family Literacy Act at WIA title II (AEFLA), are available for the eligible States to use through June 30, 2016, to support innovative workforce development and education activities that are authorized under WIA title IB (Workforce Investment Systems) or WIA title II (AEFLA), or under the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV), 20 U.S.C. 2301 et seq., as amended by Public Law 109–270. In order to qualify for a grant award, a State must have exceeded its performance levels for WIA title IB and WIA title II. (Perkins IV removed the requirement that funds be reserved to carry out section 503 of WIA which only referenced Pub. L. 105–332 (Perkins III); thus, DOL and ED do not consider States' performance levels under Perkins IV in determining eligibility for incentive grants under section 503 of WIA). The performance related goals used to determine a State's eligibility status include: (1) Employment after training and related services, as well as retention in employment, and (2) improvements in literacy levels, among other measures. After review of the performance data submitted by States to DOL and ED, each Department determined which States exceeded their performance levels for its respective program(s) (the Appendix at the bottom of this notice lists the eligibility of each State by program). These lists were compared, and States that exceeded their performance levels for both programs are eligible to apply for and receive an incentive grant award.

The States eligible to apply for incentive grant awards and the amounts they are eligible to receive are listed in the following chart:

State	*Total award*
Georgia	$1,428,125
Idaho	845,837
Indiana	1,130,999
Maine	819,433
Oklahoma	911,238
Pennsylvania	1,438,783
South Carolina	1,079,016
Texas	2,230,834

Eric M. Seleznow,

Acting Assistant Secretary for Employment and Training.

APPENDIX

State	Incentive Grants Program Year 2012 Exceeded State Performance Levels		
	WIA title IB	AEFLA (WIA title II—Adult Education)	WIA title IB; AEFLA
Alabama			
Alaska		X	
Arizona	X		
Arkansas		X	
California			
Colorado			
Connecticut			
District of Columbia			
Delaware		X	
Florida			
Georgia	X	X	X
Hawaii			
Idaho	X	X	X
Illinois		X	
Indiana	X	X	X
Iowa			
Kansas	X		
Kentucky			

APPENDIX—Continued

State	Incentive Grants Program Year 2012 Exceeded State Performance Levels		
	WIA title IB	AEFLA (WIA title II—Adult Education)	WIA title IB; AEFLA
Louisiana	X		
Maine	X	X	X
Maryland	X		
Massachusetts			
Michigan	X		
Minnesota		X	
Mississippi	X		
Missouri		X	
Montana		X	
Nebraska			
Nevada			
New Hampshire		X	
New Jersey			
New Mexico	X		
New York		X	
North Carolina			
North Dakota			
Ohio	X		
Oklahoma	X	X	X
Oregon			
Pennsylvania	X	X	X
Puerto Rico			
Rhode Island		X	
South Carolina	X	X	X
South Dakota		X	
Tennessee	X		
Texas	X	X	X
Utah	X		
Vermont			
Virginia			
Washington			
West Virginia	X		
Wisconsin			
Wyoming		X	
Total	19	20	8

* States in bold exceeded their performance levels for both WIA Title IB and WIA title II programs.

[FR Doc. 2014–08476 Filed 4–14–14; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2014–023]

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 15, 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–0378–2014–0009, 7 items, 7 temporary items). Grant award records, records relating to operational and program guidance procedures, records relating to standard award conditions, research and technical assistance files, and national technical assistance reports.

2. Department of Health and Human Services, Centers for Medicare & Medicaid Services (DAA–0440–2013–0001, 1 item, 1 temporary item). Records used to facilitate investigations of fraud and abuse.

3. Department of Homeland Security, Agency-wide (DAA–0563–2013–0005, 14 items, 2 temporary items). Records of the Department and its component agencies including write-in campaign files and non-actionable correspondence. Proposed for permanent retention are senior official records including annual reports, briefing books, correspondence, subject files, policy records, and daily activity records.

4. Department of Justice, United States Marshals Service (DAA–0527–2013–0004, 2 items, 2 temporary items). Prisoner manifest files and movement request forms.

5. Department of Justice, United States Marshals Service (DAA–0527–2013–0015, 4 items, 4 temporary items). Asset forfeiture records including seized property and evidence registers, process receipt and return forms, property case files, and pre-seizure case files.

6. Department of Justice, United States Marshals Service (DAA–0527–2013–0017, 1 item, 1 temporary item). Hiring and personnel records of the Judicial Services Division.

7. Department of Justice, United States Marshals Service (DAA–0527–2013–0018, 2 items, 1 temporary item). Administrative policy records. Proposed for permanent retention are operational policies.

8. Department of Justice, United States Marshals Service (DAA–0527–2013–0022, 2 items, 1 temporary item). Strategic planning working papers. Proposed for permanent retention are published strategic planning files.

9. Department of Justice, United States Marshals Service (DAA–0527–2013–0024, 1 item, 1 temporary item). Administrative records of the Office of Court Security, including sequestered jury logs.

10. Department of Justice, United States Marshals Service (DAA–0527–2013–0027, 3 items, 1 temporary item). Records of speeches and testimony given by agency staff. Proposed for permanent retention are records of speeches, testimony, and related background materials of high-level agency officials.

11. Department of Justice, United States Marshals Service (DAA–0527–2014–0001, 2 items, 1 temporary item). Administrative publications. Proposed for permanent retention are mission-related publications.

12. Department of the Navy, Agency-wide (DAA–0024–2013–0002, 3 items, 1 temporary item). Copies of monthly rosters of enlisted personnel. Proposed for permanent retention are monthly Department of Navy rosters and legacy microfilm of rosters.

13. Department of the Navy, United States Marine Corps (DAA–0127–2014–0005, 1 item, 1 temporary item). Master files of an electronic information system used to manage service and supply requests and the availability of equipment and personnel.

14. Department of Transportation, Federal Railroad Administration (DAA–0399–2013–0001, 2 items, 1 temporary item). Railroad density data sheets. Proposed for permanent retention are railroad density maps.

15. National Archives and Records Administration, Government-wide (DAA–GRS–2013–0003, 6 items, 6 temporary items). General Records Schedule for financial transaction records related to procurement, bill payment, and debt collection; accounting for day-to-day financial administration; accounting for property, equipment, and other assets; cost accounting; and contractor payroll records.

16. National Archives and Records Administration, Government-wide (DAA–GRS–2013–0007, 15 items, 15 temporary items). General Records Schedule for records related to responses to requests for access to government information and records related to the protection of classified or controlled information from unauthorized disclosure.

17. Postal Regulatory Commission, Agency-wide (N1–458–12–1, 44 items, 21 temporary items). Market test and other lesser dockets, monthly and quarterly reports, documents not certified into docket records, staff assignment memos, and other administrative records that do not directly involve formal commission actions. Proposed for permanent

retention are minutes of commission meetings; correspondence files for chairman, commissioners, and other high officials; publications; research papers and reports; annual compliance determination dockets; and other substantive program records.

Dated: April 8, 2014.

Paul M. Wester, Jr.,

Chief Records Officer for the U.S. Government.

[FR Doc. 2014–08505 Filed 4–14–14; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that three meetings of the Humanities Panel will be held during May, 2014 as follows. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended).

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: The meetings will be held at the Old Post Office Building, 1100 Pennsylvania Ave. NW., Washington, DC 20506. See **SUPPLEMENTARY INFORMATION** section for meeting room numbers.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 1100 Pennsylvania Ave. NW., Room, 529, Washington, DC 20506, or call (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the National Endowment for the Humanities' TDD terminal at (202) 606–8282.

SUPPLEMENTARY INFORMATION:

Meetings

1. *Date:* May 01, 2014.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
This meeting will discuss applications for the Seminars for College Teachers grant program, submitted to the Division of Education Programs.

2. *Date:* May 05, 2014.
Time: 8:30 a.m. to 5:00 p.m.
Room: Room 402.
This meeting will discuss applications on the subject of Research for the Digital Humanities Implementation Grants program, submitted to the Office of Digital Humanities.

3. *Date:* May 06, 2014.
Time: 8:30 a.m. to 5:00 p.m.
Room: Room 402.
This meeting will discuss applications on the subject of Education and Public Programs for the Digital Humanities Implementation Grants program, submitted to the Office of Digital Humanities.

4. *Date:* May 13, 2014.
Time: 8:30 a.m. to 5:00 p.m.
Room: Virtual.
This meeting will discuss applications for the Institutes for Advanced Topics in Digital Humanities grant program, submitted to the Office of Digital Humanities. Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Dated: April 9, 2014.

Lisette Voyatzis,

Committee Management Officer.

[FR Doc. 2014–08375 Filed 4–14–14; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services; Sunshine Act Meeting of the National Museum and Library Services Board

AGENCY: Institute of Museum and Library Services (IMLS), NFAH.

ACTION: Notice of meeting.

SUMMARY: The National Museum and Library Services Board, which advises the Director of the Institute of Museum and Library Services on general policies with respect to the duties, powers, and authority of the Institute relating to museum, library and information services, will meet on May 8, 2014.

DATE AND TIME: Thursday, May 8, 2014, from 2:30 to 6:00 p.m. EST.

PLACE: The meeting will be held at the Institute of Museum and Library Services, 1800 M Street NW., Suite 900, Washington, DC 20036. Telephone: (202) 653–4798.

STATUS: The meeting will be open to the public.

AGENDA: Twenty-Ninth Meeting of the National Museum and Library Service Board Meeting:

I. Welcome
II. Financial Update
III. Legislative Update
IV. Program Updates
V. Research Update
VI. Board Program
VII. Board Discussion
VIII. Adjournment

FOR FURTHER INFORMATION CONTACT: Katherine Maas, Program Specialist, Institute of Museum and Library Services, 1800 M Street NW., 9th Floor, Washington, DC 20036. Telephone: (202) 653–4676. Please provide advance notice of any special needs or accommodations.

Dated: April 9, 2014.

Andrew Christopher,

Assistant General Counsel.

[FR Doc. 2014–08696 Filed 4–11–14; 4:15 pm]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings; National Science Board

The National Science Board's Subcommittee on Facilities (SCF), pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows:

DATE & TIME: Thursday, April 17, 2014, from 11:45 a.m.–12:45 p.m. EDT.

SUBJECT MATTER: SCF members will discuss draft recommendations for the FY 2013 APR, and receive an update on the Regional Class Research Vessels (RCRV).

STATUS: Closed.

This meeting will be held by teleconference. Please refer to the National Science Board Web site *www.nsf.gov/nsb* for additional information and schedule updates (time, place, subject matter or status of meeting). Point of contact for this

meeting is John Veysey at *jveysey@nsf.gov*.

Ann Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2014–08652 Filed 4–11–14; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0082]

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 20, 2014, to April 2, 2014. The last biweekly notice was published on April 1, 2014.

DATES: Comments must be filed by May 15, 2014. A request for a hearing must be filed by June 16, 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–2014–0082. 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, 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: Angela Baxter, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2976, email: *angela.baxter@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments.

A. Accessing Information

Please refer to Docket ID NRC–2014–0082 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–2014–0082.

• *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–2014–0082 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.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: January 21, 2014, as supplemented by letter dated March 17, 2014. A publicly-available version is in ADAMS under Accession Nos. ML14021A085 and ML14077A139.

Description of amendment request: The amendment would modify Technical Specification (TS) 6.5.16, ''Containment Leakage Rate Testing Program,'' to require a seal contact verification in lieu of a seal pressure test with respect to the Emergency Escape Air Lock doors.

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 would permit Emergency Escape Air Lock door seal leak rate testing to be performed by a seal contact check following door opening, overall full pressure test of the Emergency Escape Air Lock, or seal contact adjustments. The seal contact test method will result in a continuation of the established practice which has provided a high degree of confidence in door seal performance. At Palisades [Nuclear Plant,] Emergency Escape Air Lock door seals which have been inspected in accordance with the proposed methodology have passed subsequent full pressure Emergency Escape Air Lock leakage tests and have not interfered with successful Containment Building Integrated Leak Rate Testing (ILRT).

Since the proposed methodology can be used to successfully verify door seal condition and contact, the use of this methodology for testing will not cause an increase in the probability of a leaking Emergency Escape Air Lock door seal going undetected. The combination of the door seal contact check and the overall full pressure testing of the Emergency Escape Air Lock will provide high confidence of the air lock performing its design function under accident conditions.

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 is associated exclusively with testing of features related to Containment Building integrity. The change affects only the testing methodology of the Emergency Escape Air Lock door seals. The

proposed testing method does not result in any physical alterations to the plant configuration, no new structure, system, or component (SSC) is added, no SSC interfaces are modified, and no changes to any design function of an SSC or the methods of SSC operation are being made. As the proposed change would not change the design, configuration, or operation of the plant, the change would not cause the Containment Leakage Rate Testing Program to become an accident initiator.

Therefore, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change is associated exclusively with testing of features related to Containment Building integrity. The change affects only the testing methodology of the Emergency Escape Air Lock door seals. The change is unrelated to an initiator of any accident previously evaluated. The proposed application of a door seal contact check in lieu of a between-the-seals pressure test along with continuation of the overall full pressure test of the Emergency Escape Air Lock will continue to provide high confidence that the Containment Building leakage rate criteria for the Emergency Escape Air Lock will not exceed the maximum allowable leakage rates defined in the TSs or assumed in the accident analysis.

Therefore, this change does not involve a significant reduction in a margin 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 Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant (JAFNPP), Oswego County, New York

Date of amendment request: May 7, 2013. A publicly-available version is in ADAMS under Accession No. ML13128A165.

Description of amendment request: The proposed amendment would revise JAFNPP's Renewed Facility Operating License (RFOL) Condition 2.T wording to be congruent with the proposed license condition wording contained in NUREG–1905 SER Section 1.7 and to clarify that the programs and activities described in the Updated Final Safety Analysis Report (UFSAR) Supplement (and identified in Appendix A of NUREG–1905) are to be completed no later than the period of extended operation date. The change removes any potential inference that any of the activities are being implemented after the period of extended operation. The intent of this proposed amendment is to ensure that (1) the changes made to these programs and activities are made in accordance with the 10 CFR 50.59 process, and clarify that (2) only the changes to the implementation date of those license renewal commitments that have been codified by inclusion into the UFSAR are required to be made in accordance with the 10 CFR 50.90 process.

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:

4.1.1 Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No, the proposed amendment does not involve a change to a System, Structure, or Component (SSC) that initiates a plant accident. The change clarifies JAFNPP RFOL Condition 2.T. The license condition deals with the administrative controls over information contained in the Updated Final Safety Analysis Report (UFSAR) supplement. In addition, the change provides the actual completion date in lieu of the schedule contained in the Commitment Appendix of the SER, for license renewal commitments codified into the UFSAR and removes the inference that any programs and activities are being implemented during the period of extended operation. The proposed changes are administrative and the license condition does not initiate or mitigate any previously evaluated accidents.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

4.1.2 Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No, the proposed amendment does not involve any physical alteration of plant equipment and does not change the method by which any safety-related system performs its function. The license condition deals with the administrative controls over information contained in the UFSAR supplement. In addition, the change provides the actual completion date in lieu of the schedule contained in the Commitment Appendix of the SER, for license renewal commitments codified into the UFSAR and removes the inference that any activities are being implemented during the period of extended operation. No new or different types of equipment will be installed and the basic operation of installed equipment is unchanged.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

4.1.3: Does the proposed amendment involve a significant reduction in a margin of safety?

No, the proposed amendment does not affect design codes or design margins. The changes that clarifies JAFNPP RFOL Condition 2.T are administrative in nature and do not have the ability to affect any analyzed safety margins.

Therefore, operation of JAFNPP in accordance with the proposed amendment change will not involve a significant reduction in the 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: Jeanne Cho, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Benjamin G. Beasley.

Entergy Nuclear Operations, Inc., Docket No. 50–255, Palisades Nuclear Plant, Van Buren County, Michigan

Date of amendment request: December 30, 2013. A publicly available version is in ADAMS under Accession No. ML13364A328.

Description of amendment request: The proposed amendment would change the Palisades Nuclear Plant (PNP) Cyber Security Plan (CSP) Milestone 8 full implementation date as set forth in the Cyber Security Plan Implementation Schedule approved by Amendment No. 243 issued on July 28, 2011, to Renewed Facility Operating License No. DPR–20 for PNP (ADAMS Accession No. ML111801243).

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 to the CSP Implementation Schedule is administrative in nature. This change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected.

The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents, and has no impact on the probability or consequences of an accident 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 to the CSP Implementation Schedule is administrative in nature. This proposed change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems and components, relied upon to mitigate the consequences of postulated accidents and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed 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.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. The proposed change to the CSP Implementation Schedule is administrative in nature. In addition, the milestone date delay for full implementation of the CSP has no substantive impact because other measures have been taken which provide adequate protection during this period of time. Because there is no change to established safety margins as a result of this change, the proposed change does not involve a significant reduction in a margin of safety.

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: William Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Ave., White Plains, NY 10601.

NRC Branch Chief: Robert D. Carlson.

FirstEnergy Nuclear Operating Company, et al., Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of amendment request: December 6, 2013, as supplemented by a letter dated. February 27, 2014. A publicly-available version is in ADAMS under Accession Nos. ML13343A013 and ML14059A221.

Description of amendment request: The proposed amendment would revise the Updated Safety Analyses Report (USAR) to reflect updated radiological calculations using an alternative accident source term (AST) from the applicable design bases event and to revise the technical specification (TS) definition of DOSE EQUIVALENT IODINE–131.

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. This proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment involves implementation of the AST for the control rod drop accident (CRDA) and the main steam line break (MSLB) at PNPP. The proposed amendment also updates the methods and assumptions used in the loss of coolant accident (LOCA) dose calculation, which maintains conformance with Regulatory Guide (RG) 1.183, and revises the TS DOSE EQUIVALENT 1–131 definition. The proposed amendment does not involve any physical design modifications to plant structures, systems or components other than the planned use of GNF2 fuel beginning with Cycle 16, and the revised calculations do not impact any accident initiators. Because design basis accident initiators are not being altered, the probability of an accident previously evaluated is not affected.

With respect to consequences, the AST is an input to calculations used to evaluate the consequences of an accident, and that AST input does not by itself affect the plant response, or the actual path of radiation postulated to be released. The design basis radiological consequence analyses themselves, which include updates to the core source term, input assumptions, and the methodology used to calculate dose consequences, do not affect the plant response, or the actual pathway of radiation that might be released during an event. Likewise, the DOSE EQUIVALENT 1–131 definition revision does not affect any plant response. For the evaluated events and the definition revision, the analyses demonstrate acceptable doses within regulatory limits. As detailed in the technical evaluation for the amendment request, a comparison of the former dose consequences against the newly calculated dose consequences for the evaluated events showed that the doses at the EAB and the LPZ are either negligibly changed or are lower than previously evaluated, except for the CRDA Scenario 1 analysis, for which the calculated doses increase, but by less than 2 percent of the margin to the acceptance criteria. The acceptance criteria for the CRDA is specified in RG–1.183 Table 6, and is only 25 percent of the regulatory limit specified in 10 CFR 50.67. Control room doses for the LOCA event decrease; for the other events, control room doses were not previously required to be calculated. Therefore, it is concluded that the consequences of previously evaluated accidents are not significantly increased.

Based on the above conclusions, this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. This proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not involve a physical alteration of the plant. No new or different type of equipment will be installed and there are no physical modifications to existing installed equipment associated with the proposed changes. Also, there are no proposed changes to the methods governing plant/system operation, so no new initiators or precursors of a new or different kind of accident are created. New equipment or personnel failure modes that might initiate a new type of accident are not created as a result of the proposed amendment.

Thus, this amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. This proposed amendment does not involve a significant reduction in a margin of safety.

Approval is requested for changes that primarily conform with RG–1.183 for the CRDA, MSLB, and LOCA analyses, as well as the TS DOSE EQUIVALENT 1–131 definition. The results of the accident analyses, including the use of FGR 11 dose conversion factors, are subject to acceptance criteria specified in 10 CFR 50.67 ''Accident source term,'' and RG–1.183. The analyses have been performed using conservative methodologies, as specified in RG–1.183. Safety margins have been evaluated and analytical conservatism has been utilized to ensure the analyses adequately bound postulated event scenarios. The dose consequences remain within the acceptance criteria presented in 10 CFR 50.67 ''Accident source term,'' and RG–1.183. The only calculated doses that were determined to increase did so by less than 2 percent of the margin to the acceptance criteria specified in RG–1.183 (the regulatory guide acceptance criteria are 25 percent of the regulatory limits specified in 10 CFR 50.67).

Therefore the proposed license amendment 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: David W. Jenkins, Attorney, FirstEnergy Corporation, Mail Stop. A–GO–15, 76 South Main Street, Akron, OH 44308.

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: September 5, 2013. A publicly-available version is in ADAMS under Accession No. ML13249A242.

Description of amendment request: The proposed amendment would relocate the operability and surveillance requirements for flood protection from the Hope Creek Generating Station (Hope Creek) Technical Specifications (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 flood protection from the TS to the TRM. Flood protection is not assumed to be an initiator of an accident in the Hope Creek UFSAR [Updated Final Safety Analysis Report]. The proposed changes do not alter the design of any system, structure, or component (SSC). The proposed changes conform to NRC 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 flood protection from the TS to the TRM. The proposed changes do not involve a modification to the physical configuration of the plant or a 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 flood protection from the TS to the TRM. This relocation will not affect protection criteria for plant equipment and will not reduce the margin of safety.

Operability and surveillance requirements will be established in a licensee-controlled document, the TRM, to ensure the capability for external flood protection remains intact. 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, Fairfield County, South Carolina

Date of amendment request: February 27, 2014. A publicly-available version is in ADAMS under Accession No. ML14065A022.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–93 and NPF–94 for the Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3 by departing from the plant-specific Design Control Document (DCD) Tier 1 (and corresponding Combined License Appendix C information) and Tier 2 material by making changes to the annex and radwaste building structures and layout by:

(1) Updating the annex building column line designations on affected Tier 1 Figures and Tier 2 Figure 3.7.2–19; and

(2) Revising the radwaste building configuration including the shielding design and radiation area monitoring.

Because, this proposed change requires a departure from Tier 1 information in the Westinghouse Advanced Passive 1000 DCD, the licensee also requested an exemption from the requirements of the Generic DCD Tier 1 in accordance with 52.63(b)(1).

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 proposed annex building changes updating column line designations and the radwaste building change to add three bunkers for storage of moderate and high activity waste, incorporate the Waste Accumulation Room and the Packaged Waste Storage Room, revise shield wall thicknesses, and eliminate a radiation monitor no longer needed do not alter the assumed initiators to any analyzed event. These proposed changes do not affect the operation of any systems or equipment that could initiate an analyzed accident. The proposed changes to the annex building column line designations update the annex building column line designations in the UFSAR figures to make them consistent with the UFSAR figure for the auxiliary building. The radwaste building proposed changes do not affect any accident initiators, because there is no accident initiator located within that building. Based on the above, the probability of an accident previously evaluated will not be increased by these proposed changes.

The proposed annex and radwaste building configuration changes do not affect any radiological dose consequence analysis for UFSAR Chapter 15. No accident source term parameter or fission product barrier is impacted by these changes. Structures, systems, and components (SSCs) required for mitigation of analyzed accidents are not affected by these changes, and the functions of these buildings are not adversely affected by these changes. Consequently, this activity will not increase the consequences of any analyzed accident, including the main steam line limiting break.

Therefore, the proposed activity 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 annex building changes updating column line designations and the radwaste building change to add three bunkers for storage of moderate and high

activity waste, incorporate the Waste Accumulation Room and the Packaged Waste Storage Room, revise shield wall thicknesses, and eliminate a radiation monitor no longer needed do not change the design function of the either of these buildings or any of the systems or equipment contained therein or in any other Nuclear Island structures. These proposed changes do not adversely affect any system design functions or methods of operation. These changes do not introduce any new equipment or components or change the operation of any existing systems or equipment in a manner that would result in a new failure mode, malfunction, or sequence of events that could affect safety-related or non-safety-related equipment or result in a radioactive material release. This activity does not allow for a new radioactive material release path or result in a new radioactive material barrier failure mode.

Therefore, this activity 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 changes do not affect any safety-related equipment, design code compliance, design function, design analysis, safety analysis input or result, or design/safety margin. The margin in the design of the annex and radwaste buildings is determined by the use of the current codes and standards and adherence to the assumptions used in the analyses of this structure and the events associated with this structure. The column line designations for the annex building in UFSAR Tier 2 figures are updated to make them consistent with the UFSAR figures for the auxiliary building. This change has no adverse impact on plant construction or operation. The design of the radwaste building, including the newly added bunkers for moderate and high activity waste, merging of the Waste Accumulation Room and the Packaged Waste Storage Room, will continue to be in accordance with the same codes and standards as stated in the UFSAR. The activity has no effect on off-site dose analysis for analyzed accidents.

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: Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW., Washington, DC 20004–2514.

NRC Branch Chief: Lawrence Burkhart.

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.

Calvert Cliffs Nuclear Power Plant, LLC, Docket Nos. 50–317, 50–318, and 72–8, Calvert Cliffs Nuclear Power Plant, Units 1 and 2, Calvert County, Maryland

Nine Mile Point Nuclear Station, LLC, Docket No. 50–220 and 50–410, Nine Mile Point Nuclear Station, Units 1 and 2, Oswego County, New York

R.E. Ginna Nuclear Power Plant, LLC, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: August 6, 2013, as supplemented by letters and emails dated August 14, 2013, September 23, 2013, September 26, 2013, December 17, 2013, January 9, 2014, February 5, 2014, February 10, 2014, February 14, 2014, and February 21, 2014.

Brief description of amendments: The amendments conform the licenses to reflect the direct transfer of operating authority for Calvert Cliffs Nuclear Power Plant, (Calvert Cliffs) Units 1 and 2, the Calvert Cliffs Independent Spent Fuel Storage Installation (ISFSI), Nine Mile Point Nuclear Station (Nine Mile Point), Units 1 and 2, and R.E. Ginna Nuclear Power Plant (Ginna) to Exelon Generation Company, LLC, as approved by the Commission Order dated March 24, 2014.

Date of issuance: April 1, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: Calvert Cliffs—305 and 283, Calvert Cliffs ISFSI—10, Nine Mile Point—214 and 144, and Ginna—115. (ADAMS Accession Nos. ML14091A297, ML14091A323 and ML14091A366; documents related to these amendments are listed in the Safety Evaluation referenced in this notice).

Renewed Facility Operating License Nos. DPR–53, DPR–69, SNM–2505, DPR–63. NPF–69, and DPR–18: The amendments revised the Licenses and Technical Specifications.

Date of initial notice in Federal Register: December 26, 2013 (78 FR 78411).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation for Calvert Cliffs dated March 24, 2014, and for Nine Mile Point and Ginna dated March 25, 2014.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: April 9, 2013.

Brief description of amendments: The amendments delete certain reporting requirements contained in the Technical Specifications (TSs).

Date of issuance: March 26, 2014.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendments Nos.: 211 and 172. (ADAMS Accession No. ML13214A092; documents related to these amendments are listed in the Safety Evaluation referenced in this notice).

Facility Operating License Nos. NPF–39 and NPF–85: The amendments revised the Facility Operating Licenses and the TSs.

Date of initial notice in Federal Register: May 14, 2013 (78 FR 28252).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 26, 2014.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al., Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: January 18, 2013, as supplemented by letters dated September 27, and December 13, 2013, and January 10, 2014.

Brief description of amendment: This amendment revises Davis-Besse Nuclear Power Station (DBNPS) Technical Specification (TS) 3.4.17, ''Steam Generator (SG) Tube Integrity''; TS 3.7.18, ''Steam Generator Level''; TS 5.5.8, ''Steam Generator (SG) Program''; and TS 5.6.6, ''Steam Generator Tube Inspection Report.'' The revision to these TSs is to support plant operations following the replacement of the original SGs which is scheduled to be completed in April 2014. The changes to TS 3.4.17, TS 5.5.8, and TS 5.6.6 impose requirements that reflect the analysis and tube materials of the replacement SGs. These changes are consistent with Technical Specifications Task Force (TSTF) traveler TSTF–510, Revision 2, ''Revision to Steam Generator Program Inspection Frequencies and Tube Sample Selection,'' which was approved by the NRC on October 27, 2011. The revisions to TS 5.5.8 also include minor editorial changes and eliminates the requirements for special visual inspections of the internal auxiliary feedwater header, since this component will not be part of the replacement SGs.

The changes to TS 3.7.18 impose inventory limits on the secondary-side that reflect the design characteristics and dimensions of the replacement SGs. The revised limits will ensure that plant operations with the replacement SGs is bounded by the values used in the existing main steam line break analysis presented in the DBNPS Updated Safety Analysis Report.

Date of issuance: March 31, 2014.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 287. (ADAMS Accession No. ML14023A766; documents related to this amendment are listed in the Safety Evaluation referenced in this notice).

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications and License.

Date of initial notice in Federal Register: March 19, 2013 (78 FR 16883). The September 27, and December 13, 2013, and January 10, 2014, supplements contained clarifying information within the scope of the proposed action noticed and did not change the staff's initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 2014.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket No. 50–335, St. Lucie Plant Unit 1, St. Lucie County, Florida

Date of application for amendment: May 10, 2013, as supplemented by letter dated September 30, 2013.

Brief description of amendment: The amendment revises the Technical Specifications (TSs) to allow the use of AREVA M5® material as an approved fuel rod cladding.

Date of issuance: March 31, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 218. (ADAMS Accession No. ML14064A129; documents related to this amendment are listed in the Safety Evaluation referenced in this notice).

Renewed Facility Operating License No. DPR–67: Amendment revises the license and the TSs.

Date of initial notice in Federal Register: August 6, 2013 (78 FR 47790). The September 30, 2013, supplemental letter provided additional information that clarified the application, did not expand the scope of the proposed amendment as originally noticed, and did not change the 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 31, 2014.

No significant hazards consideration comments received: No.

Northern States Power Company—Minnesota (NSPM), Docket No. 50–263, Monticello Nuclear Generating Plant (MNGP), Wright County, Minnesota

Date of application for amendment: January 21, 2010, as supplemented by letters dated March 4, 2010, September 28, 2010, November 11, 2011, June 27, 2012, September 28, 2012, November 30, 2012, December 21, 2012, March 21, 2013, May 13, 2013, June 26, 2013, July 8, 2013, July 31, 2013, August 14, 2013, October 4, 2013, December 20, 2013, and February 24, 2014.

Brief description of amendment: The amendment revises the MNGP technical specifications to allow plant operation from the currently licensed Maximum Extended Load Line Limit Analysis (MELLLA) operating domain to operation in the expanded MELLLA Plus (MELLLA+) operating domain under the current extended power uprate conditions of 2004 megawatts thermal rated core thermal power.

Date of issuance: March 28, 2014.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment No: 180. (ADAMS Accession No. ML14070A042; documents related to this amendment are listed in the Safety Evaluation referenced in this notice).

Renewed Facility Operating License No. DPR–22: The amendment revised the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in Federal Register: September 21, 2010 (75 FR 57527). The supplemental letters dated March 4, 2010, September 28, 2010, November 11, 2010, June 27, 2012, September 28, 2012, November 30, 2012, December 21, 2012, March 21, 2013, May 13, 2013, June 26, 2013, July 8, 2013, July 31, 2013, August 14, 2013, October 4, 2013, December 20, 2013, and February 24, 2014, 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 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 28, 2014.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 4th day of April 2014.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–08219 Filed 4–14–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–09075; NRC–2012–0277]

Issuance of Materials License and Record of Decision for Powertech (USA) Inc., Dewey-Burdock Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: License and record of decision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a license to Powertech (USA) Inc. (Powertech (USA)) for its Dewey-Burdock Uranium *In-Situ* Recovery (ISR) Facility in Fall River and Custer Counties, South Dakota. Materials License SUA–1600 authorizes Powertech (USA) to operate its facilities as proposed in its license application, as amended, and to possess uranium source and byproduct material at the Dewey-Burdock Facility. Furthermore, Powertech (USA) will be required to operate under the conditions listed in Materials License SUA–1600. In addition, the NRC staff has published a record of decision (ROD) that supports the NRC's decision to approve Powertech (USA)'s license application for the Dewey-Burdock Facility and to issue the license.

ADDRESSES: Please refer to Docket ID NRC–2012–0277 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0277. 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.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the section of this document entitled, **SUPPLEMENTARY INFORMATION**.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Ron Burrows, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–6443; email: *Ronald.Burrows@nrc.gov*.

SUPPLEMENTARY INFORMATION: The NRC has issued a license to Powertech (USA) Inc. (Powertech (USA)) for its Dewey-Burdock Uranium *In-Situ* Recovery (ISR) Facility in Fall River and Custer Counties, South Dakota. Materials License SUA–1600 authorizes Powertech (USA) to operate its facilities as proposed in its license application, as amended, and to possess uranium source and byproduct material at the Dewey-Burdock Facility. Furthermore, Powertech (USA) will be required to operate under the conditions listed in Materials License SUA–1600. The NRC staff's ROD that supports the NRC's decision to approve Powertech (USA)'s license application for the Dewey-Burdock Facility and to issue the license is available in ADAMS under Accession No. ML14066A466.

In accordance with 10 CFR 2.390 of the NRC's ''Rules of Practice,'' the details with respect to this action, including the SER and accompanying documentation and license, are available electronically in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of the NRC' public documents. The ADAMS accession numbers for the documents related to this notice are:

1	Applicant's Application, February 28, 2009	ML091200014
2	Generic Environmental Impact Statement for *In-Situ* Leach Uranium Milling Facilities, May 2009	ML091530075
3	Resubmission of Application, August 10, 2009	ML092870160
4	Response to Request for Additional Information, August 12, 20110	ML102380530
5	Response to Request for Additional Information, June 28, 2011	ML112071064
6	Ground Water Model, February 27, 2012	ML120620195
7	Clarification of Oxidation-Reduction Potential Measurement, April 11, 2012	ML121030013
8	Clarification of Regional Meteorological Data, June 13, 2012	ML12173A038
9	Clarification of Response to Request for Additional Information, June 27, 2012	ML12179A534
10	Supplemental Sampling Plan and Responses to Comments Regarding Draft License; October 19, 2012.	ML12305A056
11	Comments on Draft Supplemental Environment Impact Statement, January 8, 2013	ML13022A386
12	Supplemental Environmental Impact Statement for the Dewey-Burdock ISR Facility in Fall River and Custer Counties, South Dakota, January 31, 2014.	ML14024A477 ML14024A478
13	Programmatic Agreement for Protection of Cultural Resources, Executed April 7, 2014	ML14066A344
14	NRC Safety Evaluation Report, April 8, 2014	ML14043A347
15	Source Materials License for Dewey-Burdock, April 8, 2014	ML14043A392
15	NRC Staff's Record of Decision, April 8, 2014	ML14066A466

Dated at Rockville, Maryland, this 8th day of April, 2014.

For the Nuclear Regulatory Commission.

Andrew Persinko,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2014–08546 Filed 4–14–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[EA–13–059; NRC–2014–0084]

In the Matter of Centro de Medicina Nuclear

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an order imposing civil monetary penalty of $7,000 to Centro de Medicina Nuclear. The order requires Centro de Medicina Nuclear to pay the civil penalty or request a hearing within 30 days of the date of the Order.

DATES: *Effective Date:* See attachment.

ADDRESSES: Please refer to Docket ID NRC–2014–0084 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0084. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Leelavathi Sreenivas, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1285, email: *Leelavathi.Sreenivas@nrc.gov*.

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 8th day of April 2014.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman,

Director, Office of Enforcement.

In the Matter of Centro de Medicina Nuclear, Santurce, Puerto Rico, Docket No. 03031963, License No. 52–25127–01, EA–13–059

Order Imposing Civil Monetary Penalty

I

Centro de Medicina Nuclear (Licensee) is the former holder of Materials License 52–25127–01, issued by the U.S. Nuclear Regulatory Commission (NRC) on November 30, 1990. The license had authorized the Licensee to possess and use unsealed byproduct material for medical uses and sealed sources for instrument calibration in accordance with the conditions specified therein. The Licensee was issued an NRC Order Revoking License on August 7, 2012, for non-payment of the NRC annual license fee. The Order specified that if the fee was not paid within 20 days, the license was to be revoked and the Licensee was to perform a number of actions. Because the Licensee did not pay the fee within the allotted timeframe, the license was, in fact, revoked on August 28, 2012.

II

The Licensee was required to either pay the fee or respond to the Order by August 28, 2012, and to perform specified actions toward initiating site decommissioning which included: (1) Arranging for disposal or transfer of any licensed material possessed under the license; (2) within 5 days after disposal, providing the NRC written reports describing how, where, and when such disposition took place; (3) within 60 days from the date of revocation, initiating site decommissioning; and (4) no later than the date of revocation, submitting to the NRC a written report that includes: (a) A listing of all licensed materials disposed of, transferred, or still in possession; (b) a description of the conditions of storage of retained materials and actions being taken to control access to the material; and (c) for any licensed material not disposed of or transferred, a description of the actions taken to attempt to dispose of or transfer the licensed material and why those actions were unsuccessful.

After the Licensee did not respond to the Order, an NRC inspector visited the site on January 17, 2013, and confirmed that the Licensee's radioactive sources were secure. During that visit, the Licensee representative informed the inspector that the Licensee had no specific timeframes planned to take the actions required by the Order. In a May 16, 2013, letter, the NRC documented the observations from the January site visit, and provided the Licensee 30 additional days to take the actions required by the Order (initiating site decommissioning and submitting a written report with the status of CDM's licensed materials and actions taken to dispose of or transfer the materials). Based on the Licensee's subsequent failure to respond to either the NRC letter or to telephone messages left by NRC staff, the NRC concluded that the Licensee continued to be in violation of NRC requirements.

III

The NRC served a written Notice of Violation and Proposed Imposition of Civil Penalty (Notice), stating the violation and the amount of the civil penalty proposed for the violation upon the Licensee by letter dated November 5, 2013. A response to the Notice was required within 60 days of the date of the letter transmitting the Notice (i.e., by January 4, 2014). However, the NRC also informed the Licensee that if it transferred or disposed of its licensed material within those 60 days, the NRC would forgo imposition of any civil penalty.

After the Licensee did not respond to the Notice, an NRC inspector visited the facility on January 29, 2014, and again ascertained that the licensed material inventory was unchanged and verified that the material was properly secured. NRC staff also participated in a telephone conversation with a Licensee representative on January 29, 2014, during which the Licensee representative stated that he had been granted power of attorney over the affairs of the Licensee owner, and had only recently been made aware of the NRC enforcement action. The Licensee representative agreed to obtain cost estimates for disposal of the licensed material. During subsequent conversations on February 24, 2014, the Licensee informed the NRC that it had not disposed of the licensed material because CDM did not have sufficient funds to do so.

The Licensee remained in possession of the licensed material after January 4, 2014 and has also not paid the civil penalty. Accordingly, the NRC staff has determined that the proposed penalty for the violation designated in the Notice should be imposed, in the amount of $7,000.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered that:*

The Licensee pay a civil penalty in the amount of $7,000 within 30 days of the date of this Order, in accordance with NUREG/BR–0254. In addition, at the time payment is made, the Licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order within 30 days of the date of this Order. In addition, the Licensee may demand a hearing on all or part of this Order. Any other person adversely affected by this Order may request a hearing on this Order within 30 days of the date of the Order. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

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, as amended by 77 FR 46562; August 3, 2012), codified in pertinent part at 10 CFR Part 2, Subpart C. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital (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 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 NRC's ''Guidance for Electronic Submission,'' which is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form available from the NRC's Electronic Information Exchange (EIE) system. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC 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 through the EIE. 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 (ET) 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, any others who wish to participate in the proceeding (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 at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., ET, 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. With respect to copyrighted works, participants are requested not to include copyrighted materials in their submission, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application.

If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a Licensee or an adversely affected person that meets the criteria above, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. In the absence of any request for a hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 30 days from the date of issuance without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. If payment has not been made by the time specified above, the matter may be referred to the Attorney General for further action, including collection.

Dated at Rockville, Maryland, this 8th day of April 2014.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman

Director, Office of Enforcement.

[FR Doc. 2014–08531 Filed 4–14–14; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31013; File No. 812–14210]

Ivy Funds, *et al.;* Notice of Application

April 10, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

Summary of Application: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

Applicants: Ivy Funds (''Ivy Trust''), Waddell & Reed Advisors Funds (''WR Trust''), and Ivy Funds Variable Insurance Portfolios (''Ivy VIP Trust'') (each, a ''Trust,'' and collectively, the ''Trusts''); Ivy Investment Management Company (''IICO''), and Waddell & Reed Investment Management Company (''WRIMCO'') (each, an ''Adviser,'' and collectively, the ''Advisers'').

DATES: *Filing Dates:* The application was filed on September 10, 2013 and amended on January 24, 2014 and April 3, 2014.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 5, 2014, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Waddell & Reed Investment Management Company, 6300 Lamar Avenue, Overland Park, Kansas 66202.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 551–6876 or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Ivy Trust, WR Trust, and Ivy VIP Trust are organized as Delaware statutory trusts and are registered under the Act as open-end management investment companies. Each Trust offers multiple series (each a ''Fund'' and together the ''Funds''), each with its own investment objectives, policies, and restrictions.[1]

2. IICO and WRIMCO, wholly owned subsidiaries of Waddell & Reed Financial Inc., are registered as investment advisers under the Investment Advisers Act of 1940 (''Advisers Act''). IICO serves as the investment adviser to each Fund of Ivy Trust and WRIMCO serves as investment adviser to each Fund of WR Trust and Ivy VIP Trust. Each Adviser serves as investment adviser to the Funds pursuant to an investment advisory agreement between the Adviser and the applicable Trust (the ''Advisory Agreements''), approved by the board of trustees of the applicable Trust (each a ''Board''),[2] including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Trust, the Adviser, or any Subadviser (as defined below) (the

[1] Applicants also request relief with respect to any future series of each Trust and any other existing or future registered open-end management investment company or series thereof that: (a) Is advised by either of the Advisers, including any entity controlling, controlled by or under common control with either of the Advisers or their successors (included in the term ''Adviser''); (b) uses the manager of managers structure (''Manager of Managers Structure'') described in the application; and (c) complies with the terms and conditions of the application. The only existing registered open-end management investment companies that currently may rely on the requested order are named as applicants. For purposes of the requested order, ''successor'' is limited to any entity that results from a reorganization into another jurisdiction or a change in the type of business organization. If the name of any Fund contains the name of a Subadviser (as defined below), the name of the Adviser, or a trademark or trade name that is owned by the Adviser, will precede the name of the Subadviser.

[2] The term ''Board'' also includes the board of trustees or directors of a future Trust and future Fund, if different.

''Independent Trustees'') and by the initial shareholder of each of the Funds in the manner required by sections 15(a) and 15(c) of the Act and rule 18f-2 thereunder. Applicants are not seeking any exemptions from the provisions of the Act with respect to any Advisory Agreement.

3. Under the terms of the Advisory Agreements, each Adviser, subject to the oversight of the applicable Board, is responsible for the overall management of the Funds' business affairs and selecting the Funds' investments according to the Funds' investment objectives, policies, and restrictions. For the investment advisory services that they provide to the Funds, the Advisers receive a fee from the Funds as specified in the Advisory Agreements. The Advisory Agreements also authorize the Advisers to retain one or more unaffiliated investment subadvisers (each, a ''Subadviser''), to be compensated by the Advisers for the purpose of managing the investment of the assets of the Funds. The Advisers have entered into subadvisory agreements (''Subadvisory Agreements'') with various Subadvisers to provide investment advisory services to certain Funds in each Trust.[3] Each Subadviser is, and each future Subadviser will be, an ''investment adviser,'' as defined in section 2(a)(20)(B) of the Act, and registered as an investment adviser under the Advisers Act, or not subject to such registration. The Advisers will evaluate, allocate assets to, and oversee the Subadvisers, and make recommendations about their hiring, termination, and replacement to the applicable Board, at all times subject to the authority of that Board. The Adviser compensates each Subadviser out of the fee paid by a Fund to the Adviser under the Advisory Agreement.

4. Applicants request an order to permit the Advisers, subject to Board approval, to engage Subadvisers to manage all or a portion of the assets of a Fund pursuant to a Subadvisory Agreement and materially amend Subadvisory Agreements without obtaining shareholder approval. The requested relief will not extend to any Subadviser that is an ''affiliated person,'' as defined in section 2(a)(3) of the Act, of a Fund or the Adviser, other than by reason of serving as Subadviser to a Fund (''Affiliated Subadviser'').

5. Applicants also request an order exempting each Fund from certain disclosure provisions described below that may require the Funds to disclose fees paid by the Advisers to each Subadviser. Applicants seek an order to permit each Fund to disclose (as both a dollar amount and as a percentage of a Fund's net assets) only: (a) The aggregate fees paid to its Adviser and any Affiliated Subadvisers; and (b) the aggregate fees paid to Subadvisers other than Affiliated Subadvisers (collectively, the ''Aggregate Fee Disclosure''). A Fund that employs an Affiliated Subadviser will provide separate disclosure of any fees paid to the Affiliated Subadviser.

6. The Funds will inform shareholders of the hiring of a new Subadviser pursuant to the following procedures (''Modified Notice and Access Procedures''): (a) Within 90 days after a new Subadviser is hired for any Fund, that Fund will send its shareholders either a Multi-Manager Notice or a Multi-Manager Notice and Multi-Manager Information Statement;[4] and (b) the Fund will make the Multi-Manager Information Statement available on the Web site identified in the Multi-Manager Notice no later than when the Multi-Manager Notice (or Multi-Manager Notice and Multi-Manager Information Statement) is first sent to shareholders, and will maintain it on that Web site for at least 90 days.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to a registered investment company to comply with Schedule 14A under the Exchange Act. Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Regulation S–X sets forth the requirements for financial statements required to be included as part of a registered investment company's registration statement and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b) and (c) of Regulation S–X require a registered investment company to include in its financial statement information about the investment advisory fees.

5. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

6. Applicants assert that the shareholders expect each Fund's Adviser, subject to the review and approval of the Board, to select the Subadvisers who are best suited to achieve the Fund's investment objective. Applicants assert that, from the perspective of the shareholder, the role of the Subadviser is substantially equivalent to the role of the individual portfolio managers employed by traditional investment company advisory firms. Applicants state that requiring shareholder approval of each Subadvisory Agreement would impose unnecessary delays and expenses on the Funds, and may preclude a Fund from acting promptly when the applicable Board and Adviser believe that a change would benefit the Fund and its

[3] All existing Subadvisory Agreements comply with sections 15(a) and (c) of the Act and rule 18f-2 thereunder.

[4] A ''Multi-Manager Notice'' will be modeled on a Notice of Internet Availability as defined in rule 14a–16 under the Securities Exchange Act of 1934 (''Exchange Act''), and specifically will, among other things: (a) Summarize the relevant information regarding the new Subadviser; (b) inform shareholders that the Multi-Manager Information Statement is available on a Web site; (c) provide the Web site address; (d) state the time period during which the Multi-Manager Information Statement will remain available on that Web site; (e) provide instructions for accessing and printing the Multi-Manager Information Statement; and (f) instruct the shareholder that a paper or email copy of the Multi-Manager Information Statement may be obtained, without charge, by contacting the Funds. A ''Multi-Manager Information Statement'' will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act for an information statement, except as modified by the requested order to permit Aggregate Fee Disclosure. Multi-Manager Information Statements will be filed electronically with the Commission via the EDGAR system.

shareholders. Applicants note that the Advisory Agreements and any Subadvisory Agreement with an Affiliated Subadviser (if any) will continue to be subject to the shareholder approval requirements of section 15(a) of the Act and rule 18f–2 under the Act.

7. Applicants assert that the requested disclosure relief would benefit shareholders of the Funds because it would improve the Advisers' ability to negotiate the fees paid to Subadvisers. Applicants state that the Advisers may be able to negotiate rates that are below a Subadviser's ''posted'' amounts, if the Adviser is not required to disclose the Subadvisers' fees to the public. Applicants submit that the requested relief will encourage Subadvisers to negotiate lower subadvisory fees with the Advisers if the lower fees are not required to be made public.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions: [5]

1. Before a Fund may rely on the requested order, the operation of the Fund in the manner described in the application will be approved by a majority of the Fund's outstanding voting securities, as defined in the Act, or in the case of a Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder(s) before offering shares of that Fund to the public.

2. Each Fund relying on the requested order will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. Each Fund will hold itself out to the public as utilizing the Manager of Managers Structure. The prospectus will prominently disclose that the Adviser has ultimate responsibility (subject to oversight by the Board) to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. Each Fund will inform shareholders of the hiring of a new Subadviser within 90 days after the hiring of the new Subadviser pursuant to the Modified Notice and Access Procedures.

4. The Advisers will not enter into a subadvisory agreement with any Affiliated Subadviser without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. At all times, at least a majority of each Trust's Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

6. Whenever a subadviser change is proposed for a Fund with an Affiliated Subadviser, the applicable Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Board minutes, that such change is in the best interests of the Fund and its shareholders, and does not involve a conflict of interest from which the applicable Adviser or the Affiliated Subadviser derives an inappropriate advantage.

7. The Advisers will provide general management services to the Funds, including overall supervisory responsibility for the general management and investment of each Fund's assets, and, subject to review and approval of the applicable Board, will: (a) Set each Fund's overall investment strategies; (b) evaluate, select and recommend Subadvisers to manage all or a part of each Fund's assets; (c) allocate and, when appropriate, reallocate each Fund's assets among one or more Subadvisers; (d) monitor and evaluate the performance of Subadvisers; and (e) implement procedures reasonably designed to ensure that the Subadvisers comply with each Fund's investment objective, policies and restrictions.

8. No trustee or officer of the Trusts or the Funds, or director, manager or officer of the Advisers, will own, directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person), any interest in a Subadviser, except for (a) ownership of interests in the Advisers or any entity that controls, is controlled by, or is under common control with the Advisers, or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of any publicly traded company that is either a Subadviser or an entity that controls, is controlled by or is under common control with a Subadviser.

9. Whenever a Subadviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the profitability of the Adviser.

10. Each Fund relying on the requested order will disclose in its registration statement the Aggregate Fee Disclosure.

11. Each Adviser will provide the Board, no less frequently than quarterly, with information about the profitability of the Adviser on a per-Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Subadviser during the applicable quarter.

12. Independent legal counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then-existing Independent Trustees.

13. In the event the Commission adopts a rule under the Act providing substantially similar relief to that in the order requested in the application, the requested order will expire on the effective date of that rule.

14. Any new Subadvisory Agreement or any amendment to a Fund's existing Advisory Agreement or Subadvisory Agreement that directly or indirectly results in an increase in the aggregate advisory fee rate payable by the Fund will be submitted to the Fund's shareholders for approval.

For the Commission, by the Division of Investment Management, under delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–08526 Filed 4–14–14; 8:45 am]

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[5] Applicants will only comply with conditions 9, 10, and 11 if they rely on the fee disclosure relief that would allow them to provide Aggregate Fee Disclosure.

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 17, 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 Gallagher, 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: April 10, 2014.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–08586 Filed 4–11–14; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71912; File No. SR–NYSEArca–2014–33]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services To Raise the Fee and Fee Cap for Market and Auction-Only Orders Executed in an Opening, Market Order or Trading Halt Auction; Modify the Fees Charges for Routing Orders To The New York Stock Exchange LLC; and Modify Certain Credits in the Basic Rate Pricing

April 9, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 26, 2014, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (''Fee Schedule'') to (i) raise the fee and fee cap for Market and Auction-Only Orders executed in an Opening, Market Order or Trading Halt Auction; (ii) modify the fees that it charges for routing orders to the New York Stock Exchange LLC (''NYSE''); and (iii) modify certain credits in the Basic Rate pricing. The Exchange proposes to implement the changes on April 1, 2014. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to (i) raise the fee and fee cap for Market and Auction-Only Orders executed in an Opening, Market Order or Trading Halt Auction; (ii) modify the fees that it charges for routing orders to the NYSE; and (iii) modify certain credits in the Basic Rate pricing. The Exchange proposes to implement the changes on April 1, 2014.

The Exchange currently charges $0.0005 per share for Market and Auction-Only Orders executed in an Opening, Market Order or Trading Halt Auction. The Exchange proposes to raise this fee from $0.0005 to $0.0010 per share. The Exchange also proposes to raise the monthly fee cap for Market and Auction-Only Orders executed in an Opening, Market Order or Trading Halt Auction. Currently, the fees are capped at $15,000. The Exchange proposes to raise the fee cap to $20,000. These changes are consistent with changes proposed by the NYSE to become effective on April 1, 2014.[4]

The NYSE introduced modifications to its transaction fee structures, including changes to the rates for taking liquidity, which became effective on March 1, 2014.[5] In addition, the NYSE is proposing modifications to its at the opening or at the opening only orders to become effective on April 1, 2014.[6] The Exchange's current fees for routing orders in securities with a per share price of $1.00 or more to the NYSE are closely related to the NYSE's fees for taking liquidity in such securities, and the Exchange is proposing an adjustment to its routing fees to maintain the existing relationship to the new fees in place at the NYSE.

Currently, the NYSE charges a transaction fee for certain transactions in securities with a per share price of $1.00 or more based on the characteristics of the transaction. Among other changes, the NYSE Fee Filing proposed to increase the charge for transactions that do not have a specified per share charge based on their characteristics (''all other'' transactions). The NYSE Fee Filing increased the per share charge for all other non-floor broker transactions (i.e., when taking liquidity from the Exchange) from $0.0025 to $0.0026 per transaction.

Currently, for the Exchange's Tier 1, Tier 2, Tier 3, Step Up Tier 1, and Step Up Tier 2 customers, the fee for routing orders in Tape A securities to the NYSE outside the book is equal to the previous NYSE fee of $0.0025 per share for all other non-floor broker transactions in securities with a per share price of $1.00 or more, and the fee for routing such orders to the NYSE for non-tier (i.e., Basic Rate) customers is $0.0027 per share.[7] Consequently, the Exchange is proposing to increase each of those fees by $0.0001 to $0.0026 per share and $0.0028 per share, respectively, consistent with the $0.0001 increase in the NYSE fee for all other non-floor broker transactions.

In addition, the Exchange currently charges $0.0023 per share for Primary Sweep Orders [8] in Tape A securities that

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* SR–NYSE–2014–18.

[5] *See* Securities Exchange Act Release No. 71684 (March 11, 2014), 78 FR 14758 (March 17, 2014) (SR–NYSE–2014–09) (the ''NYSE Fee Filing'').

[6] *See supra* note 4.

[7] The other tiers in the Fee Schedule do not specify a fee for routing orders in Tape A securities to the NYSE outside the book. However, such tiers provide that if a fee (or credit) is not included in the tier, the relevant tiered or Basic Rate applies based on a firm's qualifying levels. Accordingly, for orders in Tape A securities routed to the NYSE outside the book, ETP Holders and Market Makers that qualify for another tier would default to the Tier 1, Tier 2, Tier 3, Step Up Tier 1, Step Up Tier 2 or Basic Rate that applied to them based on their qualifying levels.

[8] A Primary Sweep Order is a Primary Only (''PO'') Order (i.e., a market or limit order that is to be routed to the primary market) that first sweeps the NYSE Arca book. *See* NYSE Arca Equities Rules 7.31(x) and (kk).

are routed outside the book to the NYSE that remove liquidity from the NYSE.[9] In order to maintain the existing relationship to the other Exchange routing fees that are being adjusted upward, the Exchange is also proposing to increase this fee by $0.0001, to $0.0024 per share.

For Primary Only Plus (''PO+'') orders,[10] the current Exchange fee for orders routed to the NYSE that remove liquidity from the NYSE is $0.0025 per share, which is equal to the current NYSE fee for all other non-floor broker transactions in securities with a per share price of $1.00 or more.[11] Consequently, the Exchange is proposing to increase its fees for routing PO+ orders to the NYSE that remove liquidity by the same amount ($0.0001) as the increase in the corresponding NYSE fees. The proposed new fee for PO+ orders routed to the NYSE that remove liquidity is $0.0026 per share. This change would maintain the current relationship with the NYSE rates.

Consistent with the fee change proposed by the NYSE,[12] the Exchange proposes to amend the Fee Schedule to increase the Tier 1, Tier 2, Tier 3, and Basic Rate fee for PO and PO+ Orders in Tape A securities that are routed to the NYSE that execute in the opening or closing auction, from $0.00095 to $0.0010 per share.

Under the current Basic Rate pricing, the credit for adding liquidity in Tape A and Tape C securities is set at $0.0021 per share, and the credit for adding liquidity in Tape B securities is set at $0.0022 per share. The Exchange proposes to lower the credit for adding liquidity in Tape A, Tape B, and Tape C securities to $0.0020 per share.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that ETP Holders would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[14] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed fee and fee cap increases for Market and Auction-Only Orders executed in an Opening, Market Order or Trading Halt Auction are reasonable because they are the same as the fees and fee caps imposed by at least one other exchange and proposed by the Exchange's affiliate, the NYSE.[15] In addition, the proposed fee changes are equitable and not unfairly discriminatory because they apply uniformly to all similarly situated ETP Holders.

The Exchange believes that the proposed changes to routing fees are reasonable because the Exchange's fees for routing orders to the NYSE are closely related to the NYSE's fees for its members for taking liquidity, and the fee increases are consistent with the changes in effect and proposed by the NYSE to increase its fees for taking liquidity. The proposed changes will result in maintaining the existing relationship between the two sets of fees. In addition, the Exchange believes that the proposed rule change is reasonable, equitable, and not unfairly discriminatory because it would result in an increase in the per share fee for orders, Primary Sweep Orders, and PO+ Orders routed to the NYSE, thereby aligning the rate that the Exchange charges to ETP Holders with the rate that the Exchange is charged by the NYSE. Accordingly, the Exchange is proposing this increase so that the rate it charges to ETP Holders reflects the rate that the Exchange is charged by the NYSE. In addition, the proposed changes are equitable and not unfairly discriminatory because the fee increases apply uniformly across pricing tiers and all similarly situated ETP Holders would be subject to the same fee structure.

The Exchange believes that the proposed changes to the Basic Rate pricing credits for providing liquidity in Tape A, Tape B, and Tape C securities are reasonable because the credits are consistent with the credits offered by at least two other exchanges.[16] In addition, the proposed credits are equitable and not unfairly discriminatory because they apply uniformly to all similarly situated ETP Holders.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[17] 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. In particular, the proposed routing fee changes would not place a burden on competition because the Exchange is seeking to align its fees with the fees charged by the NYSE.[18] In addition, the proposed changes to the Exchange's fee and fee cap for Market and Auction-Only Orders executed in an Opening, Market Order or Trading Halt Auction and Basic Rate pricing credits are consistent with the fees and credits imposed by other exchanges.[19]

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change promotes a competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[9] This charge is included in the provisions for Tier 1, Tier 2, and the Basic Rate. The other tiers in the Fee Schedule do not specify a fee for Primary Sweep Orders in Tape A securities that are routed outside the book to the NYSE that remove liquidity from the NYSE. Accordingly, for such orders ETP Holders and Market Makers that qualify for another tier would default to the Tier 1, Tier 2 or Basic Rate that applied to them based on their qualifying levels. *See supra* note 7.

[10] A PO+ Order is a PO Order that is entered for participation in the primary market, other than for participation in the primary market opening or primary market re-opening. *See* NYSE Arca Equities Rule 7.31(x)(3).

[11] This charge is included in the provisions for Tier 1, Tier 2, and the Basic Rate. The other tiers in the Fee Schedule do not specify a fee for PO+ orders routed outside the book to the NYSE that remove liquidity. Accordingly, for such orders ETP Holders and Market Makers that qualify for another tier would default to the Tier 1, Tier 2 or Basic Rate that applied to them based on their qualifying levels. *See supra* note 7.

[12] *See supra* note 4.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4) and (5).

[15] *See* NASDAQ Rule 7018 and *supra* note 4.

[16] *See* NASDAQ Rule 7018 and EDGX Exchange, Inc. Fee Schedule available at *www.directedge.com/Portals/0/01Trading/EDGX%20Fee%20Schedule/2014/EDGX%20Fee%20Schedule%20-%2003.05.14.pdf.*

[17] 15 U.S.C. 78f(b)(8).

[18] *See supra* notes 4–5.

[19] *See supra* notes 15–16.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [20] of the Act and subparagraph (f)(2) of Rule 19b–4 [21] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [22] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2014–33 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–2014–33. 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 NYSE. 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–2014–33, and should be submitted on or before May 6, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Secretary.

[FR Doc. 2014–08415 Filed 4–14–14; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(2).

[22] 15 U.S.C. 78s(b)(2)(B).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71918; File No. SR–EDGX–2014–09]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

April 9, 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 April 1, 2014, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] of the Exchange pursuant to EDGX Rule 15.1(a) and (c) (''Fee Schedule'') to: (i) Increase the rebate for orders yielding Flag BY, which routes to the BATS–Y Exchange, Inc. (''BYX'') and removes liquidity using routing strategies ROUC, ROUE, or ROBY; [4] (ii) increase the fee for orders yielding Flag RY, which route to BYX and adds liquidity; (iii) increase the fee for orders yielding Flag O, which routes to the listing exchanges opening cross; and (iv) amend Footnote 5 to increase the fee cap for orders yielding Flag O from $10,000 to $20,000 per month per Member. 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 its Fee Schedule to: (i) Increase the rebate for orders yielding Flag BY, which routes to BYX and removes liquidity using routing strategies ROUC, ROUE, or ROBY; (ii) increase the fee for orders yielding Flag RY, which route to BYX and adds liquidity; (iii) increase the fee for orders yielding Flag O, which routes to the listing exchanges opening cross; and (iv) amend Footnote 5 to increase the fee cap for orders yielding Flag O from $10,000 to $20,000 per month per Member.

Flag BY

In securities priced at or above $1.00, the Exchange currently provides a rebate of $0.0001 per share for Members'

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[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] The ROUC, ROUE, or ROBY routing strategies are set forth in Exchange Rule 11.9(b)(2).

orders that yield Flag BY, which routes orders to BYX and removes liquidity using routing strategies ROUC, ROUE, or ROBY. The Exchange proposes to amend its Fee Schedule to increase the rebate for orders that yield Flag BY to $0.0016 per share in securities priced at or above $1.00.[5] The proposed change represents a pass through of the rate Direct Edge ECN LLC (d/b/a DE Route) (''DE Route''), the Exchange's affiliated routing broker-dealer, is provided for routing orders to BYX that remove liquidity. The proposed change is in response to BYX's April 2014 fee change where BYX increased its rebate from $0.0001 per share to $0.0016 per share for orders in securities priced at or above $1.00.[6] When DE Route routes to and removes liquidity from BYX, it will now receive a standard rebate of $0.0016 per share. DE Route will pass through the rebate provided by BYX to the Exchange and the Exchange, in turn, will pass through this rate to its Members.

Flag RY

In securities priced at or above $1.00, the Exchange currently charges a fee of $0.0003 per share for Members' orders that yield Flag RY, which route to BYX and adds liquidity. The Exchange proposes to amend its Fee Schedule to increase the fee for orders that yield Flag BY to $0.0018 per share in securities priced at or above $1.00.[7] The proposed change represents a pass through of the rate DE Route, the Exchange's affiliated routing broker-dealer, is charged for routing orders to BYX that add liquidity. The proposed change is in response to BYX's April 2014 fee change where BYX increased its standard fee to $0.0018 per share from $0.0003 per share for orders in securities priced at or above $1.00.[8] When DE Route routes to and adds liquidity on BYX, it will now be charged a standard rate of $0.0018 per share.[9] DE Route will pass through the rate it is charged on BYX to the Exchange and the Exchange, in turn, will pass through this rate to its Members.

Flag O

In securities priced at or above $1.00, the Exchange currently charges a fee of $0.0005 per share for Members' orders that yield Flag O, which routes to the listing exchange's opening process.[10] The Exchange proposes to amend its Fee Schedule to increase the fee for orders that yield Flag O to $0.0010 per share in securities priced at or above $1.00.[11] The proposed change represents an equitable allocation of routing fees that DE Route, the Exchange's affiliated routing broker-dealer, is charged for orders routed to the listing exchange's opening process when it does not qualify for a volume tiered reduced fee. The proposed change is in response to the New York Stock Exchange, Inc.'s (''NYSE'') April 2014 fee change where the NYSE increased its fee to $0.0010 per share from $0.0005 per share for orders in securities priced at or above $1.00.[12] When DE Route routes an order to the NYSE's opening cross, it will now be charged a standard rate of $0.0010 per share. DE Route will pass through the rate it is charged on the NYSE to the Exchange and the Exchange, in turn, will pass through this rate to its Members.

Footnote 5

The Exchange also proposes to amend Footnote 5 to increase the fee cap for orders yielding Flag O from $10,000 to $20,000 per month per Member. When the Exchange routes to a listing exchange's opening cross (Flag O), the Exchange passes through the tier savings that DE Route achieves on an away exchange to its Members. This tier savings takes the form of a cap of Members' fees at $10,000 per month for using Flag O. The proposed increase in the fee cap under Footnote 5 is in response to April 2014 fee cap changes by Nasdaq and NYSE for orders that participate in their opening cross processes. First, under the NYSE's April 2014 fee change, it is increasing its fee cap for orders that participate in its opening cross from $15,000 to $20,000 per month.[13] Second, under Nasdaq's April 2014 fee cap increase, it is requiring that members add, at a minimum, one million shares of liquidity to Nasdaq, on average per day, during the month to be eligible for its existing fee cap of $20,000 for orders that participate in the opening cross.[14] When DE Route routes to the NYSE or Nasdaq's opening cross, it will now be subject to the increased fee cap and new tier requirement. The proposed increase to the fee cap under Footnote 5 would enable the Exchange to equitably allocate its costs among all Members utilizing Flag O. Therefore, the Exchange proposes to amend Footnote 5 to increase the fee cap for orders yielding Flag O from $10,000 to $20,000 per month per Member in response to the Nasdaq and the NYSE's April 2014 increased fee caps and related requirements.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on April 1, 2014.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[15] in general, and furthers the objectives of Section 6(b)(4),[16] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

Flag BY

The Exchange believes that its proposal to increase the rebate for orders that yield Flag BY represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities. Prior to the BYX's April 2014 fee change, BYX provided DE Route a rebate of $0.0001 per share to remove liquidity in securities priced at or above $1.00, which DE Route passed through to the Exchange and the Exchange charged its Members. When DE Route routes to BYX, it will now be provided a rebate of $0.0016 per share. The Exchange does not levy additional fees or offer additional rebates for orders that it routes to BYX through DE Route.

[5] The Exchange does not propose to amend its fee for orders that yield Flag BY in securities priced below $1.00.

[6] *See* the BYX Fee Schedule *available at http://www.batstrading.com/resources/regulation/rule_book/BYX_Fee_Schedule.pdf.*

[7] The Exchange does not propose to amend its fee for orders that yield Flag RY in securities priced below $1.00.

[8] *See* the BYX Fee Schedule *available at http://www.batstrading.com/resources/regulation/rule_book/BYX_Fee_Schedule.pdf.*

[9] The Exchange notes that to the extent DE Route does or does not achieve any volume tiered reduced fee on BYX, its rate for Flag RY will not change.

[10] Under Flag O, the Exchange routes to the following listing exchanges: The New York Stock Exchange, Inc.; The Nasdaq Stock Market LLC (''Nasdaq''); NYSE MKLT LLC; NYSE Arca Inc. (''NYSE Arca''), and BATS Exchange, Inc.

[11] The Exchange does not propose to amend its fee for orders that yield Flag O in securities priced below $1.00.

[12] *See* NYSE Trader Update dated March 27, 2014 *available at http://www.nyse.com/pdfs/NYSE%20Client%20Notice%20Fees%2004%202014.pdf.* Nasdaq currently charges $0.0010 per share to participate in its opening cross. *See* Nasdaq Price List *available at http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.* NYSE Arca currently charges $0.0005 per share to participate in its opening cross. *See* NYSE Arca's Equity Trading Fees *available at http://usequities.nyx.com/sites/usequities.nyx.com/files/nyse_arca_market place_fees_for_3-1-14.pdf.*

[13] *See* NYSE Trader Update dated March 27, 2014 *available at http://www.nyse.com/pdfs/NYSE%20Client%20Notice%20Fees%2004%202014.pdf.*

[14] *See* Nasdaq Equity Trader Alert #2014–28 *available at http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2014-28.*

[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(4).

Therefore, the Exchange believes that the proposed change to Flag BY is equitable and reasonable because it accounts for the pricing changes on BYX, which enables the Exchange to charge its Members the applicable pass-through rate. Lastly, the Exchange notes that routing through DE Route is voluntary and believes that the proposed change is non-discriminatory because it applies uniformly to all Members.

Flag RY

The Exchange believes that its proposal to increase the fees for orders yielding Flag RY represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities. Prior to BYX's April 2014 fee change, BYX charged DE Route a fee of $0.0003 per share to add liquidity in securities priced at or above $1.00, which DE Route passed through to the Exchange and the Exchange charged its Members. When DE Route routes to BYX, it will now be charged a standard rate of $0.0018 per share. The Exchange does not levy additional fees or offer additional rebates for orders that it routes to BYX through DE Route. Therefore, the Exchange believes that the proposed change to Flag RY is equitable and reasonable because it accounts for the pricing changes on BYX, which enables the Exchange to charge its Members the applicable pass-through rate. Lastly, the Exchange notes that routing through DE Route is voluntary and believes that the proposed change is non-discriminatory because it applies uniformly to all Members.

Flag O

The Exchange believes that its proposal to increase the fees for orders yielding Flag O represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities. Prior to NYSE's April 2014 fee change, NYSE charged DE Route a fee of $0.0005 per share for orders routed to the NYSE's opening cross, which DE Route passed through to the Exchange and the Exchange charged its Members. When DE Route routes to the NYSE opening cross, it will now be charged a rate of $0.0010 per share.[17] The Exchange does not levy additional fees or offer additional rebates for orders that it routes to the NYSE opening cross through DE Route. Therefore, the Exchange believes that the proposed change to Flag O is equitable and reasonable because it accounts for the pricing changes on the NYSE, which enables the Exchange to equitably allocate its costs among all Members utilizing Flag O. Lastly, the Exchange notes that routing through DE Route is voluntary and believes that the proposed change is non-discriminatory because it applies uniformly to all Members.

Footnote 5

The Exchange believes that its proposal to amend Footnote 5 to increase the fee cap for orders yielding Flag O from $10,000 to $20,000 per month per Member represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities. The proposed increase in the fee cap under Footnote 5 is in response to April 2014 fee cap updates by Nasdaq and NYSE for orders that participate in their opening cross processes. Prior to Nasdaq's April 2014 fee cap increase, Nasdaq capped DE Routes monthly fees for participating in its opening cross at $20,000, regardless of the volume it added to Nasdaq. When DE Route routes to the Nasdaq opening cross, it will now be required to add, at a minimum, one million shares of liquidity to Nasdaq, on average per day, during the month, to be eligible for its $20,000 monthly fee cap.[18] In addition, prior to NYSE's April 2014 fee change, the NYSE capped DE Routes monthly fees for participating in its opening cross at $15,000. When DE Route routes to the NYSE opening cross, it will now be subject to the NYSE's higher fee cap of $20,000.[19] The proposed increase to the fee cap under Footnote 5 would enable the Exchange to equitably allocate its costs among all Members who utilize Flag O. Therefore, the Exchange believes that the proposed change to Footnote 5 is equitable and reasonable because it accounts for the increased NYSE fee cap and Nasdaq eligibility requirements, which enables the Exchange to apply to its Members similar fee caps. Lastly, the Exchange notes that routing through DE Route is voluntary and believes that the proposed change is non-discriminatory because it applies uniformly to all Members.

[17] The Exchange notes that Nasdaq currently charges DE Route $0.0010 per share to participate in its opening cross. *See* Nasdaq Price List *available at http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.*

[18] *See* Nasdaq Equity Trader Alert #2014–28 *available at http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2014-28.*

[19] *See* NYSE Trader Update dated March 27, 2014 *available at http://www.nyse.com/pdfs/NYSE%20Client%20Notice%20Fees%2004%202014.pdf.*

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed amendments to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor EDGX's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

In particular, the Exchange believes that its proposal to pass through the amended fees for orders that yield Flags BY and RY would increase intermarket competition because it offers customers an alternative means to route to BYX for the same price that they would be charged if they entered orders on those trading centers directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

The Exchange also believes that its proposal to pass through the amended fees for orders that yield Flag O and its related fee cap under Footnote 5 would increase intermarket competition because it offers customers an alternative means to route to a listing exchange's opening cross for the similar prices that they would be charged if they entered orders on those trading centers directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)

of the Act [20] and Rule 19b–4(f)(2) [21] thereunder. 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–2014–09 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–2014–09. 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–2014–09 and should be submitted on or before May 6, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–08420 Filed 4–14–14; 8:45 am]

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[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(2).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71917; File No. SR–EDGA–2014–08]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGA Exchange, Inc. Fee Schedule

April 9, 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 April 1, 2014, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] of the Exchange pursuant to EDGA Rule 15.1(a) and (c) (''Fee Schedule'') to: (i) Increase the rebate for orders yielding Flag BY, which routes to the BATS–Y Exchange, Inc. (''BYX'') and removes liquidity using routing strategies ROUC, ROUE, ROBY, ROBB, or ROCO; [4] (ii) increase the fee for orders yielding Flag RY, which route to BYX and adds liquidity; (iii) increase the fee for orders yielding Flag O, which routes to the listing exchanges opening cross; and (iv) amend Footnote 5 to increase the fee cap for orders yielding Flag O from $10,000 to $20,000 per month per Member. 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 its Fee Schedule to: (i) Increase the rebate for orders yielding Flag BY, which routes to BYX and removes liquidity using routing strategies ROUC, ROUE, ROBY, ROBB, or ROCO; (ii) increase the fee for orders yielding Flag RY, which route to BYX and adds liquidity; (iii) increase the fee for orders yielding Flag O, which routes to the listing exchanges opening cross; and (iv) amend Footnote 5 to increase the fee cap for orders yielding Flag O from $10,000 to $20,000 per month per Member.

Flag BY

In securities priced at or above $1.00, the Exchange currently provides a rebate of $0.0001 per share for Members' orders that yield Flag BY, which routes orders to BYX and removes liquidity using routing strategies ROUC, ROUE, ROBY, ROBB, or ROCO. The Exchange proposes to amend its Fee Schedule to increase the rebate for orders that yield Flag BY to $0.0016 per share in securities priced at or above $1.00.[5] The proposed change represents a pass through of the rate Direct Edge ECN LLC (d/b/a DE Route) (''DE Route''), the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[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] The ROUC, ROUE, ROBY, ROBB, or ROCO routing strategies are set forth in Exchange Rule 11.9(b)(2).

[5] The Exchange does not propose to amend its fee for orders that yield Flag BY in securities priced below $1.00.

Exchange's affiliated routing broker-dealer, is provided for routing orders to BYX that remove liquidity. The proposed change is in response to BYX's April 2014 fee change where BYX increased its rebate from $0.0001 per share to $0.0016 per share for orders in securities priced at or above $1.00.[6] When DE Route routes to and removes liquidity from BYX, it will now receive a standard rebate of $0.0016 per share. DE Route will pass through the rebate provided by BYX to the Exchange and the Exchange, in turn, will pass through this rate to its Members.

Flag RY

In securities priced at or above $1.00, the Exchange currently charges a fee of $0.0003 per share for Members' orders that yield Flag RY, which route to BYX and adds liquidity. The Exchange proposes to amend its Fee Schedule to increase the fee for orders that yield Flag BY to $0.0018 per share in securities priced at or above $1.00.[7] The proposed change represents a pass through of the rate DE Route, the Exchange's affiliated routing broker-dealer, is charged for routing orders to BYX that add liquidity. The proposed change is in response to BYX's April 2014 fee change where BYX increased its standard fee to $0.0018 per share from $0.0003 per share for orders in securities priced at or above $1.00.[8] When DE Route routes to and adds liquidity on BYX, it will now be charged a standard rate of $0.0018 per share.[9] DE Route will pass through the rate it is charged on BYX to the Exchange and the Exchange, in turn, will pass through this rate to its Members.

Flag O

In securities priced at or above $1.00, the Exchange currently charges a fee of $0.0005 per share for Members' orders that yield Flag O, which routes to the listing exchange's opening process.[10] The Exchange proposes to amend its Fee Schedule to increase the fee for orders that yield Flag O to $0.0010 per share in securities priced at or above $1.00.[11] The proposed change represents an equitable allocation of routing fees that DE Route, the Exchange's affiliated routing broker-dealer, is charged for orders routed to the listing exchange's opening process when it does not qualify for a volume tiered reduced fee. The proposed change is in response to the New York Stock Exchange, Inc.'s (''NYSE'') April 2014 fee change where the NYSE increased its fee to $0.0010 per share from $0.0005 per share for orders in securities priced at or above $1.00.[12] When DE Route routes an order to the NYSE's opening cross, it will now be charged a standard rate of $0.0010 per share. DE Route will pass through the rate it is charged on the NYSE to the Exchange and the Exchange, in turn, will pass through this rate to its Members.

Footnote 5

The Exchange also proposes to amend Footnote 5 to increase the fee cap for orders yielding Flag O from $10,000 to $20,000 per month per Member. When the Exchange routes to a listing exchange's opening cross (Flag O), the Exchange passes through the tier savings that DE Route achieves on an away exchange to its Members. This tier savings takes the form of a cap of Members' fees at $10,000 per month for using Flag O. The proposed increase in the fee cap under Footnote 5 is in response to April 2014 fee cap changes by Nasdaq and NYSE for orders that participate in their opening cross processes. First, under the NYSE's April 2014 fee change, it is increasing its fee cap for orders that participate in its opening cross from $15,000 to $20,000 per month.[13] Second, under Nasdaq's April 2014 fee cap increase, it is requiring that members add, at a minimum, one million shares of liquidity to Nasdaq, on average per day, during the month to be eligible for its existing fee cap of $20,000 for orders that participate in the opening cross.[14] When DE Route routes to the NYSE or Nasdaq's opening cross, it will now be subject to the increased fee cap and new tier requirement. The proposed increase to the fee cap under Footnote 5 would enable the Exchange to equitably allocate its costs among all Members utilizing Flag O. Therefore, the Exchange proposes to amend Footnote 5 to increase the fee cap for orders yielding Flag O from $10,000 to $20,000 per month per Member in response to the Nasdaq and the NYSE's April 2014 increased fee caps and related requirements.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on April 1, 2014.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[15] in general, and furthers the objectives of Section 6(b)(4),[16] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

Flag BY

The Exchange believes that its proposal to increase the rebate for orders that yield Flag BY represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities. Prior to the BYX's April 2014 fee change, BYX provided DE Route a rebate of $0.0001 per share to remove liquidity in securities priced at or above $1.00, which DE Route passed through to the Exchange and the Exchange charged its Members. When DE Route routes to BYX, it will now be provided a rebate of $0.0016 per share. The Exchange does not levy additional fees or offer additional rebates for orders that it routes to BYX through DE Route. Therefore, the Exchange believes that the proposed change to Flag BY is equitable and reasonable because it accounts for the pricing changes on BYX, which enables the Exchange to charge its Members the applicable pass-through rate. Lastly, the Exchange notes that routing through DE Route is voluntary and believes that the proposed change is non-discriminatory because it applies uniformly to all Members.

[6] *See* the BYX Fee Schedule *available at http://www.batstrading.com/resources/regulation/rule_book/BYX_Fee_Schedule.pdf.*

[7] The Exchange does not propose to amend its fee for orders that yield Flag RY in securities priced below $1.00.

[8] *See* the BYX Fee Schedule *available at http://www.batstrading.com/resources/regulation/rule_book/BYX_Fee_Schedule.pdf.*

[9] The Exchange notes that to the extent DE Route does or does not achieve any volume tiered reduced fee on BYX, its rate for Flag RY will not change.

[10] Under Flag O, the Exchange routes to the following listing exchanges: The New York Stock Exchange, Inc.; The Nasdaq Stock Market LLC (''Nasdaq''); NYSE MKLT LLC; NYSE Arca Inc. (''NYSE Arca''), and BATS Exchange, Inc.

[11] The Exchange does not propose to amend its fee for orders that yield Flag O in securities priced below $1.00.

[12] *See* NYSE Trader Update dated March 27, 2014 *available at http://www.nyse.com/pdfs/NYSE%20Client%20Notice%20Fees%2004%202014.pdf.* Nasdaq currently charges $0.0010 per share to participate in its opening cross. *See* Nasdaq Price List *available at http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.* NYSE Arca currently charges $0.0005 per share to participate in its opening cross. *See* NYSE Arca's Equity Trading Fees *available at http://usequities.nyx.com/sites/usequities.nyx.com/files/nyse_arca_market place_fees_for_3-1-14.pdf.*

[13] *See* NYSE Trader Update dated March 27, 2014 *available at http://www.nyse.com/pdfs/NYSE%20Client%20Notice%20Fees%2004%202014.pdf.*

[14] *See* Nasdaq Equity Trader Alert #2014–28 *available at http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2014-28.*

[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(4).

Flag RY

The Exchange believes that its proposal to increase the fees for orders yielding Flag RY represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities. Prior to BYX's April 2014 fee change, BYX charged DE Route a fee of $0.0003 per share to add liquidity in securities priced at or above $1.00, which DE Route passed through to the Exchange and the Exchange charged its Members. When DE Route routes to BYX, it will now be charged a standard rate of $0.0018 per share. The Exchange does not levy additional fees or offer additional rebates for orders that it routes to BYX through DE Route. Therefore, the Exchange believes that the proposed change to Flag RY is equitable and reasonable because it accounts for the pricing changes on BYX, which enables the Exchange to charge its Members the applicable pass-through rate. Lastly, the Exchange notes that routing through DE Route is voluntary and believes that the proposed change is non-discriminatory because it applies uniformly to all Members.

Flag O

The Exchange believes that its proposal to increase the fees for orders yielding Flag O represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities. Prior to NYSE's April 2014 fee change, NYSE charged DE Route a fee of $0.0005 per share for orders routed to the NYSE's opening cross, which DE Route passed through to the Exchange and the Exchange charged its Members. When DE Route routes to the NYSE opening cross, it will now be charged a rate of $0.0010 per share.[17] The Exchange does not levy additional fees or offer additional rebates for orders that it routes to the NYSE opening cross through DE Route. Therefore, the Exchange believes that the proposed change to Flag O is equitable and reasonable because it accounts for the pricing changes on the NYSE, which enables the Exchange to equitably allocate its costs among all Members utilizing Flag O. Lastly, the Exchange notes that routing through DE Route is voluntary and believes that the proposed change is non-discriminatory because it applies uniformly to all Members.

Footnote 5

The Exchange believes that its proposal to amend Footnote 5 to increase the fee cap for orders yielding Flag O from $10,000 to $20,000 per month per Member represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities. The proposed increase in the fee cap under Footnote 5 is in response to April 2014 fee cap updates by Nasdaq and NYSE for orders that participate in their opening cross processes. Prior to Nasdaq's April 2014 fee cap increase, Nasdaq capped DE Routes monthly fees for participating in its opening cross at $20,000, regardless of the volume it added to Nasdaq. When DE Route routes to the Nasdaq opening cross, it will now be required to add, at a minimum, one million shares of liquidity to Nasdaq, on average per day, during the month, to be eligible for its $20,000 monthly fee cap.[18] In addition, prior to NYSE's April 2014 fee change, the NYSE capped DE Routes monthly fees for participating in its opening cross at $15,000. When DE Route routes to the NYSE opening cross, it will now be subject to the NYSE's higher fee cap of $20,000.[19] The proposed increase to the fee cap under Footnote 5 would enable the Exchange to equitably allocate its costs among all Members who utilize Flag O. Therefore, the Exchange believes that the proposed change to Footnote 5 is equitable and reasonable because it accounts for the increased NYSE fee cap and Nasdaq eligibility requirements, which enables the Exchange to apply to its Members similar fee caps. Lastly, the Exchange notes that routing through DE Route is voluntary and believes that the proposed change is non-discriminatory because it applies uniformly to all Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed amendments to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor EDGA's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

In particular, the Exchange believes that its proposal to pass through the amended fees for orders that yield Flags BY and RY would increase intermarket competition because it offers customers an alternative means to route to BYX for the same price that they would be charged if they entered orders on those trading centers directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

The Exchange also believes that its proposal to pass through the amended fees for orders that yield Flag O and its related fee cap under Footnote 5 would increase intermarket competition because it offers customers an alternative means to route to a listing exchange's opening cross for the similar prices that they would be charged if they entered orders on those trading centers directly. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and Rule 19b–4(f)(2)[21] thereunder. 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.

[17] The Exchange notes that Nasdaq currently charges DE Route $0.0010 per share to participate in its opening cross. *See* Nasdaq Price List *available at http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.*

[18] *See* Nasdaq Equity Trader Alert #2014–28 *available at http://www.nasdaqtrader.com/TraderNews.aspx?id=ETA2014-28.*

[19] *See* NYSE Trader Update dated March 27, 2014 *available at http://www.nyse.com/pdfs/NYSE%20Client%20Notice%20Fees%2004%202014.pdf.*

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b 4 (f)(2).

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–2014–08 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–2014–08. 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–2014–08 and should be submitted on or before May 6, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–08419 Filed 4–14–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71911; File No. SR–FINRA–2014–017]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Reporting and Market Participant Identifier Requirements for Alternative Trading Systems

April 9, 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 April 3, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rules 4552, 6160, 6170, 6480, and 6720 to revise the reporting and market participant identifier (''MPID'') requirements applicable to alternative trading systems (''ATSs'').

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.[4]

* * * * *

4000. FINANCIAL AND OPERATIONAL RULES

* * * * *

4500. BOOKS, RECORDS AND REPORTS

* * * * *

4550. ATS Reporting

* * * * *

4552. Alternative Trading Systems—Trading Information for Securities Executed Within the Alternative Trading System

(a) Within seven business days after the end of each week, each member that operates an ATS that has filed a Form ATS with the SEC shall report to FINRA, in such format as FINRA may require, the aggregate weekly Trading Information for each NMS stock[,] *and* OTC Equity Security [and TRACE-Eligible Security] executed within each such ATS operated by the member during the previous week.

(b) No Change.

(c) When calculating and reporting the volume of securities traded and the number of trades, an ATS shall include only those trades executed within the ATS. If two orders are crossed by the ATS, the volume shall include only the number of shares [or par value of bonds] crossed as a single trade (e.g., crossing a buy order of 1,000 shares with a sell order of 1,000 shares would be calculated as a single trade of 1,000 shares of volume).

(d) Definitions

For purposes of this Rule, the term:

(1) through (2) No Change.

(3) ''OTC Equity Security'' has the same meaning as that term is defined in Rule 6420; *and*

(4) [''TRACE-Eligible Security'' has the same meaning as that term is defined in Rule 6710; and]

[(5)] ''Trading Information'' includes:

(A) the number of shares of each NMS stock or OTC Equity Security executed within an *ATS* [alternative trading system]; *and*

[(B) the par value of each TRACE-Eligible Security executed within an alternative trading system; and]

([C]*B*) the number of trades in a security executed within an [alternative trading system] *ATS.*

• • • Supplementary Material:

.01 No Change.

* * * * *

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] The rule text is shown to include the amendments approved by the Commission in SR–FINRA–2013–042. *See* Securities Exchange Act Release No. 71341 (January 17, 2014), 79 FR 4213 (January 24, 2014) (Approval Order).

6000. QUOTATION AND TRANSACTION REPORTING FACILITIES

6100. QUOTING AND TRADING IN NMS STOCKS

* * * * *

6160. Multiple MPIDs for Trade Reporting Facility Participants

(a) through (b) No Change.

(c) *Except as set forth in paragraph (d), a* [A] Trade Reporting Facility Participant that operates an alternative trading system (''ATS''), as that term is defined in Rule 300 of SEC Regulation ATS, must obtain a single, separate MPID for each such ATS designated for exclusive use for reporting each ATS's transactions. The member must use such separate MPID to report all transactions executed within the ATS to a Trade Reporting Facility (or Facilities). The member shall not use such separate MPID to report any transaction that is not executed within the ATS. Any member that operates multiple ATSs must obtain a separate MPID for each ATS. Members must have policies and procedures in place to ensure that trades reported with a separate MPID obtained under this paragraph are restricted to trades executed within the ATS.

(d) An ATS is permitted to use two separate MPIDs only if one MPID is used exclusively for reporting transactions to TRACE and the other MPID is used exclusively for reporting transactions to the equity trade reporting facilities (the Alternative Display Facility, the OTC Reporting Facility, the FINRA/Nasdaq TRF, or the FINRA/NYSE TRF).

• • • Supplementary Material:

.01 through .02 No Change.

6170. Primary and Additional MPIDs for Alternative Display Facility Participants

(a) through (c) No Change.

(d) *Except as set forth in paragraph (e), a* [A] member reporting trades to the ADF that operates an alternative trading system (''ATS''), as that term is defined in Rule 300 of SEC Regulation ATS, must obtain a single, separate MPID for each such ATS designated for exclusive use for reporting each ATS's transactions. The member must use such separate MPID to report all transactions executed within the ATS to the ADF. The member shall not use such separate MPID to report any transaction that is not executed within the ATS. Any member that operates multiple ATSs must obtain a separate MPID for each ATS. Members must have policies and procedures in place to ensure that trades reported with a separate MPID obtained under this paragraph are restricted to trades executed within the ATS.

(e) An ATS is permitted to use two separate MPIDs only if one MPID is used exclusively for reporting transactions to TRACE and the other MPID is used exclusively for reporting transactions to the equity trade reporting facilities (the Alternative Display Facility, the OTC Reporting Facility, the FINRA/Nasdaq TRF, or the FINRA/NYSE TRF).

• • • Supplementary Material:

.01 through .05 No Change.

* * * * *

6400. QUOTING AND TRADING IN OTC EQUITY SECURITIES

* * * * *

6480. Multiple MPIDs for Quoting and Trading in OTC Equity Securities

(a) through (b) No Change.

(c) *Except as set forth in paragraph (d), a*[A]n OTC Reporting Facility Participant that operates an alternative trading system (''ATS''), as that term is defined in Rule 300 of SEC Regulation ATS, must obtain a single, separate MPID for each such ATS designated for exclusive use for reporting each ATS's transactions. The member must use such separate MPID to report all transactions executed within the ATS to the OTC Reporting Facility. The member shall not use such separate MPID to report any transaction that is not executed within the ATS. Any member that operates multiple ATSs must obtain a separate MPID for each ATS. Members must have policies and procedures in place to ensure that trades reported with a separate MPID obtained under this paragraph are restricted to trades executed within the ATS.

(d) An ATS is permitted to use two separate MPIDs only if one MPID is used exclusively for reporting transactions to TRACE and the other MPID is used exclusively for reporting transactions to the equity trade reporting facilities (the Alternative Display Facility, the OTC Reporting Facility, the FINRA/Nasdaq TRF, or the FINRA/NYSE TRF).

• • • Supplementary Material:

.01 No Change.

* * * * *

6700. TRADE REPORTING AND COMPLIANCE ENGINE (TRACE)

* * * * *

6720. Participation in TRACE

(a) through (b) No Change.

(c) Alternative Trading Systems

(1) Except as set forth in paragraph (2), a [A] TRACE Participant that operates an alternative trading system (''ATS''), as that term is defined in Rule 300 of SEC Regulation ATS, must obtain a single, separate *Market Participant Identifier* (''MPID'') for each such ATS designated for exclusive use for reporting each ATS's transactions. The member must use such separate MPID to report all transactions executed within the ATS to TRACE. The member shall not use such separate MPID to report any transaction that is not executed within the ATS. Any member that operates multiple ATSs must obtain a separate MPID for each ATS. Members must have policies and procedures in place to ensure that trades reported with a separate MPID obtained under this paragraph are restricted to trades executed within the ATS.

(2) An ATS is permitted to use two separate MPIDs only if one MPID is used exclusively for reporting transactions to TRACE and the other MPID is used exclusively for reporting transactions to the equity trade reporting facilities (the Alternative Display Facility, the OTC Reporting Facility, the FINRA/Nasdaq TRF, or the FINRA/NYSE TRF).

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

On January 17, 2014, the SEC approved a proposed rule change to (i) adopt FINRA Rule 4552 (Alternative Trading Systems—Trading Information for Securities Executed Within the Alternative Trading System) to require ATSs [5] to report to FINRA weekly

[5] Regulation ATS defines an ''alternative trading system'' as ''any organization, association, person, group of persons, or system: (1) That constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of

Continued

volume information and number of trades regarding securities transactions within the ATS; and (ii) amend FINRA Rules 6160, 6170, 6480, and 6720 to require each ATS to acquire and use a single, unique MPID when reporting information to FINRA (''MPID Requirement'').[6] The implementation date for the reporting requirement under Rule 4552 is May 12, 2014, and ATSs must use a single, unique MPID to report information to FINRA beginning November 10, 2014.[7]

The proposed rule change amends these new requirements in two ways to address implementation questions that have arisen since the SEC's approval of the new provisions as they relate to ATSs that trade debt securities reportable to the Trade Reporting and Compliance Engine (''TRACE'').[8] First, the proposed rule change removes from the ATS weekly reporting requirement in Rule 4552 transactions in TRACE-Eligible Securities so that, as amended, Rule 4552 would require ATSs to report only volume information in equity securities subject to FINRA trade reporting requirements (i.e., NMS stocks and OTC Equity Securities).[9]

Following discussions with multiple firms after the adoption of Rule 4552 and a review of TRACE trade reporting guidance and practices, FINRA believes that initially requiring ATSs to self-report volume information for TRACE-Eligible Securities is not necessary and that FINRA can confirm its ability to rely on TRACE data to calculate reliable volume information once the MPID Requirement is in place through targeted requests to firms rather than requiring weekly reports. FINRA intends to continue to work with ATSs that trade TRACE-Eligible Securities to confirm they are accurately and completely reporting transaction information to TRACE, and FINRA expects to request periodically that some ATSs provide the staff with their weekly volume for TRACE-Eligible Securities. FINRA does not believe, however, that it is necessary to require these ATSs to incur the costs necessary to report weekly volume information to FINRA pursuant to Rule 4552 when FINRA can obtain more targeted data by working directly with firms.

Moreover, because ATS volume information regarding TRACE-Eligible Securities will not be publicly disseminated at this time, FINRA believes the costs to ATSs to comply with the reporting requirements of Rule 4552 with respect to TRACE-Eligible Securities outweighs the benefits of receiving the information on a weekly basis.[10] FINRA is not proposing to amend the reporting requirement for ATSs with respect to equity data because of the need to ensure that the ATS equity data that is publicly disseminated is consistent across ATSs.

Second, the proposed rule change amends Rules 6160, 6170, 6480, and 6720 to permit an ATS that trades both TRACE-Eligible Securities and equity securities (OTC Equity Securities or NMS stocks) to use two MPIDs, rather than a single unique MPID, if each MPID is used exclusively for either TRACE-Eligible Securities or equity securities. As noted in SR–FINRA–2013–042, FINRA adopted the requirement that ATSs acquire and use a single, unique MPID for reporting to FINRA to enable FINRA to rely on trade reports to determine whether an ATS has reached any of the volume thresholds in Regulation ATS, to allow FINRA to calculate consistent and accurate volumes of ATS activity, and to provide more granular information regarding ATS activity to FINRA's market surveillance program. Because TRACE and the equity trade reporting facilities (the Alternative Display Facility, the exchange Trade Reporting Facilities, and the OTC Reporting Facility) operate independently, a single ATS's use of two separate MPIDs does not impede FINRA's ability to perform these calculations provided the use of each MPID is limited to either TRACE or the equity trade reporting facilities. Consequently, the proposed rule change would allow a single ATS to use two MPIDs provided the use of each MPID is exclusively limited to reporting to either TRACE or one or more of the equity trade reporting facilities.

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date of the proposed amendments to Rule 4552 will be May 12, 2014. The implementation date of the proposed amendments to Rules 6160, 6170, 6480, and 6720 will be November 10, 2014. FINRA will announce the implementation dates of the proposed rule change no later than 60 days following Commission notice of the filing of the proposed rule change for immediate effectiveness.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[11] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will enhance members' ability to comply with Rule 4552 and the amendments to Rules 6160, 6170, 6480, and 6720 by alleviating some of the burdens imposed by those rules without any detriment to FINRA's ability to surveil for compliance with Regulation ATS or to calculate accurate volume information for ATS trading activity.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change provides for additional flexibility for ATSs that trade both debt securities and equity securities and removes the self-reporting obligation on ATSs that trade only debt securities.

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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section

securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange within the meaning of [Exchange Act Rule 3b–16]; and (2) That does not: (i) Set rules governing the conduct of subscribers other than the conduct of such subscribers' trading on such organization, association, person, group of persons, or system; or (ii) Discipline subscribers other than by exclusion from trading.'' 17 CFR 242.300(a). Rule 4552 and the other amendments in the proposed rule change apply to any alternative trading system, as that term is defined in Regulation ATS, that has filed a Form ATS with the Commission.

[6] *See* Securities Exchange Act Release No. 71341 (January 17, 2014), 79 FR 4213 (January 24, 2014) (Approval Order).

[7] *See Regulatory Notice* 14–07 (February 2014).

[8] Debt securities reportable to TRACE (''TRACE-Eligible Securities'') are set forth in Rule 6710. *See* Rule 6710(a).

[9] The proposed rule change also replaces the phrase ''alternative trading system'' with the defined term ''ATS'' in Rule 4552(d).

[10] *See* Rule 4552(b).

[11] 15 U.S.C. 78*o*–3(b)(6).

19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has requested that the Commission waive the 5-day advance filing requirement. The Commission hereby grants this request.[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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2014–017 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–FINRA–2014–017. 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 FINRA. 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–FINRA–2014–017, and should be submitted on or before May 6, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–08414 Filed 4–14–14; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] The Commission notes that it was notified four days prior to filing of this proposed rule change.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71910; File No. SR–OCC–2014–07]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change To Eliminate Preferred Stock and Corporate Bonds as Acceptable Forms of Margin Assets and Make Additional, Conforming, Rule Changes

April 9, 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 28, 2014, The Options Clearing Corporation (''OCC'') 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 OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

OCC proposes to amend its Rules to eliminate preferred stock and corporate bonds as acceptable forms of margin assets. OCC is also proposing additional amendments to eliminate a provision that automatically renders a common stock as ineligible for deposit if it is subject to special margin requirements under the rules of the listing market, and to also eliminate certain provisions from the Rules that will no longer be applicable upon the elimination of preferred stock as an acceptable form of margin asset.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The principal purpose of this proposed rule change is to amend OCC's Rule 604(b)(4) (the ''Rule'') to eliminate preferred stock and corporate bonds as acceptable forms of margin assets. Other changes also are proposed to the Rule in order to update its terms and provisions to reflect current practices with respect to the deposit of assets (i.e., common stock, including fund shares and index linked-securities, which are collectively referred to as ''common stock'') that will continued to be covered by the Rule on the approval of this proposed rule change.

Background

OCC historically has sought to permit clearing members to deposit as margin a diverse mix of assets, subject to the application of prudent safeguards designed to ensure such assets present limited credit, market and liquidation risk, as applicable. OCC Rule 604 sets forth the forms of assets eligible to be deposited as margin and conditions that must be satisfied in order for margin credit to be given to such deposits. Eligible forms of margin assets presently

are: Cash, Government securities,[3] GSE Debt Securities, money market fund shares, letters of credit, common stock (including fund shares), corporate bonds and preferred stock. Since 1988, OCC has been authorized to accept preferred stock and corporate bonds as margin.[4] OCC recently reviewed its current practices with respect to these two asset types and, for the reasons discussed below, determined they should no longer be accepted as a form of margin.

Review of Preferred Stock and Corporate Bonds

Preferred stock and corporate bonds (on a combined basis) consistently have accounted for less than one percent of the margin assets on deposit at OCC. Corporate bonds have not been deposited as margin, nor have clearing members attempted to deposit corporate bonds as margin, since March 2012. As of March 6, 2014, preferred stock comprised .13% of OCC's total margin deposits and less than five percent of any individual clearing member's margin deposits.

OCC presently uses a manual process to review the valuation methodology for preferred stocks and corporate bonds. Such review process occurs monthly and contemplates: (1) Adequacy of haircuts, (2) volume, and (3) price transparency. While OCC believes this review process is adequate, OCC has concluded it is less robust than the process applied to deposits of common stocks. In comparison, OCC uses STANS, its daily automated Monte Carlo simulation-based margining methodology, to value and risk manage common stocks deposited as margin collateral.[5] STANS calculates haircuts that are regularly tested, taking into account stressed market conditions.

OCC researched the work necessary to integrate preferred stock and corporate bonds into STANS and otherwise automate monitoring and controls as they relate to risk managing these asset types. Given their general lack of utilization as margin collateral, OCC determined that it would be inefficient and ineffective from a cost perspective to expend the significant time, resources and expense needed to complete the required systems development to automate monitoring and assessment processes for these asset types. OCC also concluded that the continued use of its current manual processes may not be fully consistent with Principle 5 of the CPSS–IOSCO Principles for Financial Market Utilities.[6] OCC is therefore proposing to stop accepting preferred stock and corporate bonds as forms of margin assets and to remove provisions from the Rule pertaining to the deposit of these asset types. OCC notes that after giving effect to this proposed rule change, a varied mix of asset types would still be available to clearing members for deposit as margin.[7]

Additional Revisions

In connection with reviewing the Rule for the purposes described above, and in order to conform the Rule to current operational practices after giving effect to the proposed rule change, OCC also reassessed the remaining provisions of this Rule as applied to OCC's practices for accepting common stock, the form of margin asset that the Rule would continue to address after Commission approval of this rule filing. As a result of such review, OCC is proposing several additional changes to the Rule. OCC proposes to eliminate a provision that automatically renders a common stock as ineligible for deposit if it is subject to special margin rules under the rules of the listing market. OCC believes that it is not an efficient use of resources to monitor listing markets to determine if a common stock becomes subject to special margin rules. OCC also believes it is currently able to effectively risk manage common stocks that may become subject to special margin rules through existing STANS functionality. Additionally, OCC notes that it may act under Rule 604, Interpretation and Policy .14, to restrict deposits of issues that are subject to special margin rules by a listing market.

Moreover, as a result of the proposed elimination of preferred stock as a form of margin asset, OCC proposes conforming changes to remove provisions of the Rule that: (i) Limit the amount of margin credit of any single issue to 10% of the market value of margin deposited by Clearing Member because additional charges for concentrated positions are determined under STANS pursuant to Rule 601, and (ii) limit margin credit given to deposits to 70% of daily closing bid prices because haircuts applied to common stock deposits are determined under STANS pursuant to Rule 601.[8] Also, a provision would be added to make explicit that common stock deposits are valued in accordance with Rule 601.[9]

Implementation

OCC has advised its clearing members of its intent to eliminate the acceptance of preferred stock and corporate bonds, subject to regulatory approval. Because corporate bonds have not been deposited as margin since March 2012 and are not currently deposited for such purposes, OCC requested clearing members to voluntarily not deposit such asset type pending regulatory approval of this rule filing. OCC further has discussed this planned change with those clearing members maintaining preferred stock as a form of margin deposit and has worked with them to ensure each has developed an appropriate plan to wind down its use of such deposits in light of this proposal. No concerns were raised by clearing members with respect to the elimination of preferred stock and OCC does not anticipate any delay in the implementation of this proposed rule change upon regulatory approval. A final Information Memorandum will be issued once this proposed rule change is eligible to be implemented and OCC will modify its system to prohibit clearing members from depositing preferred stock and corporate bonds as margin collateral thereafter.

(2) Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[10] because it promotes the prompt and accurate clearance and settlement of securities transactions for which it is responsible. OCC believes that the proposed elimination of preferred stocks and corporate bonds as acceptable forms of margin is consistent with the Act because these assets are subject to a manual valuation process, not OCC's

[3] OCC defines the term ''Government securities'' to mean securities issued or guaranteed by the United States or Canadian Government, or by any other foreign government acceptable to the Corporation, except Separate Trading of Registered Interest and Principal Securities issued on Treasury Inflation Protected Securities (commonly called TIP–STRIPS). *See* OCC By-Laws Article I, Section 1(G)(5).

[4] *See* Securities Exchange Act Release No. 29576 (August 16, 1991), 56 FR 41873 (August 23, 1991), (SR–OCC–88–03).

[5] OCC also uses STANS to value Government securities with the exception of TIPS and Canadian Government securities, which are valued using the haircuts set forth in OCC Rule 604.

[6] Principle 5 provides that margin collateral accepted by a financial market infrastructure (''FMI'') should have low credit, liquidity and market risk and should establish prudent valuation practices and develop haircuts that are regularly tested, taking into account stressed market conditions.

[7] OCC discussed this proposal with the Financial Risk Advisory Committee, a working group consisting of representatives of clearing members and exchanges that was formed by OCC to review and comment on risk management proposals under consideration. No concerns were raised by the group during the course of such discussions.

[8] OCC has integrated common stocks into the process by which OCC calculates margin requirements using STANS. *See* Securities Exchange Act Release No. 58158 (July 15, 2008), 73 FR 42646 (July 22, 2008), (SR–OCC–2007–20).

[9] *Id.*

[10] 15 U.S.C. 78q–1(b)(3)(F).

automated STANS system. STANS provides more expeditious and accurate margin calculations than a manual process. As such, investors and the public will be more confident that OCC will be able to meet its daily settlement obligations because the possibility that clearing member margin deposits would be insufficient should OCC need to use them to complete a settlement will be reduced since margin in the form of preferred stock and corporate bonds valued through a manual process will no longer be permitted. Additionally, OCC will be better able to determine the sufficiency of its margin deposits at any given time since manually valued margin forms of assets, consisting of preferred stock and corporate bonds, will be eliminated. The proposed rule change is not inconsistent with any rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impact, or impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.[11] Changes to the rules of a clearing agency may have an impact on the participants in a clearing agency, their customers, and the markets that the clearing agency serves. This proposed rule change affects certain clearing members and their customers inasmuch as it eliminates two forms of assets eligible for deposit as margin. However, as stated above, corporate bonds have not been deposited as margin since March 2012 and preferred stock comprises .13% of OCC's total margin deposits and less than five percent of the margin deposits of any individual clearing member.

OCC believes it would be inefficient and ineffective from a cost perspective to expend significant time, resources and expense needed to complete the required systems work to automate monitoring and assessment processes for these asset types in light of their limited usage over time. Moreover, OCC will continue to accept multiple forms of assets from clearing members to meet margin requirements and, based on the quantitative measures concerning clearing member usage of preferred stocks and corporate bonds set forth above, OCC does not believe that the proposed rule change will materially impact users of its services.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies, and does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

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 such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–OCC–2014–07 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–OCC–2014–07. 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 20549–1090 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 OCC and on OCC's Web site: *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_14_07.pdf*.

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–OCC–2014–07 and should be submitted on or before May 6, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–08413 Filed 4–14–14; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78q–1(b)(3)(I).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71914; File No. SR–ISE–2014–20]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

April 9, 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 April 1, 2013, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 ISE proposes to amend the Schedule of Fees. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Schedule of Fees as described in more detail below. The fee changes discussed apply to both Standard Options and Mini Options traded on Exchange. The Exchange's Schedule of Fees has separate tables for fees applicable to Standard Options and Mini Options. The Exchange notes that while the discussion below relates to fees for Standard Options, the fees for Mini Options, which are not discussed below, are and shall continue to be 1/10th of the fees for Standard Options.

1. Market Maker Plus

In order to promote and encourage liquidity in symbols that are in the penny pilot program (''Select Symbols''), the Exchange currently offers Market Makers [3] that meet the quoting requirements for Market Maker Plus [4] a rebate of $0.20 per contract for adding liquidity in those symbols. In addition, the Exchange pays a higher rebate of $0.22 per contract to Market Makers that meet the quoting requirements for Market Maker Plus and are affiliated with an Electronic Access Member (''EAM'') that executes a total affiliated Priority Customer [5] average daily volume (''ADV'') of 200,000 contracts or more in a calendar month.[6]

The Exchange proposes to modify the criteria used to determine which days may be excluded from the Market Maker Plus calculation. Currently, in determining whether a Market Maker qualifies for Market Maker Plus, the Exchange excludes the member's single best and single worst overall quoting days each month, on a per symbol basis, if doing so will qualify a member for the rebate. When the Exchange modified the qualification requirements for Market Maker Plus to look solely to the front two months,[7] however, it did not change the method used to determine a Market Maker's best and worst quoting days. As such, this calculation is still based on members' overall quotation statistics, including expiration months other than the front two months used to determine if a Market Maker qualifies for Market Maker Plus. The Exchange believes that this could unintentionally make it more difficult for Market Makers to achieve the Market Maker Plus rebates,[8] and therefore proposes to base the calculation for excluding a Market Maker's best and worst days on the front two expiration months only, consistent with the criteria used to qualify Market Makers for Market Maker Plus rebates.[9]

The Exchange also notes that when it increased the Market Maker Plus rebate to $0.22 per contract for members that meet the total affiliated Priority Customer ADV threshold described above,[10] it did not update its fee schedule to reflect the equivalent rebate for Mini Options. As explained in that filing, the fees and rebates for Mini Options are and shall continue to be 1/10th of the fees for Standard Options. The Exchange therefore proposes to clarify that this rebate is $0.022 per contract in Mini Options, consistent with the rebate provided for Standard Options.

2. Crossing Order Fees: Clean-Up Changes

On March 3, 2013 the Exchange filed an immediately effective rule change that introduced a new fee for orders of one hundred or fewer contracts submitted to the Price Improvement Mechanism (''PIM'').[11] The Exchange now proposes to clarify that all Firm Proprietary and Non-ISE Market Maker contracts traded in the PIM are subject to the Firm Fee Cap, and that the new fee for PIM orders of 100 or fewer contracts applies to both the originating and contra order. In connection with this change, the Exchange also proposes to clarify that the fee for Crossing Orders applies to both the originating and contra order for both regular and complex orders.

Finally, the Exchange proposes to update a footnote for Mini Options that states that the fee for Crossing Orders is applied to any contracts for which a PIM break-up rebate is provided. As already reflected in the fee schedule with respect to Standard Options, PIM orders of one hundred or fewer contracts are now subject to a separate fee, and this fee, not the fee for Crossing Orders, is applied to those orders when a break-up rebate is provided.[12]

3. Broker Dealer Definition

A ''Broker-Dealer'' order is presently defined as an order submitted by a member for a non-member broker-dealer account. In some instances, however, a

[3] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* ISE Rule 100(a)(25).

[4] A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer at least 80% of the time for series trading between $0.03 and $3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $3.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium in each of the front two expiration months.

[5] A Priority Customer is defined in ISE Rule 100(a)(37A) as a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[6] *See* Securities Exchange Act Release No. 70872 (November 14, 2013), 78 FR 69718 (November 20, 2013) (SR–ISE–2013–57).

[7] *See* Securities Exchange Act Release No. 71765 (March 21, 2014), 79 FR 17216 (March 27, 2014) (SR–ISE–2014–17).

[8] For example, if a day is excluded where a Market Maker exceeds the Market Maker Plus quoting threshold based on the front two expiration months, but has a lower performance in other expirations.

[9] The Exchange currently determines whether a Market Maker qualifies as a Market Maker Plus at the end of each month by looking back at each Market Maker's quoting statistics per symbol during that month. The Exchange will continue to monitor each Market Maker's quoting statistics to determine whether a Market Maker qualifies for a rebate under the standards proposed herein. The Exchange also currently provides Market Makers a report on a daily basis with quoting statistics so that Market Makers can determine whether or not they are meeting the Exchange's current stated criteria. Again, the Exchange will continue to provide Market Makers a daily report so that Market Makers can track their quoting activity to determine whether or not they qualify for the Market Maker Plus rebate.

[10] *See* supra note 5.

[11] *See* supra note 5.

[12] The Exchange also proposes to modify another footnote with respect to Mini Options to state that the fee for Crossing Orders, rather than the ''applicable fee'' is applied to contracts for which the Facilitation and Solicitation break-up rebate is provided. While the current wording is correct, this language will now mirror language adopted for Standard Options.

member may submit orders for the account of another broker-dealer that is also an ISE member. Currently these orders would not fall into any of the market participant categories on the fee schedule. The Exchange believes that these orders should also be marked as Broker-Dealer orders, and therefore proposes to amend the definition of a Broker-Dealer order to include all orders submitted by a member for a broker-dealer account that is not its own proprietary account.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[13] in general, and Section 6(b)(4) of the Act,[14] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

1. Market Maker Plus

The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to base the calculation for excluding a Market Maker's best and worst days on the front two expiration months only as the proposed change is consistent with the criteria now used to qualify Market Makers for the rebate, and may help additional Market Makers achieve Market Maker Plus. The Market Maker Plus rebate is competitive with incentives provided by other exchanges, and has proven to be an effective incentive for Market Makers to provide liquidity in Select Symbols to the benefit of all market participants that trade on the ISE. With this proposed change, the Exchange hopes to encourage participation in Market Maker Plus by making the Market Maker Plus calculation internally consistent and more transparent to members, as well as easier attain.

In addition, the Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to clarify the Market Maker Plus rebate in Mini Options for members that meet the total affiliated Priority Customer ADV threshold. As has always been the case, the fees and rebates for Mini Options are and shall continue to be 1/10th of the fees for Standard Options.

2. Crossing Order Fees: Clean-Up Changes

The Exchange believes that the proposed clarification regarding the fees for Crossing Orders is reasonable, equitable, and not unfairly discriminatory. The Schedule of Fees currently contains footnotes that explain which fees are applicable to orders executed in the ISE's crossing mechanisms. The proposed change inserts these footnotes where applicable throughout the Schedule of Fees, and makes additional changes to ensure consistency between footnotes applicable to Standard and Mini Options. The Exchange believes that these changes will further increase transparency for both members and investors.

3. Broker Dealer Definition

The Exchange believes that the proposed amendment to the definition of a Broker-Dealer order is reasonable, equitable, and not unfairly discriminatory as this is a technical change intended to clarify how members should mark their orders. With this clarification, orders from a member broker-dealer executed through another member will be properly marked as Broker-Dealer orders, while orders submitted by a member for its own proprietary account will continue to be marked Firm Proprietary. This change is necessary to reduce member confusion, as the current definitions of market participant types do not account for the scenario described above.

The Exchange notes that it has determined to charge fees and provide rebates in Mini Options at a rate that is 1/10th the rate of fees and rebates the Exchange provides for trading in Standard Options. The Exchange believes it is reasonable and equitable and not unfairly discriminatory to assess lower fees and rebates to provide market participants an incentive to trade Mini Options on the Exchange. The Exchange believes the proposed fees and rebates are reasonable and equitable in light of the fact that Mini Options have a smaller exercise and assignment value, specifically 1/10th that of a standard option contract, and, as such, is providing fees and rebates for Mini Options that are 1/10th of those applicable to Standard Options.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[15] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed rule change is pro-competitive as it is designed to attract additional order flow to the ISE. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[16] and subparagraph (f)(2) of Rule 19b–4 thereunder,[17] because it establishes a due, fee, or other charge imposed by ISE.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an Email to *rule-comments@sec.gov*. Please include File No. SR–ISE–2014–20 on the subject line.

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(4).

[15] 15 U.S.C. 78f(b)(8).

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 240.19b–4(f)(2).

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–2014–20. 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 ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2014–20 and should be submitted by May 6, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–08417 Filed 4–14–14; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71919; File No. SR–FINRA–2014–018]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Establish a Fee Schedule for Alternative Trading System Volume Information

April 9, 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 April 4, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing to adopt FINRA Rule 4553 (Fees for ATS Data) to establish a fee schedule for optional professional access to alternative trading system (''ATS'') volume information published by FINRA on its Web site.

Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

4000. FINANCIAL AND OPERATIONAL RULES

* * * * *

4500. BOOKS, RECORDS AND REPORTS

* * * * *

4550. ATS Reporting

* * * * *

4553. Fees for ATS Data

(a) General

Fees are charged for ATS Data as set forth in this Rule. Professionals and Vendors must pay the subscription fee to receive ATS Data in accordance with this Rule and execute appropriate agreements with FINRA.

(b) Professionals

(1) Professionals may subscribe for the most currently published ATS Data and up to five years of historical ATS Data in a downloadable, pipe delimited format for a twelve-month subscription fee of $12,000. Such fee is not refundable or transferable.

(2) Payment of the Professional subscription fee described in this paragraph (b) provides the Professional with use of such ATS Data to generate Derived Data.

(3) Professionals may distribute ATS Data or Derived Data to their employees, affiliates, or employees of affiliates but are prohibited from providing ATS Data or Derived Data to any third party.

(c) Vendors

(1) Vendors may subscribe for access to the most currently published ATS Data and up to five years of historical ATS Data in a downloadable, pipe delimited format for a twelve-month subscription fee of $18,000. Such fee is not refundable or transferable.

(2) Payment of the Vendor subscription fee described in this paragraph (c) provides the Vendor with use of such ATS Data to generate Derived Data.

(3) Vendors are prohibited from providing ATS Data to any third party unless a Professional subscription has been purchased for each such third party in accordance with paragraph (b) above.

(d) Non-Professionals

(1) There shall be no charge paid by a Non-Professional for access to the most recently published four weeks of ATS Data; however, such ATS Data will not be available in a downloadable format.

(2) A Non-Professional must agree to terms of use before accessing the ATS Data, including that he or she receives and uses the ATS Data solely for his or her personal, non-commercial use and will not otherwise distribute the ATS Data or Derived Data to other parties. The terms of use for Non-Professionals will be clearly posted on the FINRA.org Web site, and access to the non-fee liable ATS Data content will require a user to acknowledge the terms of use.

(e) Definitions

For purposes of this rule, the following terms have the meaning set forth:

(1) ''ATS Data'' means Trading Information published by FINRA on its Web site.

(2) ''Derived Data'' means data that is derived from ATS Data and that is not able to be (A) reverse engineered by a reasonably skilled user into ATS Data or (B) used as a surrogate for ATS Data.

(3) ''Non-Professional'' means a natural person who uses the ATS Data solely for his or her personal, non-commercial use. A ''Non-Professional'' is not:

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(A) registered nor qualified in any capacity with the SEC, the Commodity Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association, nor an employee of the above and, with respect to any person identified in this subparagraph (A), uses ATS Data for other than personal, non-commercial use;

(B) engaged as an ''investment adviser'' as that term is defined in Section 202(a)(11) of the Investment Advisers Act (whether or not registered or qualified under that Act), nor an employee of the above and, with respect to any person identified in this subparagraph (B), uses ATS Data for other than personal, non-commercial use;

(C) employed by a bank, insurance company or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt, nor any other employee of a bank, insurance company or such other organization referenced above and, with respect to any person identified in this subparagraph (C), uses ATS Data for other than personal, non-commercial use; nor

(D) engaged in, nor has the intention to engage in, any commercial redistribution of all or any portion of the ATS Data or Derived Data.

(4) ''Professional'' means any non-natural person or any natural person that does not meet the definition of ''Non-Professional'' in paragraph (3).

(5) ''Trading Information'' has the same meaning as set forth in Rule 4552.

(6) ''Vendor'' means a Professional who distributes ATS Data or Derived Data to any third party.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

On January 17, 2014, the SEC approved a proposed rule change to (i) adopt FINRA Rule 4552 (Alternative Trading Systems—Trading Information for Securities Executed Within the Alternative Trading System) to require ATSs [3] to report to FINRA weekly volume information and number of trades regarding securities transactions within the ATS; and (ii) amend FINRA Rules 6160, 6170, 6480, and 6720 to require each ATS to acquire and use a single, unique market participant identifier (''MPID'') when reporting information to FINRA (''MPID Requirement'').[4] The implementation date for the reporting requirements under Rule 4552 is May 12, 2014, and ATSs must comply with the MPID Requirement beginning November 10, 2014.[5] As part of these new requirements, and as described in the proposed rule change, FINRA will make the reported volume and trade count information for equity securities publicly available on its Web site.

Under Rule 4552, individual ATSs are required to submit weekly reports to FINRA regarding volume information within the ATS.[6] For equity securities, this information includes share volume and number of trades for both NMS stocks and OTC equity securities.[7] The first reports pursuant to Rule 4552 are currently due to FINRA by May 28, 2014, covering the week beginning May 12, 2014.[8] After FINRA begins receiving the self-reported data from ATSs, FINRA will publish on its Web site, on a delayed basis, the reported information for each equity security for each ATS with appropriate disclosures that the published volume numbers are based on ATS-submitted reports and not reports produced or validated by FINRA.[9]

Under the MPID Requirement, beginning November 10, 2014, each individual ATS is required, with one exception, to use a unique MPID, which can be used only for activity on the ATS, for reporting trades and orders to FINRA.[10] If a firm operates multiple ATSs, each ATS is required to have its own MPID. After the MPID Requirement is implemented in November 2014, FINRA will be able to compare the trade reporting data to the data already being reported to FINRA by the ATSs pursuant to Rule 4552 to verify the consistency and accuracy of both. After FINRA confirms the MPID Requirement is functioning as intended, FINRA will determine whether to use trade reporting data to publish volume information for equity securities rather than requiring ATSs to continue to self-report volume information pursuant to Rule 4552. FINRA also will consider whether more frequent (e.g., daily) publication is appropriate.

As a result of these new requirements, FINRA will make available on its Web site weekly aggregate Trading Information on equity securities as reported by ATSs upon the implementation of Rule 4552 (''ATS Data''). Based on the information reported by the ATSs pursuant to Rule 4552, the ATS Data will consist of reports listing aggregate volume and number of trades by security for each ATS within the designated time period. The most recently published four weeks of reports will be accessible to Non-Professionals at no cost on FINRA's Web site, and FINRA will provide a basic web display listing all reporting ATSs and aggregate volume and number of trades for each symbol in which a trade was reported by the ATS during the

[3] Regulation ATS defines an ''alternative trading system'' as ''any organization, association, person, group of persons, or system: (1) That constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange within the meaning of [Exchange Act Rule 3b–16]; and (2) That does not: (i) Set rules governing the conduct of subscribers other than the conduct of such subscribers' trading on such organization, association, person, group of persons, or system; or (ii) Discipline subscribers other than by exclusion from trading.'' 17 CFR 242.300(a). Rule 4552 and the other amendments in the proposed rule change apply to any alternative trading system, as that term is defined in Regulation ATS, that has filed a Form ATS with the Commission.

[4] *See* Securities Exchange Act Release No. 71341 (January 17, 2014), 79 FR 4213 (January 24, 2014). On April 3, 2014, FINRA amended Rules 4552, 6160, 6170, 6480, and 6720 to revise the reporting and MPID requirements applicable to ATSs. *See* SR–FINRA–2014–017. The amendments to Rules 6160, 6170, 6480, and 6720 permit an ATS that trades both debt securities reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'') and equity securities (OTC Equity Securities or NMS stocks) reported to a FINRA equity reporting facility (the Alternative Display Facility, the OTC Reporting Facility, the FINRA/Nasdaq TRF, or the FINRA/NYSE TRF) to use two MPIDs, rather than a single unique MPID, if each MPID is used exclusively for either debt or equity securities.

[5] *See Regulatory Notice* 14–07 (February 2014).

[6] *See* Rule 4552(a).

[7] *See* Rule 4552(d).

[8] *See Regulatory Notice* 14–07 (February 2014).

[9] *See* Rule 4552(b).

[10] As noted above, an ATS that trades both debt securities reported to TRACE and equity securities (OTC Equity Securities or NMS stocks) reported to a FINRA equity reporting facility is permitted to use two MPIDs, rather than a single unique MPID, if each MPID is used exclusively for either debt or equity securities.

designated time period. As described below, in addition to viewing the ATS Data via FINRA's Web site, Professionals and Vendors, as defined in the proposed rule, will have the ability to download reports electronically for their internal use or, in the case of Vendors, for external redistribution. The downloadable reports will provide the same data as the web-based reports but in pipe delimited format, and historical reports of up to five years will be available.[11] The proposed rule change establishes a fee schedule for access to and use of the ATS Data, and the proposed fees to be paid by Professionals and Vendors are intended to recover the costs associated with the collection and dissemination of ATS Data.

The proposed rule change establishes three categories of users of the ATS Data, each of which is entitled to different levels and use of data and is subject to a different fee structure: (i) Non-Professionals; (ii) Professionals; and (iii) Vendors.

Non-Professionals

Under the proposed rule change, Non-Professionals will be able to access, at no cost, the most recent four weeks of ATS Data in a viewable, but not downloadable, format. As used in proposed Rule 4553, a ''Non-Professional'' [12] is generally a natural person who uses the ATS Data solely for his or her personal, non-commercial use and is not: (i) Registered or qualified in any capacity with the SEC, the Commodity Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association, nor an employee of the above; (ii) engaged as an ''investment adviser'' as that term is defined in Section 202(a)(11) of the Investment Advisers Act [13] (whether or not registered or qualified under that Act), nor an employee of the above; (iii) employed by a bank, insurance company or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt, nor any other employee of a bank, insurance company or such other organization referenced above; or (iv) engaged in, or has the intention to engage in, any commercial redistribution of all or any portion of the ATS Data or Derived Data.[14] Any individual seeking access to the ATS Data must confirm that he or she is either (i) a Non-Professional or (ii) a Professional (or an affiliate or employee thereof) that has a current Professional or Vendor subscription. A Non-Professional will be required to certify that he or she is a ''Non-Professional'' within the meaning of proposed Rule 4553 and agree to certain terms of use of the ATS Data, including that he or she receives and uses the ATS Data solely for his or her personal, non-commercial use, and conditions regarding use of the data and prohibiting redistribution of the data.

Professionals

A ''Professional'' is defined as any non-natural person or any natural person that does not meet the definition of ''Non-Professional.'' Under the proposed rule change, to access the ATS Data, Professionals are required to pay an annual, enterprise-wide subscription fee of $12,000 that is non-transferable and renewable annually. A Professional who has paid the subscription fee will have access to the ATS Data available to Non-Professionals, as well as access to up to five years of historical ATS Data, in a downloadable format. The Professional subscription allows an unlimited number of users within the firm to access the ATS Data. Thus, regardless of the size of the entity in question, the subscription fee for the entity would be $12,000 for a twelve-month subscription. Professionals are not permitted to redistribute ATS Data or Derived Data outside of the enterprise (e.g., to their customers); however, Professionals are permitted to distribute ATS Data and Derived Data within the enterprise (including the firm, any affiliates of the firm, and employees thereof). Professionals will be required to agree to the terms of FINRA's ATS Data Subscriber Agreement, which establishes the terms and conditions of access to the ATS Data. If the Professional is a FINRA member, the member will have access to the ATS Data so that all of the member's entitled users can access the ATS Data under the member's Central Registration Depository number. Professionals that are not FINRA members will be provided with a single logon that may be shared within the entity and its affiliates and employees, but may not be used outside of the entity, its affiliates, and their employees.

Vendors

The proposed rule change also includes a Vendor subscription fee of $18,000 per year. A Vendor is defined as a Professional that redistributes ATS Data or Derived Data to third parties. A Vendor license permits a Vendor to redistribute the ATS Data or Derived Data in any form (or in exactly the form FINRA provides to the Vendor). In addition to the Vendor subscription fee, a Vendor may provide ATS Data to a third party only if a yearly, non-transferable, enterprise-wide Professional Subscriber license has been purchased for each such third party. Vendors must track specific users and their entitlements (and annual commitment term) and will be subject to regular audits to ensure accurate and timely compliance with re-dissemination reporting and payment. As with TRACE data, Vendors would be responsible for reporting entity usage as a result of their redistribution of the data.

As noted in Item 2 of this filing, FINRA is proposing that the proposed rule change be effective upon Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,[15] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls.

FINRA believes that, as described below, the proposed fee is reasonable when compared to existing fees for similar data products. Currently, there are several offerings of ATS volume data available to the public. FINRA understands anecdotally that the most prevalent dark pool volume data product currently offered in the marketplace has a base cost that is significantly higher than the proposed FINRA fee. FINRA understands that this report provides monthly aggregate volume figures by ATS based on voluntarily submitted dark pool ATS

[11] There will be no reports for time periods before the implementation of Rule 4552. In addition to weekly reports, FINRA intends to produce quarterly reports summarizing the information. The quarterly reports would be publicly available for no charge on FINRA's Web site.

[12] FINRA notes that the proposed definition of ''Non-Professional'' is substantially the same as the one used under the TRACE data dissemination rules. *See* Rule 7730(f) (Definitions). Generally, non-commercial requests from regulators, academics, and ad hoc requests from media reporters would be considered non-professional usage under this definition.

[13] *See* 15 U.S.C. 80b–2(a)(11).

[14] The proposed rule change defines ''Derived Data'' as data that is derived from ATS Data and that is not able to be (A) reverse engineered by a reasonably skilled user into ATS Data or (B) used as a surrogate for ATS Data.

[15] 15 U.S.C. 78*o*–3(b)(5).

data and estimated data. It also provides commentary and analysis regarding the data and volume trends.

In addition, the NASDAQ OMX Group, Inc. (''NASDAQ OMX'') also offers a Daily Share Volume (''DSV'') product that provides some market transparency by MPID, rather than by ATS, with respect to aggregate volume executed through the NASDAQ OMX equity exchange facilities.[16] The DSV product provides end-of-day aggregate volume by MPID and by symbol for those members that opt into the program. On an end-of-month basis, the DSV product provides for aggregate volume by symbol for all members unless they explicitly opt out. The monthly fee for the DSV product is $2,500 per user or $5,000 per month on an enterprise basis (or $54,000 for an annual subscription).

The ATS Data to be provided by FINRA differs in significant respects from those described above. For example, the ATS Data provided by FINRA will include all ATS volume (regardless of the FINRA Trade Reporting Facility to which ATS trades are reported) and will offer more granular data by providing aggregate volume by ATS and by symbol. In addition, after the MPID Requirement is implemented, the ATS Data will include data that is calculated and validated by FINRA through the submission of trades for each ATS broken out by MPID.[17] Currently, available ATS-specific data is voluntarily submitted and not otherwise validated. Moreover, because the submission of data for the currently available reports is voluntary, certain ATSs may choose not to submit volume reports. The ATS data FINRA will provide will offer more granular data in that the current reports provide aggregate level volume by ATS, while FINRA will provide aggregate level volume by ATS and by symbol. FINRA will also provide ATS data on a weekly basis (with the delay period prior to publication specified in Rule 4552), while the current reports are made available on a monthly basis. FINRA believes the ATS data it will provide will deliver significant benefits to the marketplace overall by increasing transparency and providing additional tools for market participants to engage in better, more timely and more reliable analysis regarding ATS trade volume trends. FINRA further believes the proposed fee schedule is fair and equitable in light of what comparable data is currently available in the marketplace and the price at which it is currently available.

FINRA is proposing to establish a fee for professional access to the data in order to recover the costs associated with collecting, formatting, and disseminating the data. In setting the amount of the fee, however, FINRA does not have an exact estimate as to how many subscribers will ultimately pay the proposed fee to access ATS Data. Thus, as discussed above, FINRA is proposing to set the fee at a level significantly below the fees that currently are in place for comparable products in the marketplace. As noted, FINRA believes this fee proposal is fair and reasonable in light of the fact that the level of data to be provided by the FINRA product will be materially more granular than the level of data provided by the comparable products currently available.

FINRA intends to reassess the fairness and reasonableness of the proposed fee once it has more experience with the actual usage and ultimate fees paid to access ATS Data, and, if appropriate, may adjust the fee accordingly. Any changes to the fees would be subject to a separate proposed rule change by FINRA with the SEC.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Although several organizations currently provide ATS volume reports to the public, FINRA will provide raw data only and will not be providing any value-added analysis to the data. Moreover, FINRA believes that any burden on competition is outweighed by the benefits to market transparency provided by the proposed rule change, such that any burden is necessary and appropriate 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

Although written comments were not solicited regarding the specific fee provisions in the proposed rule change, nine comments were received on the proposed rule change adopting Rule 4552 and the MPID Requirement (''Proposal'') that addressed charging a fee for ATS Data.[18] A list of those comment letters received in response to SR–FINRA–2013–042 that addressed a subscription fee is attached as Exhibit 2a. Copies of the comment letters are attached in Exhibit 2b.

Many of the commenters objected, on some level, to FINRA charging a fee for some of the ATS Data that will be made available; however, the details of the proposed fee were not included in the Proposal. These comments ranged from asserting that the information should be provided free of charge to requesting more information on the fee itself. Several commenters asserted that a fee conflicts with the principles of accessibility of information and transparency.[19] One commenter asserted possible legal consequences with reporting and selling ATS data.[20] Some commenters noted that free information may better facilitate analysis and market transparency and is consistent with the SEC's publication of market information.[21] One commenter suggested that, given the delayed and limited scope of data, the effort to establish entitlements and fees was not justified,[22] while another stated that since FINRA is not producing or validating the information, a fee is unnecessary.[23]

As previously stated, FINRA believes that establishing a fee for Professionals and Vendors to access ATS Data is appropriate to help FINRA recover the costs associated with collecting, formatting, and disseminating the data. Moreover, as noted above, following the

[16] *See* Securities Exchange Act Release No. 59580 (March 13, 2009), 74 FR 12169 (March 23, 2009).

[17] As noted above, until the MPID Requirement is implemented, FINRA will be providing data that is self-reported by ATSs and not validated by FINRA.

[18] *See* Letter to Elizabeth M. Murphy, Secretary, SEC, from William White, Head of Electronic Trading, Barclays Capital Inc., dated November 12, 2013 (''Barclays''); Letter to Elizabeth M. Murphy, Secretary, SEC, from Scott C. Goebel, Senior Vice President and Deputy General Counsel, Fidelity Investments, dated November 12, 2013 (''Fidelity''); Letter to Elizabeth M. Murphy, Secretary, SEC, from Manisha Kimmel, Executive Director, Financial Information Forum, dated November 12, 2013 (''FIF''); Letter to Elizabeth M. Murphy, Secretary, SEC, from Ari Burstein, Senior Counsel, Investment Company Institute, dated November 12, 2013 (''ICI''); Letter to Elizabeth M. Murphy, Secretary, SEC, from Donald Bollerman, Head of Market Operations, IEX Services LLC, dated November 11, 2013 (''IEX''); Letter to Elizabeth M. Murphy, Secretary, SEC, from Howard Meyerson, General Counsel, Liquidnet, Inc., dated November 12, 2013 (''Liquidnet''); Letter to Elizabeth M. Murphy, Secretary, SEC, from Thomas M. Carter, Chairman of the Board and James Toes, President & Chief Executive Officer, Security Traders Association, dated November 12, 2013 (''STA''); Letter to Elizabeth M. Murphy, Secretary, SEC, from Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association, dated November 11, 2013 (''SIFMA'') and Letter to Elizabeth M. Murphy, Secretary, SEC, from Timothy Quast, President and Founder, ModernIR, dated February 1, 2014 (''ModernIR'').

[19] *See* Barclays, Fidelity, Liquidnet.

[20] *See* ModernIR.

[21] *See* Barclays, Fidelity, FIF.

[22] *See* FIF.

[23] *See* Fidelity.

implementation of the MPID Requirement, FINRA will be calculating and validating the information rather than relying on ATSs to self-report data to FINRA. FINRA further believes that the level of the fee is fair and reasonable considering it is substantially lower than fees charged for less granular ATS data products currently offered in the marketplace. As noted, FINRA intends to reassess the amount of the fee after it has more experience with the ATS Data usage and actual fees paid. Any proposed changes to the fee will be submitted to the Commission pursuant to Section 19(b)(3)(A)(ii) of the Act[24] and subject to public comment.

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 (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2014–018 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–FINRA–2014–018. 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 FINRA. 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–FINRA–2014–018, and should be submitted on or before May 6, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–08421 Filed 4–14–14; 8:45 am]

BILLING CODE 8011–01–P

[24] 15 U.S.C. 78s(b)(3)(A)(ii).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71925; File No. SR–NASDAQ–2014–031]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Qualified Market Maker Incentive Program Under Rule 7014, and the Schedule of Fees and Rebates Under Rule 7018

April 10, 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 April 2, 2014 The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II and III 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ is proposing to make changes to the Qualified Market Maker (''QMM'') Incentive Program under Rule 7014, and the schedule of fees and rebates for execution and routing of orders under Rule 7018. The changes will be implemented effective April 2, 2014.

The text of the proposed rule change is available at *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 and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing several changes to the QMM Incentive Program under Rule 7014 and to the schedule of fees and credits applicable to execution and routing of orders under Rule 7018, which are described in detail below.

QMM Incentive Program

NASDAQ is adding a new QMM eligibility requirement to the QMM Incentive Program under Rule 7014(d). A QMM is a member that makes a significant contribution to market quality by providing liquidity at the National Best Bid or Offer (''NBBO'') in a large number of stocks for a significant portion of the day. In addition, the member must avoid imposing the burdens on NASDAQ and its market participants that may be associated with excessive rates of entry of orders away from the inside and/or order cancellation. The designation reflects the QMM's commitment to provide meaningful and consistent support to

market quality and price discovery by extensive quoting at the NBBO in a large number of securities. In return for its contributions, certain financial benefits are provided to a QMM with respect to a particular MPID (a ''QMM MPID''), as described under Rule 7014(e). Currently, a member may be designated as a QMM with respect to one or more of its MPIDs if the member is not assessed any ''Excess Order Fee'' under Rule 7018 during the month, and through such MPID the member quotes at the NBBO at least 25% of the time during regular market hours in an average of at least 1,000 securities per day during the month.[3] NASDAQ is proposing to now require a member to also execute at least 0.30% of Consolidated Volume[4] in an MPID in a month to qualify as a QMM, in addition to the existing QMM eligibility requirements under Rule 7014(d). Adding the 0.30% Consolidated Volume requirement furthers the goals of the program to promote price discovery and market quality by requiring the member to not only add to the quality of the markets in the price of its orders relative to the NBBO, but also to add a certain level of liquidity as well. A liquidity provider that executes substantive volume demonstrates its willingness to stand ready to buy or sell securities (i.e., to provide liquidity) by consummating transactions. The requirement outlined above is intended to ensure that QMMs remain *bona fide* liquidity providers, in addition to participants that actively quote at the NBBO.

Amended Fees for Execution and Routing of Securities Listed on NASDAQ (Tape C)

NASDAQ is proposing to reduce the credits provided to members that enter orders that provide non-displayed liquidity (other than Supplemental Orders) in NASDAQ-listed securities. Currently, NASDAQ provides a credit of $0.0017 per share executed for midpoint orders if the member provides an average daily volume of 5 million or more shares through midpoint orders during the month, and a credit of $0.0014 per share executed for midpoint orders if the member provides an average daily volume of less than 5 million shares through midpoint orders during the month. For other non-displayed orders, NASDAQ provides a credit of $0.0010 per share executed if the member provides an average daily volume of 1 million or more shares per day through midpoint orders or other non-displayed orders during the month, and a credit of $0.0005 per share executed for other non-displayed orders. NASDAQ is proposing to reduce the credit to a member that provides an average daily volume of 1 million or more shares per day through midpoint orders or other non-displayed orders during the month from $0.0010 per share executed to $0.0005 per share executed. NASDAQ is also proposing to eliminate the $0.0005 per share executed credit currently provided for other non-displayed orders and to provide no credit or fee for such orders. NASDAQ recognizes the special role that it plays as the listing market for securities listed on the NASDAQ stock market and seeks to encourage displayed quotation as much as possible for these securities. By reducing the financial incentive to provide non-displayed liquidity, NASDAQ believes it may increase the incentive to provide displayed liquidity, thereby increasing the pool of available liquidity. This has various beneficial effects, not least of which is improved price stability.

Fees for Execution in the Opening Cross

NASDAQ is proposing to add a new eligibility requirement to the fee cap on Opening Cross executions under Rule 7018(e). Currently, members that participate in the Opening Cross are assessed fees for their executions in the cross up to a maximum of $20,000. The fee cap is designed to balance the need to assess fees for executions, yet also promote liquidity in the Opening Cross. NASDAQ is proposing to require that, to be eligible for the $20,000 fee cap, a member must add at least one million shares of liquidity to the market, on average, per month. NASDAQ believes that the primary impact of this change will be to encourage firms that currently have a relatively large presence in the opening cross, but a disproportionately small presence during the continuous market, to increase their participation in the continuous market in order to continue to receive the benefit afforded by the cap. The improvement in available liquidity will, in turn, benefit all market participants.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed new eligibility requirement under the QMM Incentive Program is reasonable because it furthers the goal of the program, namely, to promote price discovery and market quality by adding a requirement that a member provide a certain level of Consolidated Volume through its MPIDs. The new Consolidated Volume requirement promotes market liquidity, which NASDAQ believes is an appropriate application of the program and the favorable pricing it provides to liquidity providers that qualify for the program. The proposed new eligibility requirement is consistent with an equitable allocation of fees and is not unfairly discriminatory because the pricing applies equally to all NASDAQ members that are QMMs. Moreover, the favorable pricing of the incentive program is designed to encourage meaningful improvement to the market by ensuring liquidity providers are active and providing order activity that promotes price discovery and market stability. As a consequence, although some members may no longer qualify for the program due to the new requirement, NASDAQ believes that the new requirement is not unfairly discriminatory because such liquidity providers may elect to direct increased order flow to NASDAQ to meet the Consolidated Volume requirement.

The proposed reduction in the credits to members that enter orders that provide non-displayed liquidity (other than Supplemental Orders) in NASDAQ-listed securities is reasonable because NASDAQ is merely reducing the credit provided for such executions, and in the case of non-displayed liquidity that does not otherwise qualify for the other credits of the rule, is providing no credit. NASDAQ notes that the credits provided by the rule are given in lieu of assessing normal fees, and accordingly provide incentive to market participants to enter such orders. The proposed change balances the Exchange's desire to provide certain incentives to market participants with the costs the Exchange incurs in providing such incentives, which

[3] Rule 7014(d).

[4] Consolidated Volume is defined as: The total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity. *See* Rule 7014(h)(5).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4) and (5).

ultimately affect the ability to sustain them. The proposed changes to the credits provided to members that enter orders that provide non-displayed liquidity (other than Supplemental Orders) in NASDAQ-listed securities is consistent with an equitable allocation of fees and is not unfairly discriminatory because the pricing, which is the same for all NASDAQ participants, applies solely to members that opt to enter such non-displayed orders in NASDAQ-listed securities. Moreover, reducing the credits provided for such orders, yet providing greater incentives for identical orders in non-NASDAQ listed securities is not unfairly discriminatory because it is consistent with need to balance the credits provided by the Exchange with the order activity of the market.

The proposed new eligibility requirement for the $20,000 Opening Cross fee cap is reasonable because it requires participants in the Opening Cross to provide a certain level of liquidity to the market, thus providing incentive to such participants to improve the market throughout the trading day in order to gain the benefit of the fee cap. As such, the proposed change is consistent with NASDAQ's ongoing efforts to use pricing incentives to attract orders that NASDAQ believes will improve market quality. The proposed new eligibility requirement for the $20,000 Opening Cross fee cap is consistent with an equitable allocation of fees and is not unfairly discriminatory because the fee cap is available to all market participants that participate in the Opening Cross and ties the benefit of the fee cap to market activity that benefits all market participants.

Finally, NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. NASDAQ believes that the proposed rule change reflects this competitive environment because it is designed to ensure that the charges and credits for participation on NASDAQ reflect changes in the cost of such participation to NASDAQ, and its desire to attract order flow that improves the market for all participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[7] The proposed changes to fees are reflective of NASDAQ's efforts to use reduced fees and credits to improve market quality and attract order flow. NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, NASDAQ must continually adjust its fees and credits to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, NASDAQ believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In this instance, although the change to the eligibility requirement of the QMM program may limit the benefits of the program in NASDAQ-listed securities to the extent market makers no longer qualify, the incentive program remains in place and with a qualification requirement that is reasonable and which promotes improvement of market quality. Similarly, the changes to the credits provided for certain non-displayed orders in NASDAQ-listed securities and the eligibility for the Opening Cross fee cap do not impose a burden on competition because the benefit provided in the form of reduced fees are tied to reasonable requirements that are designed to improve market quality. Moreover, reducing the credit provided for certain non-displayed orders in NASDAQ-listed securities is consistent with the Exchange's need to balance the costs of such pricing with the benefit provided to the market. In sum, if the changes proposed herein are unattractive to market participants, it is likely that NASDAQ will lose market share as a result. Accordingly, NASDAQ does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[8]

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2014–031 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–NASDAQ–2014–031. 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

[7] 15 U.S.C. 78f(b)(8).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

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–NASDAQ–2014–031, and should be submitted on or before May 6, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–08527 Filed 4–14–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71920; File No. SR–ICEEU–2014–04]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change To Clear New Sovereign Contracts

April 9, 2014.

I. Introduction

On February 11, 2014, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–ICEEU–2014–04 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b-4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on February 25, 2014.[3] The Commission did not receive any comments on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

ICE Clear Europe proposes to adopt rules to provide for the clearance of new credit default swap (''CDS'') contracts that are Western European Sovereign CDS contracts referencing the Republic of Ireland, Italian Republic, Portuguese Republic, and Kingdom of Spain (the ''New Sovereign Contracts''). ICE Clear Europe has identified Western European Sovereign CDS Contracts as a product that has become increasingly important for market participants to manage risk and express views with respect to the European sovereign credit markets. ICE Clear Europe believes clearance of the New Sovereign Contracts will benefit the markets for CDS on Western European sovereigns by offering to market participants the benefits of clearing, including reduction in counterparty risk and safeguarding of margin assets pursuant to clearing house rules. The terms of the New Sovereign Contracts will be governed by Paragraph 12 of ICE Clear Europe's CDS Procedures. ICE Clear Europe has stated that clearing of the New Sovereign Contracts will not require any changes to ICE Clear Europe's existing Clearing Rules and CDS Procedures, although ICE Clear Europe has updated its risk management framework (including relevant policies) and margin model as discussed herein.

ICE Clear Europe proposes to enhance its CDS risk management framework, including the margin methodology (the ''CDS Model''),[4] to include several features designed to address particular risks of the New Sovereign Contracts. To address so-called general wrong way risk (''General Wrong Way Risk'') involving correlation between the risk of default of an underlying sovereign and the risk of default of a clearing member that has written credit protection through a New Sovereign Contract on such sovereign, ICE Clear Europe proposes to establish additional jump-to-default requirements for initial margin for portfolios that present such risk.

ICE Clear Europe proposes to adopt a combination of qualitative and quantitative approaches to capture General Wrong Way Risk. Under the enhanced CDS Model, an additional contribution to initial margin will be required when the seller of protection exhibits a high degree of association with an underlying Western European Sovereign reference entity by virtue of domicile (qualitative approach) or high spread return correlation (quantitative approach). To address General Wrong Way Risk arising from clearing member domicile, ICE Clear Europe proposes to require full collateralization of the jump-to-default loss for a protection seller under a contract referencing the sovereign where the protection seller is domiciled.

Under the proposed quantitative approach, which will apply where the protection seller is not domiciled in the jurisdiction of the underlying sovereign, two types of thresholds will be introduced: a loss threshold and a correlation threshold. Additional General Wrong Way Risk collateralization will be collected if both thresholds are exceeded. If the spread return correlation between the member and the sovereign is above the correlation threshold and the sovereign CDS jump-to-default loss is above the loss threshold, General Wrong Way Risk collateralization is assessed as a function of the spread return correlation and amount by which the loss threshold is exceeded. The charge becomes more conservative as the spread return correlation increases. The application of additional initial margin requirements under the quantitative approach is not subject to discretion, although the thresholds will be subject to review by the CDS Risk Committee as part of its periodic review of ICE Clear Europe's margin methodology.

ICE Clear Europe's proposal also addresses other forms of wrong way risk arising from currency risk. To mitigate the currency risk between a sovereign reference entity and a New Sovereign Contract involving that entity, and to facilitate greater market liquidity, the New Sovereign Contracts (and related margin and guaranty fund requirements) will be denominated in U.S. dollars, rather than Euro. In addition, ICE Clear Europe's rules contain prohibitions on self-referencing trades (i.e., trades where the clearing member is an affiliate of the underlying sovereign reference entity). Such trades may not be submitted for clearing, and if a clearing member subsequently becomes affiliated with the underlying reference entity, the rules applicable to New Sovereign Contracts provide for the termination of relevant positions.

ICE Clear Europe proposes to apply its existing margin methodology to the New Sovereign Contracts, with the enhancements to address General Wrong Way Risk discussed above. ICE Clear Europe believes that this model,

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Exchange Act Release No. 34–71574 (Feb. 19, 2014), 79 FR 10578 (Feb. 25, 2014) (SR–ICEEU–2014–04).

[4] ICE Clear Europe has performed a variety of empirical analyses related to clearing of the New Sovereign Contracts under its margin methodology, including back tests and stress tests.

including the additional initial margin that may be required to address General Wrong Way Risk, will provide sufficient margin to cover its credit exposure to its clearing members from clearing such contracts. Furthermore, ICE Clear Europe believes that its CDS Guaranty Fund, under its existing methodology, will, together with the required margin, provide sufficient financial resources to support the clearing of New Sovereign Contracts.

ICE Clear Europe believes it will have the operational and managerial capacity to clear the New Sovereign Contracts as of the commencement of clearing, and that its existing systems are appropriately scalable to handle the additional New Sovereign Contracts, which are generally similar from an operational perspective to the CDS contracts currently cleared by ICE Clear Europe.

ICE Clear Europe has stated that the revised margin methodology operates without the need for the CDS Risk Committee, ICE Clear Europe Board or management to exercise discretion concerning particular clearing members or the margin levels applicable to them. ICE Clear Europe has also stated that the qualitative and quantitative components to the methodology do not contain discretionary elements, and once the relevant threshold is exceeded, the clearing house is required under the policy to assess an additional initial margin charge based on the margin methodology. ICE Clear Europe believes this approach should minimize any potential conflicts of interest.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [5] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act [6] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and in general, to protect investors and the public interest.

After careful review, the Commission finds that the proposed rule change is consistent with Section 17A of the Act [7] and the rules thereunder applicable to ICE Clear Europe. Specifically, the Commission believes that ICE Clear Europe's proposal to clear the New Sovereign Contracts in accordance with its existing Clearing Rules and procedures applicable to CDS contracts is designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, consistent with Section 17A(b)(3)(F) of the Act.[8]

Additionally, the Commission believes that the proposed enhancements to ICE Clear Europe's CDS risk management framework to address the General Wrong Way Risks associated with clearing New Sovereign Contracts, including the correlation and currency risks discussed above, are designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and in general, to protect investors and the public interest, consistent with Section 17A(b)(3)(F) of the Act.[9] The proposal will require additional contributions to initial margin when the seller of protection exhibits a high degree of association with an underlying Western European Sovereign reference entity by virtue of domicile (qualitative approach) or high spread return correlation (quantitative approach). These proposed margin model enhancements will provide additional resources to ICE Clear Europe to address the potential risks associated with the correlation between the risk of default of an underlying sovereign and the risk of default of a clearing member that has written credit protection through a New Sovereign Contract on such sovereign. The Commission also believes that the enhanced risk management framework, in combination with ICE Clear Europe's existing rules and procedures related to margin and guaranty fund, is reasonably designed to meet the requirements of Rules 17Ad–22(b)(1)—(3) [10] related to the measurement and management of credit exposures, margin requirements, and the maintenance of sufficient financial resources required for a registered clearing agency acting as a central counterparty for security-based swaps.

As noted above, ICE Clear Europe's proposed revised margin methodology operates without the need for the CDS Risk Committee, ICE Clear Europe Board, or management to exercise discretion concerning particular clearing members or the margin levels applicable to them. ICE Clear Europe has stated that the qualitative and quantitative components to the methodology do not contain discretionary elements, and once the relevant thresholds are exceeded, the clearing house is required under the policy to assess an additional initial margin charge based on the margin methodology. The Commission does not believe that these proposed changes will result in unfair discrimination among clearing members within the meaning of Section 17A(b)(3)(F) of the Act [11] and believes that these proposed changes are consistent with the requirements of Rule 17Ad–22(d)(8).[12]

Finally, the Commission believes that ICE Clear Europe's proposal to clear New Sovereign Contracts in accordance with its existing rules, procedures, and operational framework is reasonably designed to identify sources of operational risk and minimize them through the development of appropriate systems, controls, and procedures, and to implement systems that are reliable, resilient and secure, and have adequate, scalable capacity consistent with Rule 17Ad–22(d)(4).[13]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[14] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–ICEEU–2014–04) be, and hereby is, approved.[16]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–08422 Filed 4–14–14; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78s(b)(2)(C).

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 17 CFR 240.17Ad–22(b)(1)—(3).

[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] 17 CFR 240.17Ad–22(d)(8).

[13] 17 CFR 240.17Ad–22(d)(4).

[14] 15 U.S.C. 78q–1.

[15] 15 U.S.C. 78s(b)(2).

[16] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71913; File No. SR–NASDAQ–2014–019]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to the Listing and Trading of the Shares of the First Trust Managed Municipal Fund of First Trust Exchange-Traded Fund III

April 9, 2014.

I. Introduction

On February 7, 2014, The NASDAQ Stock Market LLC (''Exchange'' or ''Nasdaq'') 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 list and trade the shares of the First Trust Managed Municipal ETF (''Fund'') of First Trust Exchange-Traded Fund III (''Trust''). The proposed rule change was published for comment in the **Federal Register** on February 25, 2014.[3] The Commission received no comments on the proposed rule change. On March 27, 2014, the Exchange filed Amendment No. 1 to the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1 thereto, on an accelerated basis.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade Shares pursuant to Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares.[4] The Exchange deems the Shares to be equity securities, rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.[5]

The Shares will be offered by the First Trust Exchange Traded Fund III (''Trust''), which is organized as a Massachusetts business trust and is registered with the Commission as an investment company.[6] First Trust Advisors L.P. is the investment adviser (''Adviser'') to the Fund. First Trust Portfolios L.P. is the principal underwriter and distributor of the Shares (''Distributor''). Brown Brothers Harriman & Co. will act as the administrator, accounting agent, custodian, and transfer agent to the Fund. The Adviser is affiliated with the Distributor, a broker-dealer. As required by Nasdaq Rule 5735(g),[7] the Adviser has implemented a firewall with respect to its broker-dealer affiliate regarding access to information concerning the composition of or changes to the portfolio.[8]

First Trust Managed Municipal ETF

Principal Investments

The primary investment objective of the Fund will be to generate current income that is exempt from regular federal income taxes, and its secondary objective will be long-term capital appreciation. Under normal market conditions,[9] the Fund will seek to achieve its investment objectives by investing at least 80% of its net assets (including investment borrowings) in municipal debt securities that pay interest that is exempt from regular federal income taxes (collectively, ''Municipal Securities'').[10] Municipal Securities are generally issued by or on behalf of states, territories, or possessions of the U.S. (including the District of Columbia) and their political subdivisions, agencies, authorities, and other instrumentalities. The types of Municipal Securities in which the Fund may invest include municipal lease obligations (and certificates of participation in such obligations), municipal general obligation bonds, municipal revenue bonds, municipal notes, municipal cash equivalents, private activity bonds (including without limitation industrial development bonds), and pre-refunded [11] and escrowed-to-maturity bonds. In addition, Municipal Securities include securities issued by entities whose underlying assets are municipal bonds (for example, tender option bond (TOB) trusts and custodial receipts

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71572 (February 19, 2014), 79 FR 10584 (''Notice'').

[4] Under Nasdaq's Rules, a Managed Fund Share is a security that (a) represents an interest in a registered investment company (''Investment Company'') organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value; and (c) when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined net asset value. *See* Nasdaq Rule 5735(c)(1).

[5] *See* Notice, *supra* note 3, 78 FR at 16017.

[6] The Trust is registered under the Investment Company Act of 1940 (''1940 Act''). *See* Post-Effective Amendment No. 2 to Registration Statement on Form N–1A for the Trust, dated December 20, 2013 (File Nos. 333–176976 and 811–22245) (''Registration Statement''). In addition, the Exchange represents that the Trust has obtained certain exemptive relief under the 1940 Act. *See* Investment Company Act Release No. 30029 (April 10, 2012) (File No. 812–13795) (''Exemptive Order'').

[7] Nasdaq Rule 5735(g) also requires that Adviser personnel who make decisions regarding the Fund's portfolio be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the Fund's portfolio.

[8] Additionally, the Exchange represents that, in the event (a) the Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes affiliated with a broker-dealer, it will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition of or changes to the portfolio, and it will be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding such portfolio.

[9] The term ''under normal market conditions'' as used herein includes, but is not limited to, the absence of adverse market, economic, political, or other conditions, including extreme volatility or trading halts in the fixed income markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or *force majeure* type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance. For temporary defensive purposes, during the initial invest-up period and during periods of high cash inflows or outflows, the Fund may depart from its principal investment strategies and invest part or all of its assets in short-term debt securities, money market funds, and other cash equivalents, or it may hold cash. (*See* ''Other Investments'' below.) During such periods, the Fund may not be able to achieve its investment objectives. The Fund may adopt a defensive strategy when the Adviser believes securities in which the Fund normally invests have elevated risks due to political or economic factors and in other extraordinary circumstances.

[10] Assuming compliance with the investment requirements and limitations described herein (including the 10% limitation on distressed Municipal Securities described below), the Fund may invest up to 100% of its net assets in Municipal Securities that pay interest that generates income subject to the federal alternative minimum tax.

[11] A pre-refunded municipal bond is a municipal bond that has been refunded to a call date on or before the final maturity of principal and that remains outstanding in the municipal market. The payment of principal and interest of the pre-refunded municipal bonds held by the Fund will be funded from securities in a designated escrow account that holds U.S. Treasury securities or other obligations of the U.S. government (including its agencies and instrumentalities). As the payment of principal and interest is generated from securities held in a designated escrow account, the pledge of the municipality has been fulfilled and the original pledge of revenue by the municipality is no longer in place. The escrow account securities pledged to pay the principal and interest of the pre-refunded municipal bond do not guarantee the price movement of the bond before maturity. Investment in pre-refunded municipal bonds held by the Fund may subject the Fund to interest rate risk, market risk, and credit risk. In addition, while a secondary market exists for pre-refunded municipal bonds, if the Fund sells pre-refunded municipal bonds prior to maturity, the price received may be more or less than the original cost, depending on market conditions at the time of sale.

trusts). The Fund may invest in Municipal Securities of any maturity.

The Fund will invest at least 65% of its net assets in investment grade securities, which are securities that are rated at the time of investment in one of the four highest credit quality categories by at least one nationally recognized statistical rating organization or that, if unrated, are determined by the Adviser to be of comparable quality.[12] The Fund will consider pre-refunded or escrowed to maturity bonds, regardless of rating, to be investment grade securities. The Fund may invest up to 35% of its net assets in securities that are, at the time of investment, rated below investment grade (or securities that are unrated and determined by the Adviser to be of comparable quality), commonly referred to as ''high yield'' or ''junk'' bonds. If, subsequent to purchase by the Fund, a security held by the Fund experiences a decline in credit quality and falls below investment grade, the Fund may continue to hold the security, and it will not cause the Fund to violate the 35% investment limitation; however, the security will be taken into account for purposes of determining whether purchases of additional securities will cause the Fund to violate such limitation.

Investments in Derivatives

To pursue its investment objectives, the Fund may invest in exchange-listed options on U.S. Treasury securities, exchange-listed options on U.S. Treasury futures contracts and exchange-listed U.S. Treasury futures contracts. The use of these derivative transactions may allow the Fund to obtain net long or short exposures to selected interest rates. These derivatives may also be used to hedge risks, including interest rate risks and credit risks, associated with the Fund's portfolio investments.

The Fund expects that no more than 20% of the value of the Fund's net assets will be invested in derivative instruments.[13] The Fund's investments in derivative instruments will be consistent with the Fund's investment objectives and the 1940 Act and will not be used to seek to achieve a multiple or inverse multiple of an index.

Other Investments

Under normal market conditions, the Fund will invest substantially all of its assets to meet its investment objectives as described above. In addition, the Fund may invest its assets as generally described below.

The Fund may invest up to 10% of its net assets in taxable municipal securities. In addition, the Fund may invest up to 10% of its net assets in distressed Municipal Securities.[14] The Fund may also invest up to 10% of its net assets in short-term debt securities, money market funds and other cash equivalents, or it may hold cash. The percentage of the Fund invested in such holdings will vary and will depend on several factors, including market conditions.

Short-term debt securities, which do not include Municipal Securities, are securities from issuers having a long-term debt rating of at least A by Standard & Poor's Ratings Services, a Division of The McGraw-Hill Companies, Inc. (''S&P Ratings''); Moody's Investors Service, Inc. (''Moody's''); or Fitch Ratings (''Fitch'') and having a maturity of one year or less. The use of temporary investments will not be a part of a principal investment strategy of the Fund.

Short-term debt securities are defined to include, without limitation, the following: (1) Fixed-rate and floating-rate U.S. government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. government agencies or instrumentalities; (2) certificates of deposit issued against funds deposited in a bank or savings and loan association; (3) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (4) repurchase agreements,[15] which involve purchases of debt securities; (5) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; and (6) commercial paper, which is short-term unsecured promissory notes. The Fund may only invest in commercial paper rated A–1 or higher by S&P Ratings, Prime–1 or higher by Moody's, or F1 or higher by Fitch.

The Fund may invest up to 20% of its net assets in the securities of other investment companies, including money market funds, closed-end funds, open-end funds, and other ETFs.[16]

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, in accordance with Commission guidance.[17] The Fund will

[12] Comparable quality of unrated securities will be determined by the Adviser based on fundamental credit analysis of the unrated security and comparable rated securities. On a best efforts basis, the Adviser will attempt to make a rating determination based on publicly available data. In making a ''comparable quality'' determination, the Adviser may consider, for example, whether the issuer of the security has issued other rated securities, the nature and provisions of the relevant security, whether the obligations under the relevant security are guaranteed by another entity and the rating of such guarantor (if any), relevant cash flows, macroeconomic analysis, and/or sector or industry analysis.

[13] The Fund will 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 will 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.

[14] Distressed Municipal Securities are Municipal Securities that are currently in default and not expected to pay the current coupon. If, subsequent to purchase by the Fund, a Municipal Security held by the Fund becomes distressed, the Fund may continue to hold the Municipal Security and it will not cause the Fund to violate the 10% limitation; however, the Municipal Security will be taken into account for purposes of determining whether purchases of additional Municipal Securities will cause the Fund to violate such limitation.

[15] The Fund intends to enter into repurchase agreements only with financial institutions and dealers believed by the Adviser to present minimal credit risks in accordance with criteria approved by the Board of Trustees of the Trust (''Trust Board''). The Adviser will review and monitor the creditworthiness of such institutions. The Adviser will monitor the value of the collateral at the time the transaction is entered into and at all times during the term of the repurchase agreement.

[16] An ETF is an investment company registered under the 1940 Act that holds a portfolio of securities. Many ETFs are designed to track the performance of a securities index, including industry, sector, country, and region indexes. ETFs included in the Fund will be listed and traded in the U.S. on registered exchanges. The Fund may invest in the securities of ETFs in excess of the limits imposed under the 1940 Act pursuant to exemptive orders obtained by other ETFs and their sponsors from the Commission. In addition, the Fund may invest in the securities of certain other investment companies in excess of the limits imposed under the 1940 Act pursuant to an exemptive order that the Trust has obtained from the Commission. *See* Investment Company Act Release No. 30377 (February 5, 2013) (File No. 812–13895). The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depository Receipts (as described in Nasdaq Rule 5705), and Managed Fund Shares (as described in Nasdaq Rule 5735). While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged or inverse leveraged (*e.g.,* 2X or −3X) ETFs.

[17] In reaching liquidity decisions, the Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and

monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and the Fund will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund may not invest 25% or more of the value of its total assets in securities of issuers in any one industry. This restriction does not apply to (a) Municipal Securities issued by governments or political subdivisions of governments, (b) obligations issued or guaranteed by the U.S. government or by its agencies or instrumentalities, or (c) securities of other investment companies.[18]

The Fund intends to qualify each year as a regulated investment company (''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.

Additional information regarding the Shares and the Fund, including, among other things, investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, availability of Fund values and other information, and distributions and taxes, can be found in the Notice or Registration Statement, as applicable.[19]

III. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act [20] and the rules and regulations thereunder applicable to a national securities exchange.[21] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[22] which requires, among other things, that the Exchange's rules be 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, 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 Commission notes that the Fund and the Shares must comply with the requirements of Nasdaq Rule 5735 to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[23] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares. One source of price information for Municipal Securities is the Electronic Municipal Market Access (''EMMA'') of the Municipal Securities Rulemaking Board (''MSRB'').[24] Additionally, the MSRB offers trade data subscription services that permit subscribers to obtain information about municipal securities transactions. Quotation information from brokers and dealers or Pricing Services will also be available for fixed income securities generally. On each business day, before commencement of trading in Shares in the Regular Market Session [25] on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio of securities and other assets (''Disclosed Portfolio'') held by the Fund that will form the basis for the Fund's calculation of net asset value (''NAV'') at the end of the business day.[26] The NAV of the Fund's Shares generally will be 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.[27] Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service,[28] will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors and will be broadly displayed at least every 15 seconds during the Regular Market Session.

In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Intraday executable price information for fixed income securities, equity securities, and derivatives will be available from major broker-dealer firms and major market data vendors. For exchange-traded assets, intraday price information will also be available directly from the applicable listing exchanges. Intraday price information will also generally be available through subscription services, such as Bloomberg, Markit, and Thomson Reuters, which can be accessed by Authorized Participants and other investors. The Fund's Web site will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be

the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades *(e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[18] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[19] *See supra* notes 3 and 6 and respective accompanying text.

[20] 15 U.S.C. 78f.

[21] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[24] A source of price information for other types of fixed income securities is the Trade Reporting and Compliance Engine (''TRACE'') of the Financial Industry Regulatory Authority (''FINRA'').

[25] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 7:00 a.m. to 9:30 a.m.; (2) Regular Market Session from 9:30 a.m. to 4:00 p.m. or 4:15 p.m.; and (3) Post-Market Session from 4:00 p.m. or 4:15 p.m. to 8:00 p.m.).

[26] The Disclosed Portfolio will include, as applicable, the names, quantity, percentage weighting, and market value of fixed-income securities and other assets held by the Fund and the characteristics of such assets. The Web site and information will be publicly available at no charge.

[27] Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[28] Currently, the NASDAQ OMX Global Index Data Service (''GIDS'') is the NASDAQ OMX global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs. GIDS provides investment professionals with the daily information needed to track or trade NASDAQ OMX indexes, listed ETFs, or third-party partner indexes and ETFs.

necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, the Exchange will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities or the financial instruments constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. The Exchange will consider the suspension of trading in or removal from listing of the Shares if the Intraday Indicative Value is no longer calculated or available or the Disclosed Portfolio is not made available to all market participants at the same time.[29] The Exchange states that the Adviser is affiliated with the Distributor, a broker-dealer. The Exchange represents that the Adviser has implemented a fire wall with respect to its broker-dealer affiliate.[30] The Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.[31] The Exchange states that trading of the Shares through Nasdaq will be subject to FINRA's surveillance procedures for derivative products, including Managed Fund Shares.[32] FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''),[33] and FINRA may obtain trading information regarding trading in the Shares from such markets and other entities. Further, the Exchange states that it prohibits the distribution of material, non-public information by its employees.

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Shares will be subject to Nasdaq Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) The Exchange's surveillance procedures are adequate to properly monitor the trading of the Shares on Nasdaq during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.

(4) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (b) Nasdaq Rule 2310, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) how information regarding the Intraday Indicative Value is disseminated; (d) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (e) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(5) For initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[34]

(6) The Fund will invest at least 80% of its net assets in Municipal Securities, and at least 65% of its net assets in investment grade securities.

(7) The Fund will invest 85% or more of the portfolio in assets that the Adviser deems to be sufficiently liquid at the time of investment. The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Advisor, in accordance with Commission guidance. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets.

(8) The Fund will not invest more than 10% of the portfolio in distressed Municipal Securities, as described herein, as determined at the time of the investment.

(9) The Fund may invest in the following derivative instruments: exchange-listed options on U.S. Treasury securities, exchange-listed options on U.S. Treasury futures contracts, and exchange-listed U.S. Treasury futures contracts. The Fund expects that no more than 20% of its net assets will be invested in these derivatives. The Fund's investments in derivatives will be consistent with the Fund's investment objectives and will not be used to seek to achieve a multiple or inverse multiple of the performance of an index.

(10) At least 90% of the Fund's net assets that are invested in exchange-

[29] *See* Nasdaq Rule 5735(d)(2)(C)(ii).

[30] *See* Nasdaq Rule 5735(g), *supra* note 6 and accompanying text. The Commission notes that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[31] *See* Nasdaq Rule 5735(d)(2)(B)(ii).

[32] The Exchange states that FINRA surveils trading on Nasdaq pursuant to a regulatory services agreement and that it is responsible for FINRA's performance under this regulatory services agreement.

[33] 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.

[34] *See* 17 CFR 240.10A–3.

traded futures and exchange-traded options (in the aggregate) will be invested in instruments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

(11) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, and the Exchange's description of the Fund.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[35] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 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–2014–019 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 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2014–019. 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–2014–019 and should be submitted on or before May 6, 2014.

V. Accelerated Approval of Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The proposed Amendment supplements the proposed rule change by limiting the type and amount of derivatives in which the Fund may invest and makes modifications related thereto, adds greater clarity regarding the intended investment limitations regarding non-investment grade securities and distressed municipal securities, and provides how Net Asset Value will be calculated with respect to repurchase agreements. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[36] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[37] and the rules and regulations thereunder applicable to a national securities exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[38] that the proposed rule change (SR–NASDAQ–2014–019), as modified by Amendment No. 1 thereto, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–08416 Filed 4–14–14; 8:45 am]

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[35] 15 U.S.C. 78f(b)(5).

[36] 15 U.S.C. 78s(b)(2).

[37] 15 U.S.C. 78f(b)(5).

[38] 15 U.S.C. 78s(b)(2).

[39] CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71909; File No. SR–NYSEARCA–2014–28]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1, Amending Rule To Change the Time By Which Purchase Orders and Redemption Orders Must Be Placed With Respect to the Market Vectors Low Volatility Commodity ETF and Market Vectors Long/Short Commodity ETF

April 9, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 28, 2014, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, which filing was amended by Amendment No. 1 thereto on April 2, 2014,[4] 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 submitting a proposed rule change to change the time by which purchase orders and redemption orders must be placed with respect to the Market Vectors Low Volatility Commodity ETF and Market Vectors Long/Short Commodity ETF (the ''Funds''). The Commission has approved listing and trading of shares of the Funds on the Exchange under NYSE Arca Equities Rule 8.200. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of,

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] In Amendment No. 1, the Exchange corrected erroneous references to the term ''Adviser'' in the Filing and replaced such references with the term ''Managing Owner.''

and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved listing and trading on the Exchange of shares (''Shares'') of the following under NYSE Arca Equities Rule 8.200: Market Vectors Low Volatility Commodity ETF (''Low Volatility ETF'') and Market Vectors Long/Short Commodity ETF (''Long/Short ETF'') under NYSE Arca Equities Rule 8.200, which governs the listing and trading of Trust Issued Receipts.[5] Shares of the Funds have not yet commenced trading on the Exchange.

Each Fund is a series of the Market Vectors Commodity Trust (the ''Trust''), a Delaware statutory trust.[6]

Van Eck Absolute Return Advisers Corp. is the managing owner of the Funds (''Managing Owner''). The Managing Owner also serves as the commodity pool operator and commodity trading advisor of the Funds. The Managing Owner is registered as a commodity pool operator and commodity trading advisor with the Commodity Futures Trading Commission (''CFTC''), and is a member of National Futures Association. Wilmington Trust, National Association (''Trustee''), a national bank with its principal place of business in Delaware, is the sole trustee of the Trust. The Bank of New York Mellon will be the custodian, administrator and transfer agent for the Funds.

In this proposed rule change, the Exchange proposes to change the time by which purchase orders and redemption orders must be placed. The Prior Release stated that purchase orders and redemption orders to create and redeem one or more blocks of 50,000 Shares (''Baskets'') of the Funds must be placed by authorized participants by 1:00 p.m. Eastern Time (''E.T.''). The Exchange proposes to change this representation to state that purchase orders and redemption orders to create Basket size aggregations of Shares of the Funds must be placed by authorized participants by 11:00 a.m. E.T.[7] The Managing Owner represents that, upon further analysis, it believes that an 11:00 a.m. E.T. cut-off time, rather than a 1:00 p.m. E.T. cut-off time for placing orders to create or redeem Shares of the Funds will permit it to more efficiently process orders to create and redeem such Shares. Trading in certain of the futures contracts in the Morningstar® Long/Flat Commodity Index and the Morningstar® Long/Short Commodity Index closes as early as 1:00 p.m. E.T., and trading in a substantial number of other component futures contracts closes at 2:00 p.m. E.T. or earlier. The Managing Owner represents that, in view of the varying closing times for applicable futures contracts, an earlier cut-off time could permit the Managing Owner to more efficiently engage in transactions in the applicable futures markets in connection with orders to create or redeem Shares, which may help reduce the premium or discount on the Shares, and reduce the difference between the price of the Shares and the NAV of such Shares.[8]

The Exchange notes that the Commission previously has approved representations relating to issues of Trust Issued Receipts whereby the cut-off time for placing orders to create or redeem shares of an issue of Trust Issued Receipts is earlier than 1:00 p.m. E.T.[9]

The Adviser represents that there is no change to the Funds' investment objectives from those described in the Prior Release. The Funds will comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.200.

Except for the changes noted above, all other facts presented and representations made in the Prior Release remain unchanged.

All terms referenced but not defined herein are defined in the Prior Release.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[10] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.200. The Exchange notes that the Commission previously has approved representations relating to issues of Trust Issued Receipts whereby the cut-off time for placing orders to create or redeem shares of an issue of Trust Issued Receipts is earlier than 1:00 p.m. E.T.[11]

The proposed rule change is 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 each Fund's investment objective as described in the Prior Release. The Funds will comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.200. The Managing Owner represents that, upon further analysis, it believes that an 11:00 a.m. E.T. cut-off time, rather than a 1:00 p.m. E.T. cut-off time for placing orders to create or redeem Shares of the Funds will permit it to more efficiently process orders to create and redeem Shares. Trading in certain of the futures

[5] *See* Securities Exchange Act Release No. 70209 (August 15, 2013), 78 FR 51769 (August 21, 2013) (SR–NYSEArca–2013–60) (Order Granting Approval of Proposed Rule Change to List and Trade Shares of Market Vectors Low Volatility Commodity ETF and Market Vectors Long/Short Commodity ETF under NYSE Arca Equities Rule 8.200) (''Prior Order''). *See also* See Securities Exchange Act Release No. 69862 (June 26, 2013), 78 FR 39810 (July 2, 2013) (SR–NYSEArca–2013–60) (''Prior Notice,'' and together with the Prior Order, the ''Prior Release'').

[6] The Trust filed a pre-effective amendment to its registration statements with respect to the Funds on Form S–1 under the Securities Act of 1933 (''1933 Act'') on December 7, 2012 (File No. 333–179435 for the Low Volatility ETF (''Low Volatility Registration Statement'') and File No. 333–179432 for the Long/Short ETF (''Long/Short Registration Statement'' and, together with the Low Volatility Registration Statement, the ''Registration Statements'')). The descriptions of the Funds and the Shares contained herein are based, in part, on the Registration Statements.

[7] The changes described herein will be effective upon filing with the Commission of another amendment to the Registration Statements. *See* note 6, *supra*. The Managing Owner represents that it will not implement the changes described herein until the instant proposed rule change is operative.

[8] As stated in the Prior Release, the Market Vectors Low Volatility Commodity ETF and Market Vectors Long/Short Commodity ETF seek to track changes, whether positive or negative, in the performance of the Morningstar® Long/Flat Commodity Index and Morningstar® Long/Short Commodity Index, respectively, over time.

[9] *See, e.g.,* Securities Exchange Act Release No. 63915 (February 15, 2011), 76 FR 9843 (February 22, 2011) (SR–NYSEArca–2010–121) (order approving listing and trading on the Exchange of FactorShares Funds under NYSE Arca Equities Rule 8.200); 63753 (January 21, 2011), 76 FR 4963 (January 27, 2011) (SR–NYSEArca–2010–110) (order approving listing and trading of shares of Teucrium Natural Gas Fund under NYSE Arca Equities Rule 8.200); 63869 (February 8, 2011), 76 FR 8799 (February 15, 2011) (SR–NYSEArca–2010–119) (order approving listing and trading of shares of Teucrium WTI Crude Oil Fund under NYSE Arca Equities Rule 8.200).

[10] 15 U.S.C. 78f(b)(5).

[11] *See* note 9, *supra*.

contracts in the Morningstar® Long/Flat Commodity Index and the Morningstar® Long/Short Commodity Index closes as early as 1:00 p.m. E.T., and trading in a substantial number of other component futures contracts closes at 2:00 p.m. E.T. or earlier. The Managing Owner represents that, upon further analysis, it believes that an 11:00 a.m. E.T. cut-off time, rather than a 1:00 p.m. E.T. cut-off time for placing orders to create or redeem Shares of the Funds will permit it to more efficiently process orders to create and redeem such Shares. The Managing Owner represents that, in view of the varying closing times for applicable futures contracts, an earlier cut-off time could permit the Managing Owner to more efficiently engage in transactions in the applicable futures markets in connection with orders to create or redeem Shares, which may help reduce the premium or discount on the Shares, and reduce the difference between the price of the Shares and the NAV of such Shares. 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 the Funds will comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.200. The Managing Owner represents that there is no change to the Funds' investment objectives. Except for the change noted above, all other representations made in the Prior Release remain unchanged.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change to the Funds' means of achieving their respective investment objective may permit the Funds to more efficiently handle orders to create and redeem Shares of the Funds and will enhance competition among issues of Trust Issued Receipts based on underlying commodity indexes.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, 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]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative for 30 days after the date of the filing. However, Rule 19b4(f)(6)(iii) [15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay to accommodate commencement of trading in the Shares of the Funds on the Exchange without delay. The Exchange states that the Managing Owner intends that trading of the Shares on the Exchange will commence prior to the 30-day delayed operative date.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[16] As stated in this proposal, the proposed change does not alter the Funds' investment objectives. Under the proposal, the Funds seek to change the time by which purchase orders and redemption orders to create and redeem Basket size aggregations of Shares of the Funds must be placed by authorized participants from 1:00 p.m. E.T. to 11:00 a.m. E.T. The Managing Owner represents that it believes that an 11:00 a.m. E.T. cut-off time, rather than a 1:00 p.m. E.T. cut-off time will permit it to more efficiently process orders to create and redeem Shares. The Exchange represents that, except for this change, all other representations made in the Prior Release remain unchanged and that the Funds will continue to comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.200. Because the proposed change does not alter the Funds' investment objectives and does not raise any novel or unique regulatory issues, the Commission designates the proposed rule change as operative upon filing.

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–NYSEArca–2014–28 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–2014–28. 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 will also be available for inspection and copying at the principal office of the Exchange. All comments

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] 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–NYSEArca–2014–28 and should be submitted on or before May 6, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–08412 Filed 4–14–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71915; File No. SR–ISE Gemini-2014–12]

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

April 9, 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 April 1, 2014 ISE Gemini, LLC (the ''Exchange'' or ''ISE Gemini'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISE Gemini is proposing to amend its Schedule of Fees. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Schedule of Fees. The Exchange's Schedule of Fees has separate tables for fees applicable to Standard Options and Mini Options. The Exchange notes that while the discussion below relates to fees for Standard Options, the fees for Mini Options, which are not discussed below, are and shall continue to be 1/10th of the fees for Standard Options.

1. Qualifying Tier Thresholds

ISE Gemini currently provides volume-based maker rebates and charges volume-based taker fees to Market Maker [3] and Priority Customer [4] orders in four tiers based on a member's average daily volume (''ADV'') in the following categories: (i) Total Affiliated Member ADV,[5] (ii) Priority Customer Maker ADV,[6] and (iii) Total Affiliated Member ADV with a Minimum Priority Customer Maker ADV, as shown in the table below. The highest tier threshold attained by any method below applies retroactively in a given month to all eligible traded contracts and applies to all eligible market participants.

TABLE 1—CURRENT

Tier	Total affiliated member ADV	Priority customer maker ADV	Total affiliated member ADV/minimum priority customer maker ADV
Tier 1	0–64,999	0–19,999	0–39,999/0+
Tier 2	65,000–149,999	20,000–64,999	40,000–114,999/15,000+
Tier 3	150,000–274,999	65,000–114,999	115,000–224,999/45,000+
Tier 4	275,000+	115,000+	225,000+/65,000+

As outlined in the following table, the Exchange now proposes to decrease the thresholds for achieving the four current volume tiers, and to add an additional fifth tier for members that execute either (i) a Total Affiliated Member ADV of at least 350,000 contracts, (ii) a Priority Customer Maker ADV of at least 125,000 contracts, or (iii) a Total Affiliated Member ADV of at least 250,000 contracts with a Minimum Priority Customer Maker ADV of at least 85,000 contracts.[7]

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] The term Market Maker refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. Market Maker orders sent to the Exchange by an Electronic Access Member are assessed fees and rebates at the same level as Market Maker orders. *See* footnote 2, Schedule of Fees, Section I and II.

[4] A Priority Customer is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[5] The Total Affiliated Member ADV category includes all volume in all symbols and order types, including both maker and taker volume and volume executed in the PIM, Facilitation, Solicitation, and QCC mechanisms.

[6] The Priority Customer Maker ADV category includes all Priority Customer volume that adds liquidity in all symbols.

[7] New maker rebates and taker fees for members that achieve Tier 5 are described in Sections 2 and 3 below. Where not otherwise noted in this proposed rule change, Tier 5 fees will be introduced at the applicable Tier 4 rate.

TABLE 1—PROPOSED

Tier	Total affiliated member ADV	Priority customer maker ADV	Total affiliated member ADV/minimum priority customer maker ADV
Tier 1	0–49,999	0–19,999	0–39,999/0+
Tier 2	50,000–124,999	20,000–49,999	40,000–99,999/15,000+
Tier 3	125,000–249,999	50,000–84,999	100,000–174,999/40,000+
Tier 4	250,000–349,999	85,000–124,999	175,000–249,999/65,000+
Tier 5	350,000+	125,000+	250,000+/85,000+

In addition, the Exchange proposes to apply these tiers to fees for all market participants when taking liquidity on ISE Gemini. Maker rebates will continue to be based on Table 1 for Market Maker or Priority Customer orders, and Table 2 for Firm Proprietary/Broker-Dealer or Professional Customer orders.

2. Maker Rebates for Market Maker and Priority Customer Orders

Currently, the Exchange provides maker rebates in Penny Symbols and SPY to Market Maker orders as follows: $0.30 per contract (Tier 1), $0.32 per contract (Tier 2), $0.34 per contract (Tier 3), and $0.38 per contract (Tier 4).[8] The Exchange now proposes to decrease the Tier 4 maker rebate for Market Maker orders in these symbols to $0.37 per contract. Market Makers that meet the proposed volume requirements for the new Tier 5 will receive the higher $0.38 per contract rebate currently offered for Tier 4 Market Maker orders in Penny Symbols. The Exchange will no longer offer an increased rebate for SPY to Market Makers that achieve the highest volume tier.

For Non-Penny Symbols the maker rebate for Market Maker orders is currently $0.40 per contract (Tier 1), $0.42 per contract (Tier 2), $0.44 per contract (Tier 3), and $0.47 per contract (Tier 4). As proposed, these rates will remain unchanged. Market Makers that achieve the new Tier 5 described above, however, will be entitled to a higher maker rebate of $0.49 per contract for orders in Non-Penny Symbols.

The Exchange also provides maker rebates in Penny Symbols and SPY to Priority Customer orders as follows: $0.25 per contract (Tier 1), $0.40 per contract (Tier 2), $0.45 per contract (Tier 3), and $0.48 per contract (Tier 4). The Exchange now proposes to increase the Tier 3 maker rebate for Priority Customer orders in these symbols to $0.46 per contract. In addition, Priority Customer orders executed by members that achieve the new Tier 5 will receive a higher maker rebate of $0.50 per contract.

For Non-Penny Symbols the maker rebate for Priority Customer orders is currently $0.75 per contract (Tier 1), $0.80 per contract (Tier 2), $0.82 per contract (Tier 3), and $0.85 per contract (Tier 4). The Exchange now proposes to offer the higher maker rebate of $0.85 per contract to Priority Customer orders in Non-Penny Symbols for members that achieve Tier 3, Tier 4, or Tier 5.

3. Taker and Response Fees for Penny Symbols and SPY

Currently, all Market Maker, Non-ISE Gemini Market Maker,[9] Firm Proprietary/Broker-Dealer,[10] and Professional Customer [11] orders in Penny Symbols and SPY pay a taker fee and a fee for responses to Crossing Orders of $0.48 per contract. The Exchange proposes to increase the taker fee for each of these market participants to $0.49 per contract for current Tiers 1 through 4. For members that meet the volume requirements for the new Tier 5, Market Maker and Non-ISE Gemini Market Maker orders will pay a discounted rate of $0.48 per contract. The Exchange also proposes to increase the response fee, which is not based on tiers, to $0.49 per contract for all non-Priority Customer orders. As will remain the case, Priority Customer orders in these symbols pay a taker fee of $0.45 per contract for Tier 1 and $0.44 per contract for Tier 2 or higher, and a flat response fee of $0.45 per contract.

4. Non-Substantive Layout Changes

Currently the Schedule of Fees has a single taker fee column for Tiers 2, 3, and 4. In order to make the fee schedule easier to read with the addition of new tier 5 for Market Maker, Non-ISE Gemini Market Maker, and Priority Customer orders, the Exchange proposes to break this into three separate columns for each tier as is currently done for maker rebates.[12] The Exchange is not introducing any differentiation between taker fees charged for Tiers 2 through 4 at this time.

5. Broker Dealer Definition

A ''Broker-Dealer'' order is presently defined as an order submitted by a member for a non-member broker-dealer account. In some instances, however, a member may submit orders for the account of another broker-dealer that is also an ISE Gemini member. Currently these orders would not fall into any of the market participant categories on the fee schedule. The Exchange believes that these orders should also be marked as Broker-Dealer orders, and therefore proposes to amend the definition of a Broker-Dealer order to include all orders submitted by a member for a broker-dealer account that is not its own proprietary account.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[13] in general, and Section 6(b)(4) of the Act,[14] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

1. Qualifying Tier Thresholds

The Exchange believes that it is reasonable, equitable, and not unfairly

[8] This rebate is presently $0.40 per contract for SPY.

[9] A ''Non-ISE Gemini Market Maker'' is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

[10] A ''Firm Proprietary'' order is an order submitted by a member for its own proprietary account. This proposed rule change modifies the definition of a ''Broker-Dealer'' order as discussed in subsection 5 below.

[11] A ''Professional Customer'' is a person or entity that is not a broker/dealer and is not a Priority Customer.

[12] In addition, the Exchange notes that its maker rebate columns are each labeled ''maker rebate/fee.'' The Exchange proposes to take out the reference to fees from the header to these columns, which indicate only applicable rebate numbers.

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(4).

discriminatory to decrease the volume thresholds for achieving the four current tiers for Market Maker and Priority Customer orders as this proposed change is designed to attract additional volume to ISE Gemini. The Exchange already provides volume-based tiered maker rebates and taker fees for these orders, and believes that lowering the applicable volume thresholds to more attainable levels will incentivize members to send additional order flow to ISE Gemini in order to receive higher rebates and lower fees. In addition, the Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to introduce a new volume tier, and to apply the volume tiers described in this filing to taker fees for all market participants, as the Exchange is providing additional incentives for members that bring substantial volume to ISE Gemini.

2. Maker Rebates for Market Maker and Priority Customer Orders

The Exchange believes that the proposed changes to the maker rebates provided to Market Maker and Priority Customer orders are reasonable, equitable, and not unfairly discriminatory as the proposed rebates are still within the range of rebates provided by other maker/taker options exchanges. The Exchange believes that providing higher rebates for Priority Customer orders, and for Priority Customer and Market Maker orders for members that meet the volume requirements for the new Tier 5, attracts that order flow to ISE Gemini and thereby creates liquidity to the benefit of all market participants who trade on the Exchange. Furthermore, while the Exchange is decreasing the maker rebate currently provided to certain Market Maker orders, it is also decreasing the volume thresholds required to achieve those rebates as described above. The Exchange believes that the combination of maker rebate rate changes, lower volume thresholds, and the addition of a fifth tier will encourage greater participation from Market Makers and Priority Customers on ISE Gemini.

3. Taker and Response Fees for Penny Symbols and SPY

The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to increase the taker and response fees for Market Maker, Non-ISE Gemini Market Maker, Firm Proprietary/Broker-Dealer, and Professional Customer orders in Penny Symbols and SPY as these fees are within the range of fees currently charged by other maker/taker options exchanges. The Exchange further believes that it is reasonable, equitable, and not unfairly discriminatory to offer members that achieve new Tier 5 lower taker fees for their Market Maker and Non-ISE Gemini Market Maker orders. As described above, this filing introduces a new tier that applies to orders executed by members that bring substantial volume to ISE Gemini. By offering discounted taker fees in these symbols for members that achieve the new tier, the Exchange is providing an incentive for these members to bring additional order flow to ISE Gemini, which will ultimately create liquidity to the benefit of all market participants who trade on the Exchange. The Exchange also notes that while it is not proposing similar fee discounts for Priority Customer orders, these orders are entitled to a rate that is lower than the rate charged to other market participants, and are already subject to a tiered discount for members that achieve Tier 2 or higher. The Exchange does not believe that it is unfairly discriminatory to limit the proposed taker fee discount to Market Maker and Non-ISE Gemini Market Maker orders as volume from other market participants is already sufficiently incented by the current fees and rebates offered. Moreover, with the introduction of tiered pricing that extends to Non-ISE Gemini Market Maker orders all market participants that trade on ISE Gemini will now be eligible for some form of volume based fees or rebates.

4. Non-Substantive Layout Changes

The Exchange believes that the taker fee layout changes are reasonable, equitable, and not unfairly discriminatory as these are non-substantive changes intended to make the Schedule of Fees more transparent to members and investors.

5. Broker Dealer Definition

The Exchange believes that the proposed amendment to the definition of a Broker-Dealer order is reasonable, equitable, and not unfairly discriminatory as this is a technical change intended to clarify how members should mark their orders. With this clarification, orders from a member broker-dealer executed through another member will be properly marked as Broker-Dealer orders, while orders submitted by a member for its own proprietary account will continue to be marked Firm Proprietary. This change is necessary to eliminate member confusion, as the current definitions of market participant types do not account for the scenario described above.

The Exchange notes that it has determined to charge fees and provide rebates in Mini Options at a rate that is 1/10th the rate of fees and rebates the Exchange provides for trading in Standard Options. The Exchange believes it is reasonable and equitable and not unfairly discriminatory to assess lower fees and rebates to provide market participants an incentive to trade Mini Options on the Exchange. The Exchange believes the proposed fees and rebates are reasonable and equitable in light of the fact that Mini Options have a smaller exercise and assignment value, specifically 1/10th that of a standard option contract, and, as such, is providing fees and rebates for Mini Options that are 1/10th of those applicable to Standard Options.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[15] the Exchange does not believe that the proposed rule change will impose any burden on inter-market or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed changes will promote competition as they are designed to allow ISE Gemini to better compete for order flow. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[16] and subparagraph (f)(2) of Rule 19b–4 thereunder,[17] because it establishes a

[15] 15 U.S.C. 78f(b)(8).

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 240.19b–4(f)(2).

due, fee, or other charge imposed by ISE Gemini.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an Email to *rule-comments@sec.gov*. Please include File No. SR–ISE Gemini-2014–12 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 Gemini-2014–12. 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 inspection and copying in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE Gemini-2014–12 and should be submitted by May 6, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–08418 Filed 4–14–14; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Public Availability of U.S. Small Business Administration FY 2013 Service Contract Inventory

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Public Availability of FY 2013 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), the Small Business Administration is publishing this notice to advise the public of the availability of the FY 2013 Service Contract inventory. This inventory provides information on service contract actions over $25,000 that were awarded in FY 2013. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010 and December 19, 2011 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). The Small Business Administration has posted its inventory and a summary of the inventory on the Small Business Administration homepage at the following link: *http://www.sba.gov/content/service-contract-inventory.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to William Cody in the Procurement Division at (303) 844–3499 or *William.Cody@sba.gov.*

Dated: April 9, 2014.

Tami Perriello,

Chief Financial Officer/Associate Administrator for Performance Management, (Acting), Office of the Chief Financial Officer.

[FR Doc. 2014–08530 Filed 4–14–14; 8:45 am]

BILLING CODE P

[18] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2014–0002]

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/Law Enforcement Agency (Source Jurisdiction))—Match Number 5001

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a renewal of an existing computer matching program that will expire on October 9, 2014.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with the Source Jurisdiction.

DATES: We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869 or writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government

records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain approval of the matching agreement by the Data Integrity Boards of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

Kirsten J. Moncada,

Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Notice of Computer Matching Program, SSA With the Law Enforcement Agency (Source Jurisdiction)

A. Participating Agencies

SSA and Source Jurisdiction.

B. Purpose of the Matching Program

The purpose of this matching program is to establish the terms, conditions, and safeguards under which we will conduct a computer matching program with the Source Jurisdiction in accordance with the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988 (5 U.S.C. 552a), and the regulations and guidance promulgated thereunder, to identify individuals in the Source Jurisdiction who are (1) fleeing fugitive felons, parole violators, or probation violators, as defined by the Social Security Act (Act) and in accordance with the Martinez Settlement and the Clark Court Order, as defined below, who are also (2) Supplemental Security Income (SSI) recipients, Retirement, Survivors and Disability Insurance (RSDI) beneficiaries, Special Veterans Benefit (SVB) beneficiaries, or representative payees for SSI recipients, RSDI beneficiaries, or SVB beneficiaries.

C. Authority for Conducting the Matching Program

The legal authority for the matching program conducted under this agreement is: sections 1611(e)(4)(A), 202(x)(l)(A)(iv) and (v), and 804(a)(2) and (3) of the Act (42 U.S.C. 1382(e)(4)(A), 402(x)(l)(A)(iv) and (v), and 1004(a)(2) and (3)), which prohibit the payment of SSI, RSDI, and/or SVB benefits to an SSI recipient, RSDI beneficiary, or SVB beneficiary for any month during which such individual flees to avoid prosecution, or custody or confinement after conviction, under the applicable laws of the jurisdiction from which the person flees, for a crime or attempt to commit a crime considered to be a felony under the laws of said jurisdiction. These sections of the Act also prohibit payment of SSI, RSDI, and/or SVB benefits to a recipient/beneficiary in jurisdictions that do not define such crimes as felonies, but as crimes punishable by death or imprisonment for a term exceeding 1 year (regardless of the actual sentence imposed), and to an individual who violates a condition of probation or parole imposed under Federal or state law. As a result of a settlement of a nationwide class action in *Martinez* v. *Astrue,* No. 08–4735 (N.D. Cal. September 24, 2009) (Martinez Settlement), SSA's nonpayment of benefits under these sections of the Act is limited to individuals with certain flight- or escape-coded warrants. Further, as a result of a settlement of a nationwide class action in *Clark* v. *Astrue,* 06 Civ. 15521 (S.D. NY, April 13, 2012) (Clark Court Order), SSA's nonpayment of benefits under these sections of the Act cannot be based solely on the existence of parole or probation arrest warrants.

Sections 1631(a)(2)(B)(iii)(V), 205(j)(2)(C)(i)(V), and 807(d)(1)(E) of the Act (42 U.S.C. 1383(a)(2)(B)(iii)(V), 405(j)(2)(C)(i)(V), 1007(d)(1)(E)), which prohibit SSA from using a person as a representative payee when such person is a person described in sections 1611(e)(4)(A), 202(x)(1)(A)(iv), or 804(a)(2) of the Act.

The legal authority for SSA's disclosure of information to the Source Jurisdiction is: sections 1106(a), 1611(e)(5), 1631(a)(2)(B)(xiv), 202(x)(3)(C), 205(j)(2)(B)(iii) and 807(b)(3) of the Act; the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988 (5 U.S.C. 552a(b)(3)); and SSA's disclosure regulations promulgated at 20 C.F.R. 401.150. The settlement terms in *Martinez* v. *Astrue* and *Clark* v. *Astrue* do not restrict this disclosure authority in any manner.

D. Categories of Records and Persons Covered by the Matching Program

The Source Jurisdiction will identify individuals who are fleeing fugitive felons, probation violators, or parole violators in its records originating from various databases. The Source Jurisdiction will prepare and disclose its records electronically (e.g., Government to Government Services Online) with clear identification of the record source. SSA will match the following systems of records with the incoming Source Jurisdiction records to determine individuals who receive SSI, RSDI, SVB benefits, or individuals serving as representative payees: Supplemental Security Income Record/Special Veterans Benefits (SSR/SVB), SSA/ODSSIS (60–0103) Routine Use 28, last published on January 11, 2006 (71 FR 1830); Master Beneficiary Record (MBR), SSA/ORSIS (60–0090) Routine Use 2, last published on January 11, 2006 (71 FR 1826); Master Representative Payee File, SSA/NCC (60–0222) Routine Use 12, last published on April 19, 2013 (78 FR 23811); and, Master Files of Social Security Number Holders and SSN Applications, SSA/OTSO (60–0058) Routine Use 24, last published on December 29, 2010 (75 FR 82121).

E. Inclusive Dates of the Matching Program

The effective date of this matching program is October 10, 2014; if the following notice, periods have lapsed: 30 days after publication of this notice in the **Federal Register** and 40 days after notice of the matching program is sent to Congress and OMB. The matching program will continue for 18 months from the effective date and, if both agencies meet certain conditions, it may extend for an additional 12 months thereafter.

[FR Doc. 2014–08424 Filed 4–14–14; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

[Docket ID Number RITA 2008–0002]

Agency Information Collection; Activity Under OMB Review; Report of Traffic and Capacity Statistics—The T–100 System

AGENCY: Office of the Assistant Secretary for Research and Technology (OST–R), Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for extension of currently approved collection. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on February 06, 2014 (79 FR 7278). The Bureau of Economic Analysis at the Department of Commerce submitted comments in support of the continuation of the data collection.

DATES: Written comments should be submitted by May 15, 2014.

FOR FURTHER INFORMATION CONTACT: Jennifer Rodes, Office of Airline Information, RTS–42, Room E34–420, OST–R, BTS, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, Telephone Number (202) 366–8513, Fax Number (202) 366–3383 or EMAIL *Jennifer.rodes@dot.gov.*

Comments: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street NW., Washington, DC 20503, Attention: OST–R/BTS Desk Officer.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 2138–0040.

Title: Report of Traffic and Capacity Statistics—The T–100 System.

Form No.: Schedules T–100 and T–100(f).

Type of Review: Extension of a currently approved collection.

Respondents: Certificated, commuter and foreign air carriers that operate to, from or within the United States.

T100 Form

Number of Respondents: 130.
Number of Annual responses 1,560.
Total Burden per Response: 6 hours.
Total Annual Burden: 9360 hours.

T100F Form

Number of Respondents: 175.
Number of Annual responses 2,100.
Total Burden per Response: 2 hours.
Total Annual Burden: 4,200 hours.
Needs and Uses:

Airport Improvement

The Federal Aviation Administration uses enplanement data for U.S. airports to distribute the annual Airport Improvement Program (AIP) entitlement funds to eligible primary airports, i.e., airports which account for more than 0.01 percent of the total passengers enplaned at U.S. airports. Enplanement data contained in Schedule T–100/T–100(f) are the sole data base used by the FAA in determining airport funding. U.S. airports receiving significant service from foreign air carriers operating small aircraft could be receiving less than their fair share of AIP entitlement funds. Collecting Schedule T–100(f) data for small aircraft operations will enable the FAA to more fairly distribute these funds.

Air Carrier Safety

The FAA uses traffic, operational and capacity data as important safety indicators and to prepare the air carrier traffic and operation forecasts that are used in developing its budget and staffing plans, facility and equipment funding levels, and environmental impact and policy studies. The FAA monitors changes in the number of air carrier operations as a way to allocate inspection resources and in making decisions as to increased safety surveillance. Similarly, airport activity statistics are used by the FAA to develop airport profiles and establish priorities for airport inspections.

Acquisitions and Mergers

While the Justice Department has the primary responsibility over air carrier acquisitions and mergers, the Department reviews the transfer of international routes involved to determine if they would substantially reduce competition, or determine if the transaction would be inconsistent with the public interest. In making these determinations, the proposed transaction's effect on competition in the markets served by the affected air carriers is analyzed. This analysis includes, among other things, a consideration of the volume of traffic and available capacity, the flight segments and origins-destinations involved, and the existence of entry barriers, such as limited airport slots or gate capacity. Also included is a review of the volume of traffic handled by each air carrier at specific airports and in specific markets which would be affected by the proposed acquisition or merger. The Justice Department uses T–100 data in carrying out its responsibilities relating to airline competition and consolidation.

Traffic Forecasting

The FAA uses traffic, operational and capacity data as important safety indicators and to prepare the air carrier traffic and operation forecasts. These forecast as used by the FAA, airport managers, the airlines and others in the air travel industry as planning and budgeting tools.

Airport Capacity Analysis

The mix of aircraft type are used in determining the practical annual capacity (PANCAP) at airports as prescribed in the FAA Advisory Circular *Airport Capacity Criteria Used in Preparing the National Airport Plan.* The PANCAP is a safety-related measure of the annual airport capacity or level of operations. It is a predictive measure which indicates potential capacity problems, delays, and possible airport expansions or runway construction needs. If the level of operations at an airport exceeds PANCAP significantly, the frequency and length of delays will increase, with a potential concurrent risk of accidents. Under this program, the FAA develops ways of increasing airport capacity at congested airports.

Airline Industry Status Evaluations

The Department apprises Congress, the Administration and others of the effect major changes or innovations are having on the air transportation industry. For this purpose, summary traffic and capacity data as well as the detailed segment and market data are essential. These data must be timely and inclusive to be relevant for analyzing emerging issues and must be based upon uniform and reliable data submissions that are consistent with the Department's regulatory requirements.

Mail Rates

The Department is responsible for establishing intra-Alaska mail rates. Separate rates are set for mainline and bush Alaskan operations. The rates are updated every six months to reflect changes in unit costs in each rate-making entity. Traffic and capacity data are used in conjunction with cost data to develop the required unit cost data.

Essential Air Service

The Department reassesses service levels at small domestic communities to assure that capacity levels are adequate to accommodate current demand.

System Planning at Airports

The FAA is charged with administering a series of grants that are designed to accomplish the necessary airport planning for future development and growth. These grants are made to state metropolitan and regional aviation authorities to fund needed airport systems planning work. Individual airport activity statistics, nonstop market data, and service segment data are used to prepare airport activity level forecasts.

Review of IATA Agreements

The Department reviews all of the International Air Transport Association (IATA) agreements that relate to fares, rates, and rules for international air transportation to ensure that the agreements meet the public interest criteria. Current and historic summary traffic and capacity data, such as revenue ton-miles and available ton-miles, by aircraft type, type of service, and length of haul are needed to conduct these analyses to:

(1) Develop the volume elements for passenger/cargo cost allocations, (2) evaluate fluctuations in volume of scheduled and charter services, (3) assess the competitive impact of different operations such as charter versus scheduled, (4) calculate load factors by aircraft type, and (5) monitor traffic in specific markets.

Foreign Air Carriers Applications

Foreign air carriers are required to submit applications for authority to operate to the United States. In reviewing these applications the Department must find that the requested authority is encompassed in a bilateral agreement, other intergovernmental understanding, or that granting the application is in the public interest. In the latter cases, T–100 data are used in assessing the level of benefits that carriers of the applicant's homeland presently are receiving from their U.S. operations. These benefits are compared and balanced against the benefits U.S. carriers receive from their operations to the applicant's homeland.

Air Carrier Fitness

The Department determines whether U.S. air carriers are and continue to be fit, willing and able to conduct air service operations without undue risk to passengers and shippers.

The Department monitors a carrier's load factor, operational, and enplanement data to compare with other carriers with similar operating characteristics. Carriers that expand operations at a high rate are monitored more closely for safety reasons.

International Civil Aviation Organization

Pursuant to an international agreement, the United States is obligated to report certain air carrier data to the International Civil Aviation Organization (ICAO). The traffic data supplied to ICAO are extracted from the U.S. air carriers' Schedule T–100 submissions.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 USC 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued on April 9, 2014.

Rolf R. Schmitt,

Deputy Director, Bureau of Transportation Statistics.

[FR Doc. 2014–08399 Filed 4–14–14; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

MAP–21 Comprehensive Truck Size and Weight Limits Study Public Meeting and Outreach Session

AGENCY: Federal Highway Administration (FHWA); DOT.

ACTION: Notice of Public Meeting.

SUMMARY: This notice announces an upcoming public meeting on the Moving Ahead for Progress in the 21st Century Act (MAP–21) Comprehensive Truck Size and Weight Limits Study. The U.S. Department of Transportation (DOT) will hold a third public outreach session to provide an update on the progress of the MAP–21 Comprehensive Truck Size and Weight Limits Study.

DATES: The DOT Comprehensive Truck Size and Weight Limits Study –Third Public Outreach Session (Webinar) will be held on May 6, 2014 from 1:00 p.m. to 3:00 p.m., e.t.

ADDRESSES: The DOT Comprehensive Truck Size and Weight Limits Study—Third Public Outreach Session will be held as a Webinar. Additional Webinar details and registration information will be sent to individuals who have registered on the Comprehensive Truck Size and Weight Limits Study email list and will also be posted on FHWA's Truck Size and Weight Web site: *http://www.ops.fhwa.dot.gov/freight/sw/map21tswstudy/index.htm.*

FOR FURTHER INFORMATION CONTACT: email *CTSWStudy@dot.gov* or contact Mr. Thomas Kearney at: (518) 431–8890, *Tom.Kearney@dot.gov;* Edward Strocko, (202) 366–2997, *ed.strocko@dot.gov;* Office of Freight Management and Operations, Federal Highway Administration, Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

The MAP–21 (Pub. L. 112–141) requires DOT to conduct a Comprehensive Truck Size and Weight Limits Study (MAP–21 § 32801) addressing differences in safety risks, infrastructure impacts, and the effect on levels of enforcement between trucks operating at or within Federal truck size and weight (TSW) limits and trucks legally operating in excess of Federal limits; comparing and contrasting the potential safety and infrastructure impacts of alternative configurations (including configurations that exceed current Federal TSW limits) to the current Federal TSW law and regulations; and, estimating the effects of freight diversion due to these alternative configurations.

Public Meeting

On May 6, 2014 from 1:00 p.m. to 3:00 p.m., e.t., DOT will hold the third public outreach session to provide an update on the MAP–21 Comprehensive Truck Size and Weight Limits Study progress. This session will be held as a Webinar and will include an update on the technical analysis and project schedule. This Webinar will be recorded. Additional Webinar details and registration information can be found on FHWA's Truck Size and Weight Web site: *http://www.ops.fhwa.dot.gov/freight/sw/map21tswstudy/index.htm.* Information will also be sent to individuals who have registered on the Comprehensive Truck Size and Weight Limits Study email list.

The DOT invites participation in these meetings by all those interested in the MAP–21 Comprehensive Truck Size and Weight Limits Study.

Issued on: April 9, 2014.

Jeffrey A. Lindley,

Associate Administrator for Operations.

[FR Doc. 2014–08457 Filed 4–14–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fiscal Year 2013 Public Transportation on Indian Reservations Program Project Selections

AGENCY: Federal Transit Administration, DOT.

ACTION: Tribal Transit Program Announcement of Project Selections.

SUMMARY: The US. Department of Transportation's (DOT) Federal Transit Administration (FTA) announces the selection of projects with Fiscal Year (FY) 2013 appropriations for the Tribal Transit Program (TTP). On May 9, 2013 FTA published a **Federal Register** Notice (78 FR 27284) announcing the availability of the funding for the program. The Moving Ahead for Progress in the 21st Century Act (MAP–21) authorizes approximately $5 million for federally recognized Indian Tribes or Alaska Native villages, groups, or communities as identified by the Bureau of Indian Affairs (BIA) in the U.S. Department of the Interior for public transportation. Combined with available funding from prior years, FTA is allocating a total of approximately $5.05 million to selected projects in this notice. The TTP supports capital projects, operating costs and planning activities that are eligible under the Formula Grants for Rural Areas Program (Section 5311). FTA funds may only be used for eligible purposes defined under 49 U.S.C 5311 and described in the proposed FTA Circular 9040.1G, and consistent with the specific eligibility and priorities established in the May 2013 Notice of Funding Availability (NOFA) .

FOR FURTHER INFORMATION CONTACT: Successful applicants should contact the appropriate FTA Regional office for information regarding applying for the funds or program-specific information. A list of Regional offices, along with a list of tribal liaisons can be found at *www.fta.dot.gov*. Unsuccessful applicants may contact Élan Flippin, Office of Program Management at (202) 366–3800, email: *Elan.Flippin@dot.gov,* to arrange a proposal debriefing within 30 days of this announcement. In the event the contact information provided by your tribe in the application has changed, please contact your regional tribal liaison with the current information in order to expedite the grant award process. A TDD is available at 1–800–877–8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION: Approximately $5.05 million is available for the FY 2013 Tribal Transit program. A total of 75 applicants requested $18.1 million, indicating significant demand for funds for public transportation projects. Project proposals were evaluated based on each applicant's responsiveness to the program evaluation criteria outlined in FTA's May 2013 NOFA. The FTA also took into consideration the current status of previously funded applicants. This included evaluating available discretionary funding from prior years, the availability of formula funds, and balancing for geographic diversity. As a result, FTA is funding a total of 48 projects for 42 tribes. The projects selected as shown in Table 1 will provide funding for transit planning studies, capital and operating requests for existing, start-up, expansion and replacement services. Funds must be used for the specific purposes identified in Table 1. Allocations may be less than what the applicant requested and were capped at $300,000 to provide funding to all highly rated proposals; planning projects were capped at $25,000. Tribes selected for competitive discretionary funding should work with their FTA regional office to finalize the grant application in FTA's Transportation Electronic Awards Management System (TEAM) for the projects identified in the attached table and so that funds can be obligated expeditiously. In cases where the allocation amount is less than the proposer's requested amount, tribes should work with the regional office to ensure the funds are obligated for eligible aspects of the projects and for specific purpose intended as reflected in Table 1. A discretionary project identification number has been assigned to each project for tracking purposes and must be used in the TEAM application. The post award reporting requirements include submission of the Federal Financial Report (FFR), Milestone Report in TEAM, and National Transit Database (NTD) reporting as appropriate (see FTA Circular 9040.1G).

Tribes must continue to report to the NTD to be eligible for FY2015 formula apportionment funds. To be considered in the FY 2015 formula apportionments, tribes should submit their reports to the NTD no later than October 31, 2014; voluntary reporting to the NTD is also encouraged. For tribes who have not reported before, you will need to contact the NTD Operations Center in advance to get a reporting account for the NTD on-line data collection system. The Operation Center can be reached Monday–Friday, 8:00 a.m.–7:00 p.m. (ET), by email *NTDHelp@dot.gov* or by phone 1–888–252–0936.

TTP grantees must comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal requirements in carrying out the project supported by the FTA grant. To assist tribes with understanding these requirements and the recent program changes, FTA conducted three Tribal Transit Technical Assistance Workshops in FY 2013 and expects to continue similar offerings in FY 2014. FTA is also continuing to expand its technical assistance and oversight of the tribes receiving funds under this program by conducting oversight assessments. These assessments will include discussion of compliance areas pursuant to the Master Agreement, a site visit and technical assistance from FTA and its contractors. FTA plans to begin assessments in FY2015, giving tribes an opportunity to attend workshops. FTA will use these assessments as a tool to focus on areas of improvement and as an indication of the areas where technical assistance is needed.

FTA will post information about upcoming workshops to its Web site and will disseminate information about the reviews through its Regional offices. A list of Tribal Liaisons can be on FTA's Web site at *http://www.fta.dot.gov/13094_15845.html.*

Funds allocated in this announcement must be obligated in a grant by September 30, 2016. FTA plans to publish a NOFA soliciting proposals for FY2014 discretionary funds in late spring. The NOFA will establish and outline specific eligibility for funding.

Therese McMillan,

Deputy Administrator.

BILLING CODE 4910–57–P

FY 2013 Tribal Transit Discretionary Project Selections

State	Applicant Legal Name	Project ID	Project Purpose	Award Amount
AK	Metlakatla Indian Community	D2013-TRTR-002	Planning	$ 25,000
AK	Hydaburg Cooperative Association (HCA)	D2013-TRTR-003	Capital (vehicle replacement)	$ 55,550
AK	Gulkana Village Council	D2013-TRTR-004	Capital (vehicle replacement)	$ 139,000
AK	Nome Eskimo Community	D2013-TRTR-005	Capital, Operating (Start-up)	$ 200,000
AZ	Quechan Indian Tribe	D2013-TRTR-006	Operating (existing operartions)	$ 150,000
AZ	Kaibab Band of Paiute Indians	D2013-TRTR-007	Capital (vehicle expansion) $40,000; Capital (vehicle replacement) $23,400; Capital (vehicle replacement) $21,600	$ 85,000
AZ	San Carlos Apache Tribe	D2013-TRTR-008	Planning	$ 25,000
CA	Yurok Tribe	D2013-TRTR-009	Capital (vehicle expansion)	$ 126,000
CA	North Fork Rancheria of Mono Indians of California	D2013-TRTR-010	Operating (existing operartions)	$ 150,000
CA	Ione Band of Miwok Indians	D2013-TRTR-011	Operating (Start-up)	$ 125,000
CA	Reservation Transportation Authority	D2013-TRTR-012	Capital (enhancements of bus stops)	$ 100,000
CO	Southern Ute Indian Tribe	D2013-TRTR-013	Operating (existing operartions) $78,150; Operating (existing operations of Ignacio Dial-a-Ride) $98,985; Operating (existing operations of Ignacio Workforce Connection) $121,382	$ 298,517
ID	Shoshone-Bannock Tribes	D2013-TRTR-014	Operating (existing operations)	$ 200,000
KS	Prairie Band Potawatomi Nation	D2013-TRTR-015	Capital (vehicle replacement)	$ 32,850
ME	Aroostook Band of Micmacs	D2013-TRTR-016	Planning	$ 22,150
MI	Little Traverse Bay Bands of Odawa Indians	D2013-TRTR-017	Planning	$ 25,000
MI	Grand Traverse Band of Ottawa and Chippewa Indians	D2013-TRTR-018	Planning (Start-up)	$ 25,000
MI	Lac Vieux Desert Band of Lake Superior Chippewa	D2013-TRTR-019	Planning	$ 25,000
MN	Leech Lake Band of Ojibwe	D2013-TRTR-020	Operating (existing operations)	$ 225,001

FY 2013 Tribal Transit Discretionary Project Selections

State	Applicant Legal Name	Project ID	Project Purpose	Award Amount
MN	Bois Forte Band of Chippewa	D2013-TRTR-021	Capital (vehicle expansion) $54,900; Operating (existing operations) $200,000	$ 254,900
MN	Red Lake Band of Chippewa Indians	D2013-TRTR-022	Capital (vehicle replacement)	$ 76,914
MT	Crow Tribe of Indians	D2013-TRTR-023	Operating (existing operations)	$ 300,000
NE	Winnebago Tribe of Nebraska	D2013-TRTR-024	Capital (vehicle replacement)	$ 111,350
NE	Ponca Tribe of Nebraska	D2013-TRTR-025	Capital (vehicle expansion) $31,500; Capital (GPS equipment) $3,673	$ 35,173
NM	The Pueblo of Jemez	D2013-TRTR-026	Operating (Start-up) $105,400; Capital (vehicle purchase) $97,300	$ 202,700
NM	Pueblo of Isleta	D2013-TRTR-027	Planning (Start-up)	$ 25,000
NM	Pueblo of Santa Ana	D2013-TRTR-028	Capital (vehicle replacement)	$ 80,000
NV	Pyramid Lake Paiute Tribe	D2013-TRTR-029	Operating (Start-up)	$ 300,000
NV	Te-Moak Tribe of Western Shoshone	D2013-TRTR-030	Planning (Start-up)	$ 25,000
NY	The Seneca Nation of Indians	D2013-TRTR-031	Capital (enhancements of bus shelters/ installation of video surveillance)	$ 145,000
OK	Cherokee Nation, Oklahoma	D2013-TRTR-032	Capital (vehicle replacement)	$ 300,000

FY 2013 Tribal Transit Discretionary Project Selections

State	Applicant Legal Name	Project ID	Project Purpose	Award Amount
OK	Miami Tribe of Oklahoma	D2013-TRTR-033	Capital (equipment for maintenance facility)	$ 265,498
OR	Confederated Tribes of Siletz Indians	D2013-TRTR-034	Operating (existing operations)	$ 100,000
SD	Yankton Sioux Tribe	D2013-TRTR-035	Capital (construction of bus shelter)	$ 90,784
WA	Skokomish Indian Tribe	D2013-TRTR-036	Operating (expansion of operations)	$ 100,000
WA	Jamestown S'Klallam Tribe	D2013-TRTR-037	Operating (existing operations)	$ 80,340
WA	Cowlitz Indian Tribe	D2013-TRTR-038	Capital (vehicle replacement)	$ 50,872
WA	Kalispel Tribe of Indians	D2013-TRTR-039	Capital (vehicle replacement)	$ 169,053
WA	The Tulalip Tribes of Washington	D2013-TRTR-040	Planning	$ 25,000
WI	Red Cliff Band of Lake Superior Chippewa Indians	D2013-TRTR-041	Operating (existing operations)	$ 82,690
WI	Lac du Flambeau Band of Lake Superior Chippewa Indians	D2013-TRTR-042($161,710), D2013-TRTR-14001 ($38,290)	Capital (Start-up)	$ 200,000
			Total:	5,054,342

[FR Doc. 2014–08477 Filed 4–14–14; 8:45 am]

BILLING CODE 4910–57–C

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0675]

Agency Information Collection (VetBiz Vendor Information Pages Verification Program) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Office of Small and Disadvantaged Business Utilization, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 15, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0675'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0675.''

SUPPLEMENTARY INFORMATION:

Title: VetBiz Vendor Information Pages Verification Program, VA Form 0877.

OMB Control Number: 2900–0675.

Type of Review: Revision of a currently approved collection.

Abstract: The Vendor Information Pages will be used to assist federal agencies in identifying small businesses owned and controlled by Veterans and service-connected disable Veterans. This information is necessary to ensure that Veteran own businesses are given the opportunity to participate in Federal contracts and receive contract solicitations information automatically. VA will use the data collected on VA Form 0877 to verify small businesses as Veteran-owned or service-disabled Veteran-owned.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 29, 2014, at pages 4814–4815.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 10,000 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 20,000.

Dated: April 10, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–08517 Filed 4–14–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Minority Veterans will be held in New York City, New York from April 29–May 1, 2014, at the below times and locations:

On April 29, from 9:00 a.m. to 3:00 p.m., at the James J. Peters VA Medical Center, 130 West Kingsbridge Rd., Bronx, New York; 4:00 p.m. to 5:00 p.m., at the Yonkers Community Clinic, 124 New Main St., Yonkers, NY;

On April 30, from 9:00 a.m. to 10:00 a.m., at the Long Island National Cemetery, 2040 Wellwood Ave., Farmingdale, NY; from 12:45 p.m. to 2:00 p.m., at the NY Regional Benefit Office, 245 W Houston St., New York, NY; 4:30 p.m. to 6:30 p.m., conducting a Town Hall Meeting at the Bronx Community College, 2155 University Avenue, Colston Community Hall (lower level), Bronx, NY; and

On May 1, from 8:15 a.m. to 4:45 p.m., at the James J. Peters VA Medical Center, 130 West Kingsbridge Rd., Bronx, NY.

The purpose of the Committee is to advise the Secretary on the administration of VA benefits and services to minority Veterans, to assess the needs of minority Veterans and to evaluate whether VA compensation and pension, medical and rehabilitation services, memorial services outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities subsequent to the meeting.

On the morning of April 29 from 9:00 a.m. to 11:30 a.m., the Committee will meet in open session with key staff at the James J. Peters VA Medical Center to discuss services, benefits, delivery challenges, and successes. From 11:30 a.m. to 12:30 p.m., the Committee will convene a closed session in order to protect patient privacy as the Committee tours the VA Medical Center. In the afternoon from 1:30 p.m. to 3:00 p.m., the Committee will reconvene in open session to be briefed by senior Veterans Benefits Administration staff from the NY Regional Benefit Office. The Committee will travel to the Yonkers Community Clinic and will convene a closed session to meet with key staff at the Yonkers Community Clinic in order to protect patient privacy as the Committee tours the facility.

On the morning of April 30 from 9:00 a.m. to 10:00 a.m., the Committee will convene in open session at the Long Island National Cemetery followed by a tour of the cemetery. The Committee will meet with key staff to discuss services, benefits, delivery challenges and successes. In the afternoon from 12:45 p.m. to 2:00 p.m., the Committee will convene a closed session to tour the NY Regional Benefit Office. In the evening, the Committee will hold a Veterans Town Hall meeting at the Bronx Community College, beginning at 4:30 p.m.

On the morning of May 1 from 8:15 a.m. to 12:00 p.m., the Committee will convene in open session at the James J. Peters VA Medical Center to conduct an exit briefing with leadership from the James J. Peters VA Medical Center, New York Regional Benefit Office, and Long Island National Cemetery. In the afternoon, the Committee will convene in open session, from 1:00 p.m. to 4:30 p.m. The Committee will work on drafting recommendations for the annual report to the Secretary.

Portions of these visits are closed to the public in accordance with 5 U.S.C. § 552(c)(6). Exemption 6 permits to Committee to close those portions of a meeting that are likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. During the closed sessions the Committee will discuss VA beneficiary and patient information in which there is a clear privacy interest. The

disclosure of such information is likely to constitute a clearly unwarranted invasion of the Veteran or beneficiary privacy.

Time will be allocated for receiving public comments on May 1, at 10 a.m. Public comments will be limited to three minutes each. Individuals wishing to make oral statements before the Committee will be accommodated on a first-come first serve basis. Individuals who speak are invited to submit a 1–2 page summaries of their comments at the time of the meeting for inclusion in the official record. The Committee will accept written comments from interested parties on issues outlined in the meeting agenda, as well as other issues affecting minority Veterans. Such comments should be sent to Ms. Juanita Mullen, Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, or email at *Juanita.Mullen@va.gov.* Because the meeting will be in a Government building, anyone attending must be prepared to show a valid photo ID for checking in. Please allow 15 minutes before the meeting beings for this process. For additional information about the meeting, please contact Ms. Juanita Mullen at (202) 461–6199.

Dated: April 9, 2014.

Jelessa Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2014–08370 Filed 4–14–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department Of Veterans Affairs (VA).

ACTION: Notice of Amendment of System of Records Notice.

SUMMARY: As required by the Privacy Act of 1974 (5 United States Code 552a(e)(4), (11)), notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records titled ''Veterans Tracking Application (VTA)/Federal Case Management Tool (FCMT)—VA'' (163VA005Q3) System Location.

DATES: This amended system of record will be effective April 15, 2014.

FOR FURTHER INFORMATION CONTACT: Dick Rickard, Program Manager (VTA/FCMT), Office of Information & Technology, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420, (801) 842–3375.

SUPPLEMENTARY INFORMATION: The Department is amending its system of records titled ''Veterans Tracking Application (VTA)/Federal Case Management Tool (FCMT)'' (160VA005Q3) by updating the System Location to include new hosting facilities in Sterling, Virginia and an additional failover facility in Chicago, Illinois.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on April 7, 2014, for publication.

Dated: April 10, 2014.

Robert C. McFetridge,

Director of Regulations Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

Notice of Amendment to System of Records

The system of records identified as ''Veterans Tracking Application (VTA)/Federal Case Management Tool (FCMT) (163VA 005Q3),'' published at 75 FR 76784, December 9, 2010, and amended at 77 FR 23543, April 19, 2012, is revised by deleting the text in the System Location and adding the text as follows:

163VA 005Q3

SYSTEM NAME:

''Veterans Tracking Application (VTA)/Federal Case Management Tool (FCMT)—VA''

* * * * *

SYSTEM LOCATION:

The VTA system containing its associated records is maintained at the Austin Information Technology Center (AITC) at 1615 East Woodward Street, Austin, Texas 78772. The FCMT system containing its associated records is maintained at the Terremark Worldwide computing facility located at 18155 Technology Blvd., Culpeper, Virginia 22701–3805 and, effective March 15, 2014, at Qwest CenturyLink Data Center located at 22810 International Drive, Sterling, Virginia 20166. A second VTA database with an identical set of records is being established at a disaster recovery site at the Hines Information Technology Center (Hines ITC) at Hines, Illinois. All records are maintained electronically. Disaster recovery facilities for the FCMT application and database are available at Terremark's backup site in Miami, Florida and Savvis, A CenturyLink Company, in Chicago, Illinois.

* * * * *

[FR Doc. 2014–08429 Filed 4–14–14; 8:45 am]

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FEDERAL REGISTER

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a 3D Seismic Survey in Prudhoe Bay, Beaufort Sea, Alaska; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD210

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a 3D Seismic Survey in Prudhoe Bay, Beaufort Sea, Alaska

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received an application from BP Exploration (Alaska) Inc. (BP) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to conducting an ocean-bottom sensor seismic survey in Prudhoe Bay, Beaufort Sea, Alaska, during the 2014 open water season. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to BP to incidentally take, by Level B harassment only, marine mammals during the specified activity.

DATES: Comments and information must be received no later than May 15, 2014.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Supervisor, Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *ITP.Nachman@noaa.gov*. NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 25-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm* without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

An electronic copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Candace Nachman, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking, other means of effecting the least practicable impact on the species or stock and its habitat, and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

Summary of Request

On December 30, 2013, NMFS received an application from BP for the taking of marine mammals incidental to conducting a 3D ocean-bottom sensor (OBS) seismic survey. NMFS determined that the application was adequate and complete on February 14, 2014.

BP proposes to conduct a 3D OBS seismic survey with a transition zone component on state and private lands and Federal and state waters in the Prudhoe Bay area of the Beaufort Sea during the open-water season of 2014. The proposed activity would occur between July 1 and September 30; however, airgun operations would cease on August 25. The following specific aspects of the proposed activity are likely to result in the take of marine mammals: airguns and pingers. Take, by Level B harassment only, of 9 marine mammal species is anticipated to result from the specified activity.

Description of the Specified Activity

Overview

BP's proposed OBS seismic survey would utilize sensors located on the ocean bottom or buried below ground nearshore (surf zone) and onshore. A total of two seismic source vessels will be used during the proposed survey, each carrying two airgun sub-arrays. The discharge volume of each airgun sub-array will not exceed 620 cubic inches (in^3). To limit the duration of the total survey, the source vessels will be operating in a flip-flop mode (i.e., alternating shots); this means that one vessel discharges airguns when the other vessel is recharging. The program is proposed to be conducted during the 2014 open-water season.

The purpose of the proposed OBS seismic survey is to obtain current, high-resolution seismic data to image existing reservoirs. The data will increase BP's understanding of the reservoir, allowing for more effective reservoir management. Existing datasets of the proposed survey area include the 1985 Niakuk and 1990 Point McIntyre vibroseis on ice surveys. Data from these two surveys were merged for reprocessing in 2004. A complete set of OBS data has not previously been acquired in the proposed survey area.

Dates and Duration

The planned start date of receiver deployment is approximately July 1, 2014, with seismic data acquisition beginning when open water conditions allow. This has typically been around July 15. Seismic survey data acquisition may take approximately 45 days to complete, which includes downtime for weather and other circumstances. Seismic data acquisition will occur on a 24-hour per day schedule with staggered crew changes. Receiver retrieval and demobilization of

equipment and support crew will be completed by the end of September. To limit potential impacts to the bowhead whale fall migration and subsistence hunting, airgun operations will cease by midnight on August 25. Receiver and equipment retrieval and crew demobilization would continue after airgun operations end but would be completed by September 30. Therefore, the proposed dates for the IHA (if issued) are July 1 through September 30, 2014.

Specified Geographic Region

The proposed seismic survey would occur in Federal and state waters in the Prudhoe Bay area of the Beaufort Sea, Alaska. The seismic survey project area lies mainly within the Prudhoe Bay Unit and also includes portions of the Northstar, Dewline, and Duck Island Units, as well as non-unit areas. Figures 1 and 2 in BP's application outline the proposed seismic acquisition areas. The project area encompasses approximately 190 mi^2, comprised of approximately 129 mi^2 in water depths of 3 ft and greater, 28 mi^2 in waters less than 3 ft deep, and 33 mi^2 on land. The approximate boundaries of the project area are between 70°16′ N. and 70°31′ N. and between 147°52′ W. and 148°47′ W. and include state and federal waters, as well as state and private lands. Activity outside the 190 mi^2 area may include source vessels turning from one line to the other while using mitigation guns, vessel transits, and project support and logistics.

Detailed Description of Activities

OBS seismic surveys are typically used to acquire 3D seismic data in water that is too shallow for towed streamer operations or too deep to have grounded ice in winter. Data acquired through this type of survey will allow for the generation of a 3D sub-surface image of the reservoir area. The generation of a 3D image requires the deployment of many parallel receiver lines spaced close together over the area of interest. The activities associated with the proposed OBS seismic survey include equipment and personnel mobilization and demobilization, housing and logistics, temporary support facilities, and seismic data acquisition.

1. Equipment and Personnel Mobilization and Demobilization

Mobilization, demobilization, and support activities are primarily planned to occur at West Dock, East Dock, and Endicott. Other existing pads within the Prudhoe Bay Unit area may be utilized for equipment staging or support as necessary. All vessels are expected to be transported to the North Slope by truck. Any mobilization by truck does not have the potential to take marine mammals. It is possible that one of the vessels will be mobilized by sea past Barrow when ice conditions allow. The vessels will be prepared at the seismic contractor's base in Deadhorse, West Dock, or East Dock. Vessel preparation will include assembly of navigation and source equipment, testing receiver deployment and retrieval systems, loading recording and safety equipment, and initial fueling. Once assembled, the systems (including airguns) will be tested within the project area. Equipment will be retrieved as part of the operations and during demobilization. Receiver retrieval and demobilization of equipment and support crew will be completed by the end of September.

2. Housing and Logistics

Approximately 220 people will be involved in the operation including seismic crew, management, mechanics, and Protected Species Observers (PSOs). Most of the crew will be accommodated at BP operated camps or Deadhorse. Some offshore crew will be housed on vessels.

Personnel transportation between camps, pads, and support facilities will take place by trucks and crew transport buses traveling on existing gravel roads. This type of crew transfer does not have the potential to take marine mammals. Shallow-water craft such as Zodiac-type vessels and ARKTOS™ (and Northstar hovercraft if needed and available) will be used to transport equipment and crews to shallow water and surf-zone areas of the survey area not accessible by road; ARKTOS™ will not be used in vegetated areas, including tundra. Helicopters will be used to transport equipment and personnel to onshore tundra areas, and crews on foot will deploy equipment onshore. Trucks may also be used on the existing road system to transfer survey equipment and crews to the onshore portions of the survey area accessible by road and pads. Helicopter operations will be supported in Deadhorse.

Up to 10,000 gallons of fuel (mostly ultra-low sulfur diesel and small quantities of gasoline) may be temporarily stored on existing pads to support survey activities. Fuel may be transported to locations to refuel equipment. The vehicle transporting fuel to locations off pads (helicopter, boat, tracked buggy, or truck) will supply the necessary quantity of fuel at the time of transfer. Fueling of equipment may occur in floodplains and near water to accommodate marine and surf zone operations. All fueling will occur in accordance with applicable regulations and BP spill prevention practices.

3. Support Facilities

West Dock, Endicott, and East Dock, as well as other existing Prudhoe Bay Unit infrastructure, will be utilized for seismic staging, crew transfers, resupply, and other support activities. Crew transfers and resupply may also occur at other nearby vessel accessible locations (e.g., by beaching) if needed. For protection from weather, vessels may anchor near West Dock, near the barrier islands, or other nearshore area locations.

Receivers (i.e., nodes placed into cache bags) to be transported by helicopter via sling-load to the onsite project area for on-foot deployment may be temporarily staged on tundra adjacent to pads. These staging areas are not expected to exceed 200 ft by 200 ft and will be rotated as practicable to minimize tundra disturbance.

Helicopter support for equipment and personnel transport is scheduled to take place during one shift per 24-hour day. The helicopter will be based at the Deadhorse airport. A few staging areas may be strategically located at existing pads or gravel locations in the Prudhoe Bay Unit to minimize flight time and weather exposure.

A temporary flexi-float dock may be located at West Dock to provide support for vessel supply operations, personnel transfers, and refueling. The dock size will be a maximum of 170×30 ft and will be comprised of sections that will be fastened on location and secured with spuds to the seafloor. If needed, a smaller temporary dock (up to 100×15 ft) may be used at Endicott for additional support during some operations in the eastern project area. Minimal and temporary disturbance to marine sediments is expected when docks are placed and removed.

4. Seismic Data Acquisition

The proposed seismic survey will use sensors located on the ocean bottom or buried below ground nearshore (surf zone) and onshore and is described in more detail below. Sensors will be placed along north-south oriented receiver lines, with a minimum line spacing of 1,320 ft. The sound source will be submerged compressed airgun arrays towed behind source vessels. Source lines will be oriented perpendicular to receiver lines with typical minimum line spacing of 550 ft. In certain situations, such as when lines have been modified to avoid cultural sites, mitigate impacts to wildlife, or

due to bathymetry or geographic features, additional infill source and receiver lines may be added to improve data imaging.

Equipment and Vessels: Equipment will include geophones/receivers, airguns, nodes and batteries, helicopters, tracked drills, and vessels. Table 1 here and in BP's application lists the number and type of vessels and other vehicles anticipated to be used for the data acquisition. In the event that a specific vehicle or vessel is not available, a vehicle or vessel with similar parameters will be used.

Table 1. Summary of vessels and other equipment involved in the proposed 2014 North Prudhoe Bay OBS Seismic Survey.

VESSEL TYPE	NUMBER (approx.)	DIMENSIONS (approx.)	MAIN ACTIVITY	FREQUENCY
OFFSHORE AND SURFZONE				
Source vessel: main	1	90 × 25 ft	Seismic data acquisition	24-hr operation
Source vessel: small	2	70 x 16 ft	Seismic data acquisition	24-hr operation
Receiver boats	4	85 x 24 ft 32 x 14 ft	Deploy and retrieve receivers in offshore zone	24-hr operation
Crew transport, HSE, and support vessels	2	45 × 14 ft	Transport crew and supplies	Typically twice daily
Support vessel	1	116.5 × 24 ft 23 × 15 ft	Crew support floating platform, if needed	24-hr operation
SURFZONE AND ONSHORE				
ARKTOS™	2		Deploy and retrieve receivers in surf zone and non-vegetated onshore areas	24-hr operation
Utility type vehicle*	Up to 6		Deploy and retrieve receivers in surf zone and non-vegetated delta areas. Transport fuel and water	24-hr operation
Zodiacs	Up to 3		Transport crew and supplies	24-hr operation
Airboats	Up to 2		Transport crew and supplies	24-hr operation
Northstar hovercraft	1		Transport crew and supplies	As needed and if available

** Utility type vehicles include tracked or wheeled buggy, catamaran, or similar equipment in combination.*

Navigation and Data Management: Surveyors will deploy up to three navigation positioning base stations (survey control) onshore or on an island and may mark receiver locations in advance of the lay-out crews. Scouting of the project area and collecting bathymetry information necessary to identify site-specific conditions, such as water depth in near-shore areas will be performed prior to receiver deployment. A Differential Global Positioning System will be used for navigation. This navigation system connects to the onshore base stations and remotely links the operating systems on the vessels. The navigation system will display known obstructions, islands, identified areas of sensitivity, and pre-plotted source and receiver line positions; this information will be updated as necessary. The asset monitor will update the positions of each vessel in the survey area every few seconds providing the crew a quick display as to each vessel's position. Tide gauges will also be temporarily installed in the operation area. Tide gauges will be used to provide real-time water depth to ensure operations occur in the prescribed water depths. The tide gauge information will be input into the navigation system to provide real-time assessment.

Receiver Deployment and Retrieval: The survey area has been separated into three different zones based upon the different types of receivers that will be used and the method of receiver deployment and retrieval for that zone. Deployment and retrieval methods have been designed to facilitate complete equipment retrieval at the end of the survey. The three zones are: Offshore zone; surf zone; and onshore zone. Details on operations in each zone are provided next.

The *offshore zone* is defined as waters of 3 ft or deeper. Receiver boats will be used for the deployment and retrieval of receivers (marine nodes) that will be placed in lines onto the ocean bottom at about 110 ft spacing. Receivers will not be placed east of the Endicott Main Production Island, and will therefore not be placed in mapped concentrations of the Boulder Patch. Acoustic pingers will be deployed on every second node to determine exact positions of the receivers. The pingers transmit at frequencies ranging from about 19–36 kHz and have an estimated source level of 188–193 dB re µPa at 1m.

The *surf zone* includes waters up to 6 ft deep along the coastline, non-vegetated tidelands, and lands within the river delta areas that are intermittently submerged with tidal, precipitation, and storm surge events. ARKTOS™ and utility type vehicles equipped with a bit of approximately 4-

inch diameter will be used to either drill or flush the receivers to approximately 6 ft. Small vessels will then attach autonomous nodes to the receivers. The nodes will be protected from the water either through placement on specially designed floats anchored to the bottom or on support poles. Support poles will primarily be used in water less than 18 inches deep and in tidal surge areas to ensure that the nodes stay above surface waters and prevent them from becoming inundated as a result of fluctuating water levels. Receivers that are installed in the seabed may require warm water flushing to facilitate removal.

The *onshore zone* is the vegetated area from the coastline inland. Autonomous node receivers with geophones will be used in this area. Helicopters will be the main method to transport land crews and equipment. Equipment will be bagged, with each bag holding several nodes. Multiple bags will be transported via sling load from the staging area to the receiver lines and temporarily cached. Bag drop zones will be 500 to 1,000 ft apart and will be cleared for the presence of nesting birds prior to use. Crews on foot will walk from bag to bag and lay out the equipment at the surveyed location. Vessels may also be used to transport personnel and equipment to a staging area on the beach, and vehicles may be used to transport personnel and equipment along the road system. Zodiac-type boats may be used in large lakes to deploy marine nodes. Boats, nodes, and crews will be transported via helicopter to and from the lakes.

Nodes will be located on the ground surface, and the geophone(s) will be inserted approximately 3 ft below ground surface. Geophone installation will be either by hand using a planting pole or will be inserted into 1.5 inch diameter holes made with a hand-held drill. Support poles may be placed in lake margins and marshy areas of tundra as needed to ensure the nodes stay above surface waters and prevent them from becoming inundated as a result of fluctuating water levels. If conditions allow, geophones may be installed in the Sagavanirktok River Delta in early April until tundra closure using two tracked utility vehicle and a support vehicle. Upon completion of data acquisition and recording operations in a particular area, land crews will retrieve the nodes. Activities that occur onshore are not considered in the take assessment analysis in this proposed IHA.

Source Vessel Operations: A total of two seismic source vessels will be used during the proposed survey. The source vessels will carry an airgun array that consists of two sub-arrays, however, it is possible that one of the source vessels will tow only one sub-array. The discharge volume of the sub-array will not exceed 620 in^3. Each sub-array consists of eight airguns (2×110, 2×90, 2×70, and 2×40 in^3) totaling 16 guns for the two sub-arrays with a total discharge volume of 2×620 in^3, or 1240 in^3. The 620 in^3 sub-array has an estimated source level of ~218 decibels referenced to 1 microPascal root mean squared (dB re 1 μPa rms) at 1 meter from the source. The estimated source level of the two sub-arrays combined is ~224 dB re 1 μPa rms. In the shallowest areas, only one sub-array may be used for a given source vessel. Table 2 here and in BP's application summarizes the acoustic properties of the proposed airgun array. The smallest gun in the array (40 in^3) or a separate 10 in^3 airgun will be used for mitigation purposes.

The airgun sub-arrays will be towed at a distance of approximately 50 ft from the source vessel's stern at depths ranging from approximately 3 to 6 ft, depending on water depth and sea conditions. The source vessels will travel along pre-determined lines with a speed varying from 1 to 5 knots, mainly depending on the water depth.

To limit the duration of the total survey, the source vessels will be operating in flip-flop mode (i.e., alternating shots); this means that one vessel discharges airguns when the other vessel is recharging. In some instances, only one source vessel will be operating, while the second source vessel will be engaged in refueling, maintenance, or other activities that do not require the operation of airguns. The expected shot interval for each source will be 10 to 12 seconds, resulting in a shot every 5 to 6 seconds due to the flip-flop mode of operation. The exact shot intervals will depend on the compressor capacity, which determines the time needed for the airguns to be recharged. Data will record autonomously on the nodes placed offshore, in the surf zone, and onshore and may be periodically checked for quality control.

TABLE 2—PROPOSED AIRGUN ARRAY CONFIGURATION AND SOUND SOURCE SIGNATURES AS PREDICTED BY THE GUNDALF AIRGUN ARRAY MODEL FOR 2 M DEPTH

Array specifics	620 in^3 array	1240 in^3 array
Number of guns	Eight 2000 psi sleeve airguns (2×110, 2×90, 2×70, and 2×40 in^3) in one array.	Sixteen 2000 psi sleeve airguns (4×110, 4×90, 4×70, and 4×40 in^3), equally divided over two sub-arrays of eight guns each.
Zero to peak	6.96 bar-m (~237 dB re μPa @1 m)	13.8 bar-m (~249 dB re 1 μPa @1 m).
Peak to peak	14.9 bar-m (~243 dB re μPa @1 m)	29.8 bar-m (~243 dB re 1 μPa @1 m).
RMS pressure	0.82 bar-m (~218 dB re μPa @1 m)	1.65 bar-m (~224 dB re 1 μPa @1 m).
Dominant frequencies	Typically less than 1 kHz	Typically less than 1 kHz.

Description of Marine Mammals in the Area of the Specified Activity

The Beaufort Sea supports a diverse assemblage of marine mammals. Table 3 lists the 12 marine mammal species under NMFS jurisdiction with confirmed or possible occurrence in the proposed project area.

TABLE 3—MARINE MAMMAL SPECIES WITH CONFIRMED OR POSSIBLE OCCURRENCE IN THE PROPOSED SEISMIC SURVEY AREA

Common name	Scientific name	Status	Occurrence	Seasonality	Range	Abundance
Odontocetes:						
Beluga whale (Beaufort Sea stock).	*Delphinapterus leucas*		Common	Mostly spring and fall with some in summer.	Russia to Canada	39,258

TABLE 3—MARINE MAMMAL SPECIES WITH CONFIRMED OR POSSIBLE OCCURRENCE IN THE PROPOSED SEISMIC SURVEY AREA—Continued

Common name	Scientific name	Status	Occurrence	Seasonality	Range	Abundance
Killer whale	*Orcinus orca*		Occasional/Extralimital	Mostly summer and early fall.	California to Alaska	552
Harbor porpoise	*Phocoena phocoena*		Occasional/Extralimital	Mostly summer and early fall.	California to Alaska	48,215
Narwhal	*Monodon monoceros*					45,358
Mysticetes:						
Bowhead whale	*Balaena mysticetus*	Endangered; Depleted	Common	Mostly spring and fall with some in summer.	Russia to Canada	16,892
Gray whale	*Eschrichtius robustus*		Somewhat common	Mostly summer	Mexico to the U.S. Arctic Ocean.	19,126
Minke whale	*Balaenoptera acutorostrata.*					810–1,003
Humpback whale (Central North Pacific stock).	*Megaptera novaeangliae.*	Endangered; Depleted				21,063
Pinnipeds:						
Bearded seal (Beringia distinct population segment).	*Erigathus barbatus*	Threatened; Depleted	Common	Spring and summer	Bering, Chukchi, and Beaufort Seas.	155,000
Ringed seal (Arctic stock).	*Phoca hispida*	Threatened; Depleted	Common	Year round	Bering, Chukchi, and Beaufort Seas.	300,000
Spotted seal	*Phoca largha*		Common	Summer	Japan to U.S. Arctic Ocean.	141,479
Ribbon seal	*Histriophoca fasciata*	Species of concern	Occasional	Summer	Russia to U.S. Arctic Ocean.	49,000

Endangered, threatened, or species of concern under the Endangered Species Act (ESA); Depleted under the MMPA.

The highlighted (grayed out) species in Table 3 are so rarely sighted in the central Alaskan Beaufort Sea that their presence in the proposed project area, and therefore take, is unlikely. Minke whales are relatively common in the Bering and southern Chukchi seas and have recently also been sighted in the northeastern Chukchi Sea (Aerts *et al.,* 2013; Clarke *et al.,* 2013). Minke whales are rare in the Beaufort Sea. They have not been reported in the Beaufort Sea during the Bowhead Whale Aerial Survey Project/Aerial Surveys of Arctic Marine Mammals (BWASP/ASAMM) surveys (Clarke *et al.,* 2011, 2012; 2013; Monnet and Treacy, 2005), and there was only one observation in 2007 during vessel-based surveys in the region (Funk *et al.,* 2010). Humpback whales have not generally been found in the Arctic Ocean. However, subsistence hunters have spotted humpback whales in low numbers around Barrow, and there have been several confirmed sightings of humpback whales in the northeastern Chukchi Sea in recent years (Aerts *et al.,* 2013; Clarke *et al.,* 2013). The first confirmed sighting of a humpback whale in the Beaufort Sea was recorded in August 2007 (Hashagen *et al.,* 2009) when a cow and calf were observed 54 mi east of Point Barrow. No additional sightings have been documented in the Beaufort Sea. Narwhal are common in the waters of northern Canada, west Greenland, and in the European Arctic, but rarely occur in the Beaufort Sea (COSEWIC, 2004). Only a handful of sightings have occurred in Alaskan waters (Allen and Angliss, 2013). These three species are not considered further in this proposed IHA notice. Both the walrus and the polar bear could occur in the U.S. Beaufort Sea; however, these species are managed by the U.S. Fish and Wildlife Service (USFWS) and are not considered further in this Notice of Proposed IHA.

The Beaufort Sea is a main corridor of the bowhead whale migration route. The main migration periods occur in spring from April to June and in fall from late August/early September through October to early November. During the fall migration, several locations in the U.S. Beaufort Sea serve as feeding grounds for bowhead whales. Small numbers of bowhead whales that remain in the U.S. Arctic Ocean during summer also feed in these areas. The U.S. Beaufort Sea is not a main feeding or calving area for any other cetacean species. Ringed seals breed and pup in the Beaufort Sea; however, this does not occur during the summer or early fall. Further information on the biology and local distribution of these species can be found in BP's application (see **ADDRESSES**) and the NMFS Marine Mammal Stock Assessment Reports, which are available online at: *http://www.nmfs.noaa.gov/pr/species/*.

Potential Effects of the Specified Activity on Marine Mammals

This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (e.g., seismic airgun and pinger operation, vessel movement) have been observed to or are thought to impact marine mammals. This section may include a discussion of known effects that do not rise to the level of an MMPA take (for example, with acoustics, we may include a discussion of studies that showed animals not reacting at all to sound or exhibiting barely measurable avoidance). The discussion may also include reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of a take. This section is intended as a background of potential effects and does not consider either the specific manner in which this activity will be carried out or the mitigation that will be implemented or how either of those will shape the anticipated impacts from this specific activity. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Mitigation'' section, and the ''Anticipated Effects on

Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

Background on Sound

Sound is a physical phenomenon consisting of minute vibrations that travel through a medium, such as air or water, and is generally characterized by several variables. Frequency describes the sound's pitch and is measured in hertz (Hz) or kilohertz (kHz), while sound level describes the sound's intensity and is measured in decibels (dB). Sound level increases or decreases exponentially with each dB of change. The logarithmic nature of the scale means that each 10-dB increase is a 10-fold increase in acoustic power (and a 20-dB increase is then a 100-fold increase in power). A 10-fold increase in acoustic power does not mean that the sound is perceived as being 10 times louder, however. Sound levels are compared to a reference sound pressure (micro-Pascal) to identify the medium. For air and water, these reference pressures are ''re: 20 μPa'' and ''re: 1 μPa,'' respectively. Root mean square (RMS) is the quadratic mean sound pressure over the duration of an impulse. RMS is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1975). RMS accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part, because behavioral effects, which often result from auditory cues, may be better expressed through averaged units rather than by peak pressures.

Acoustic Impacts

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms have been derived using auditory evoked potentials, anatomical modeling, and other data, Southall *et al.* (2007) to designate ''functional hearing groups'' for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (though animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range):

- Low frequency cetaceans (13 species of mysticetes): functional hearing is estimated to occur between approximately 7 Hz and 30 kHz;
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High frequency cetaceans (eight species of true porpoises, six species of river dolphins, Kogia, the franciscana, and four species of cephalorhynchids): functional hearing is estimated to occur between approximately 200 Hz and 180 kHz;
- Phocid pinnipeds in Water: functional hearing is estimated to occur between approximately 75 Hz and 100 kHz; and
- Otariid pinnipeds in Water: functional hearing is estimated to occur between approximately 100 Hz and 40 kHz.

As mentioned previously in this document, nine marine mammal species (five cetaceans and four phocid pinnipeds) may occur in the proposed seismic survey area. Of the five cetacean species likely to occur in the proposed project area and for which take is requested, two are classified as low-frequency cetaceans (i.e., bowhead and gray whales), two are classified as mid-frequency cetaceans (i.e., beluga and killer whales), and one is classified as a high-frequency cetacean (i.e., harbor porpoise) (Southall *et al.,* 2007). A species functional hearing group is a consideration when we analyze the effects of exposure to sound on marine mammals.

1. Tolerance

Numerous studies have shown that underwater sounds from industry activities are often readily detectable by marine mammals in the water at distances of many kilometers. Numerous studies have also shown that marine mammals at distances more than a few kilometers away often show no apparent response to industry activities of various types (Miller *et al.,* 2005; Bain and Williams, 2006). This is often true even in cases when the sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. Although various baleen whales, toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to underwater sound such as airgun pulses or vessels under some conditions, at other times mammals of all three types have shown no overt reactions (e.g., Malme *et al.,* 1986; Richardson *et al.,* 1995; Madsen and Mohl, 2000; Croll *et al.,* 2001; Jacobs and Terhune, 2002; Madsen *et al.,* 2002; Miller *et al.,* 2005). Weir (2008) observed marine mammal responses to seismic pulses from a 24 airgun array firing a total volume of either 5,085 in^3 or 3,147 in^3 in Angolan waters between August 2004 and May 2005. Weir recorded a total of 207 sightings of humpback whales (n = 66), sperm whales (n = 124), and Atlantic spotted dolphins (n = 17) and reported that there were no significant differences in encounter rates (sightings/hr) for humpback and sperm whales according to the airgun array's operational status (i.e., active versus silent). The airgun arrays used in the Weir (2008) study were much larger than the array proposed for use during this seismic survey (total discharge volumes of 620 to 1,240 in^3). In general, pinnipeds and small odontocetes seem to be more tolerant of exposure to some types of underwater sound than are baleen whales. Richardson *et al.* (1995) found that vessel noise does not seem to strongly affect pinnipeds that are already in the water. Richardson *et al.* (1995) went on to explain that seals on haul-outs sometimes respond strongly to the presence of vessels and at other times appear to show considerable tolerance of vessels.

2. Masking

Masking is the obscuring of sounds of interest by other sounds, often at similar frequencies. Marine mammals use acoustic signals for a variety of purposes, which differ among species, but include communication between individuals, navigation, foraging, reproduction, avoiding predators, and learning about their environment (Erbe and Farmer, 2000; Tyack, 2000). Masking, or auditory interference, generally occurs when sounds in the environment are louder than, and of a similar frequency as, auditory signals an animal is trying to receive. Masking is a phenomenon that affects animals that are trying to receive acoustic information about their environment, including sounds from other members of their species, predators, prey, and sounds that allow them to orient in their environment. Masking these acoustic signals can disturb the behavior of individual animals, groups of animals, or entire populations.

Masking occurs when anthropogenic sounds and signals (that the animal utilizes) overlap at both spectral and temporal scales. For the airgun sound generated from the proposed seismic survey, sound will consist of low frequency (under 500 Hz) pulses with extremely short durations (less than one second). Lower frequency man-made sounds are more likely to affect detection of communication calls and other potentially important natural sounds such as surf and prey noise. There is little concern regarding masking near the sound source due to the brief duration of these pulses and relatively longer silence between airgun shots (approximately 5–6 seconds). However, at long distances (over tens of kilometers away), due to multipath propagation and reverberation, the durations of airgun pulses can be ''stretched'' to seconds with long decays (Madsen *et al.,* 2006), although the intensity of the sound is greatly reduced.

This could affect communication signals used by low frequency mysticetes when they occur near the noise band and thus reduce the communication space of animals (e.g., Clark *et al.,* 2009) and cause increased stress levels (e.g., Foote *et al.,* 2004; Holt *et al.,* 2009). Marine mammals are thought to be able to compensate for masking by adjusting their acoustic behavior by shifting call frequencies, and/or increasing call volume and vocalization rates. For example, blue whales are found to increase call rates when exposed to seismic survey noise in the St. Lawrence Estuary (Di Iorio and Clark, 2010). The North Atlantic right whales exposed to high shipping noise increase call frequency (Parks *et al.,* 2007), while some humpback whales respond to low-frequency active sonar playbacks by increasing song length (Miller *el al.,* 2000). Bowhead whale calls are frequently detected in the presence of seismic pulses, although the number of calls detected may sometimes be reduced (Richardson *et al.,* 1986; Greene *et al.,* 1999), possibly because animals moved away from the sound source or ceased calling (Blackwell *et al.,* 2013). Additionally, beluga whales have been known to change their vocalizations in the presence of high background noise possibly to avoid masking calls (Au *et al.,* 1985; Lesage *et al.,* 1999; Scheifele *et al.,* 2005). Although some degree of masking is inevitable when high levels of manmade broadband sounds are introduced into the sea, marine mammals have evolved systems and behavior that function to reduce the impacts of masking. Structured signals, such as the echolocation click sequences of small toothed whales, may be readily detected even in the presence of strong background noise because their frequency content and temporal features usually differ strongly from those of the background noise (Au and Moore, 1988, 1990). The components of background noise that are similar in frequency to the sound signal in question primarily determine the degree of masking of that signal.

Redundancy and context can also facilitate detection of weak signals. These phenomena may help marine mammals detect weak sounds in the presence of natural or manmade noise. Most masking studies in marine mammals present the test signal and the masking noise from the same direction. The sound localization abilities of marine mammals suggest that, if signal and noise come from different directions, masking would not be as severe as the usual types of masking studies might suggest (Richardson *et al.,* 1995). The dominant background noise may be highly directional if it comes from a particular anthropogenic source such as a ship or industrial site. Directional hearing may significantly reduce the masking effects of these sounds by improving the effective signal-to-noise ratio. In the cases of higher frequency hearing by the bottlenose dolphin, beluga whale, and killer whale, empirical evidence confirms that masking depends strongly on the relative directions of arrival of sound signals and the masking noise (Penner *et al.,* 1986; Dubrovskiy, 1990; Bain *et al.,* 1993; Bain and Dahlheim, 1994). Toothed whales, and probably other marine mammals as well, have additional capabilities besides directional hearing that can facilitate detection of sounds in the presence of background noise. There is evidence that some toothed whales can shift the dominant frequencies of their echolocation signals from a frequency range with a lot of ambient noise toward frequencies with less noise (Au *et al.,* 1974, 1985; Moore and Pawloski, 1990; Thomas and Turl, 1990; Romanenko and Kitain, 1992; Lesage *et al.,* 1999). A few marine mammal species are known to increase the source levels or alter the frequency of their calls in the presence of elevated sound levels (Dahlheim, 1987; Au, 1993; Lesage *et al.,* 1993, 1999; Terhune, 1999; Foote *et al.,* 2004; Parks *et al.,* 2007, 2009; Di Iorio and Clark, 2009; Holt *et al.,* 2009).

These data demonstrating adaptations for reduced masking pertain mainly to the very high frequency echolocation signals of toothed whales. There is less information about the existence of corresponding mechanisms at moderate or low frequencies or in other types of marine mammals. For example, Zaitseva *et al.* (1980) found that, for the bottlenose dolphin, the angular separation between a sound source and a masking noise source had little effect on the degree of masking when the sound frequency was 18 kHz, in contrast to the pronounced effect at higher frequencies. Directional hearing has been demonstrated at frequencies as low as 0.5–2 kHz in several marine mammals, including killer whales (Richardson *et al.,* 1995). This ability may be useful in reducing masking at these frequencies. In summary, high levels of sound generated by anthropogenic activities may act to mask the detection of weaker biologically important sounds by some marine mammals. This masking may be more prominent for lower frequencies. For higher frequencies, such as that used in echolocation by toothed whales, several mechanisms are available that may allow them to reduce the effects of such masking.

3. Behavioral Disturbance

Marine mammals may behaviorally react when exposed to anthropogenic sound. These behavioral reactions are often shown as: changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (e.g., pinnipeds flushing into water from haulouts or rookeries).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification have the potential to be biologically significant if the change affects growth, survival, or reproduction. Examples of significant behavioral modifications include:

- Drastic change in diving/surfacing patterns (such as those thought to be causing beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Habitat abandonment due to loss of desirable acoustic environment; and
- Cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of

noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography, current activity, reproductive state) and is also difficult to predict (Gordon *et al.,* 2004; Southall *et al.,* 2007; Ellison *et al.,* 2011).

Mysticetes: Baleen whales generally tend to avoid operating airguns, but avoidance radii are quite variable. Whales are often reported to show no overt reactions to pulses from large arrays of airguns at distances beyond a few kilometers, even though the airgun pulses remain well above ambient noise levels out to much greater distances (Miller *et al.,* 2005). However, baleen whales exposed to strong noise pulses often react by deviating from their normal migration route (Richardson *et al.,* 1999). Migrating gray and bowhead whales were observed avoiding the sound source by displacing their migration route to varying degrees but within the natural boundaries of the migration corridors (Schick and Urban, 2000; Richardson *et al.,* 1999; Malme *et al.,* 1983). Baleen whale responses to pulsed sound however may depend on the type of activity in which the whales are engaged. Some evidence suggests that feeding bowhead whales may be more tolerant of underwater sound than migrating bowheads (Miller *et al.,* 2005; Lyons *et al.,* 2009; Christie *et al.,* 2010).

Results of studies of gray, bowhead, and humpback whales have determined that received levels of pulses in the 160–170 dB re 1 μPa rms range seem to cause obvious avoidance behavior in a substantial fraction of the animals exposed. In many areas, seismic pulses from large arrays of airguns diminish to those levels at distances ranging from 2.8–9 mi (4.5–14.5 km) from the source. For the much smaller airgun array used during BP's proposed survey (total discharge volume of 640 in^3), distances to received levels in the 160 dB re 1 μPa rms range are estimated to be 0.5–3 mi (0.8–5 km). Baleen whales within those distances may show avoidance or other strong disturbance reactions to the airgun array. Subtle behavioral changes sometimes become evident at somewhat lower received levels, and recent studies have shown that some species of baleen whales, notably bowhead and humpback whales, at times show strong avoidance at received levels lower than 160–170 dB re 1 μPa rms. Bowhead whales migrating west across the Alaskan Beaufort Sea in autumn, in particular, are unusually responsive, with avoidance occurring out to distances of 12.4–18.6 mi (20–30 km) from a medium-sized airgun source (Miller *et al.,* 1999; Richardson *et al.,* 1999). However, more recent research on bowhead whales (Miller *et al.,* 2005) corroborates earlier evidence that, during the summer feeding season, bowheads are not as sensitive to seismic sources. In summer, bowheads typically begin to show avoidance reactions at a received level of about 160–170 dB re 1 μPa rms (Richardson et al., 1986; Ljungblad *et al.,* 1988; Miller *et al.,* 2005).

Malme *et al.* (1986, 1988) studied the responses of feeding eastern gray whales to pulses from a single 100 in^3 airgun off St. Lawrence Island in the northern Bering Sea. They estimated, based on small sample sizes, that 50% of feeding gray whales ceased feeding at an average received pressure level of 173 dB re 1 μPa on an (approximate) rms basis, and that 10% of feeding whales interrupted feeding at received levels of 163 dB. Those findings were generally consistent with the results of experiments conducted on larger numbers of gray whales that were migrating along the California coast and on observations of the distribution of feeding Western Pacific gray whales off Sakhalin Island, Russia, during a seismic survey (Yazvenko *et al.,* 2007).

Data on short-term reactions (or lack of reactions) of cetaceans to impulsive noises do not necessarily provide information about long-term effects. While it is not certain whether impulsive noises affect reproductive rate or distribution and habitat use in subsequent days or years, certain species have continued to use areas ensonified by airguns and have continued to increase in number despite successive years of anthropogenic activity in the area. Gray whales continued to migrate annually along the west coast of North America despite intermittent seismic exploration and much ship traffic in that area for decades (Appendix A in Malme *et al.,* 1984). Bowhead whales continued to travel to the eastern Beaufort Sea each summer despite seismic exploration in their summer and autumn range for many years (Richardson *et al.,* 1987). Populations of both gray whales and bowhead whales grew substantially during this time. In any event, the proposed survey will occur in summer (July through late August) when most bowhead whales are commonly feeding in the Mackenzie River Delta, Canada.

Patenaude *et al.* (2002) reported fewer behavioral responses to aircraft overflights by bowhead compared to beluga whales. Behaviors classified as reactions consisted of short surfacings, immediate dives or turns, changes in behavior state, vigorous swimming, and breaching. Most bowhead reaction resulted from exposure to helicopter activity and little response to fixed-wing aircraft was observed. Most reactions occurred when the helicopter was at altitudes ≤492 ft (150 m) and lateral distances ≤820 ft (250 m; Nowacek *et al.,* 2007).

During their study, Patenaude *et al.* (2002) observed one bowhead whale cow-calf pair during four passes totaling 2.8 hours of the helicopter and two pairs during Twin Otter overflights. All of the helicopter passes were at altitudes of 49–98 ft (15–30 m). The mother dove both times she was at the surface, and the calf dove once out of the four times it was at the surface. For the cow-calf pair sightings during Twin Otter overflights, the authors did not note any behaviors specific to those pairs. Rather, the reactions of the cow-calf pairs were lumped with the reactions of other groups that did not consist of calves.

Richardson *et al.* (1995) and Moore and Clarke (2002) reviewed a few studies that observed responses of gray whales to aircraft. Cow-calf pairs were quite sensitive to a turboprop survey flown at 1,000 ft (305 m) altitude on the Alaskan summering grounds. In that survey, adults were seen swimming over the calf, or the calf swam under the adult (Ljungblad *et al.,* 1983, cited in Richardson *et al.,* 1995 and Moore and Clarke, 2002). However, when the same aircraft circled for more than 10 minutes at 1,050 ft (320 m) altitude over a group of mating gray whales, no reactions were observed (Ljungblad *et al.,* 1987, cited in Moore and Clarke, 2002). Malme *et al.* (1984, cited in Richardson *et al.,* 1995 and Moore and Clarke, 2002) conducted playback experiments on migrating gray whales. They exposed the animals to underwater noise recorded from a Bell 212 helicopter (estimated altitude=328 ft [100 m]), at an average of three simulated passes per minute. The authors observed that whales changed their swimming course and sometimes slowed down in response to the playback sound but proceeded to migrate past the transducer. Migrating gray whales did not react overtly to a Bell 212 helicopter at greater than 1,394 ft (425 m) altitude, occasionally reacted when the helicopter was at 1,000–1,198 ft (305–365 m), and usually reacted when it was below 825 ft (250 m; Southwest Research Associates, 1988, cited in Richardson *et al.,* 1995 and Moore and Clarke, 2002). Reactions noted in that study included abrupt turns or dives or both. Green *et al.* (1992, cited in Richardson *et al.,* 1995) observed that migrating gray whales rarely exhibited noticeable reactions to a straight-line overflight by a Twin Otter at 197 ft (60 m) altitude.

Odontocetes: Few systematic data are available describing reactions of toothed whales to noise pulses. However, systematic work on sperm whales is underway (Tyack *et al.,* 2003), and there is an increasing amount of information about responses of various odontocetes to seismic surveys based on monitoring studies (e.g., Stone, 2003; Smultea *et al.,* 2004; Moulton and Miller, 2005). Miller *et al.* (2009) conducted at-sea experiments where reactions of sperm whales were monitored through the use of controlled sound exposure experiments from large airgun arrays consisting of 20-guns and 31-guns. Of 8 sperm whales observed, none changed their behavior when exposed to either a ramp-up at 4–8 mi (7–13 km) or full array exposures at 0.6–8 mi (1–13 km).

Seismic operators and marine mammal observers sometimes see dolphins and other small toothed whales near operating airgun arrays, but, in general, there seems to be a tendency for most delphinids to show some limited avoidance of seismic vessels operating large airgun systems. However, some dolphins seem to be attracted to the seismic vessel and floats, and some ride the bow wave of the seismic vessel even when large arrays of airguns are firing. Nonetheless, there have been indications that small toothed whales sometimes move away or maintain a somewhat greater distance from the vessel when a large array of airguns is operating than when it is silent (e.g., Goold, 1996a,b,c; Calambokidis and Osmek, 1998; Stone, 2003). The beluga may be a species that (at least in certain geographic areas) shows long-distance avoidance of seismic vessels. Aerial surveys during seismic operations in the southeastern Beaufort Sea recorded much lower sighting rates of beluga whales within 10–20 km (6.2–12.4 mi) of an active seismic vessel. These results were consistent with the low number of beluga sightings reported by observers aboard the seismic vessel, suggesting that some belugas might have been avoiding the seismic operations at distances of 10–20 km (6.2–12.4 mi) (Miller *et al.,* 2005).

Captive bottlenose dolphins and (of more relevance in this project) beluga whales exhibit changes in behavior when exposed to strong pulsed sounds similar in duration to those typically used in seismic surveys (Finneran *et al.,* 2002, 2005). However, the animals tolerated high received levels of sound (pk–pk level >200 dB re 1 μPa) before exhibiting aversive behaviors.

Observers stationed on seismic vessels operating off the United Kingdom from 1997–2000 have provided data on the occurrence and behavior of various toothed whales exposed to seismic pulses (Stone, 2003; Gordon *et al.,* 2004). Killer whales were found to be significantly farther from large airgun arrays during periods of shooting compared with periods of no shooting. The displacement of the median distance from the array was approximately 0.5 km (0.3 mi) or more. Killer whales also appear to be more tolerant of seismic shooting in deeper water.

Reactions of toothed whales to large arrays of airguns are variable and, at least for delphinids, seem to be confined to a smaller radius than has been observed for mysticetes. However, based on the limited existing evidence, belugas should not be grouped with delphinids in the ''less responsive'' category.

Patenaude *et al.* (2002) reported that beluga whales appeared to be more responsive to aircraft overflights than bowhead whales. Changes were observed in diving and respiration behavior, and some whales veered away when a helicopter passed at ≤820 ft (250 m) lateral distance at altitudes up to 492 ft (150 m). However, some belugas showed no reaction to the helicopter. Belugas appeared to show less response to fixed-wing aircraft than to helicopter overflights.

Pinnipeds: Pinnipeds are not likely to show a strong avoidance reaction to the airgun sources proposed for use. Visual monitoring from seismic vessels has shown only slight (if any) avoidance of airguns by pinnipeds and only slight (if any) changes in behavior. Monitoring work in the Alaskan Beaufort Sea during 1996–2001 provided considerable information regarding the behavior of Arctic ice seals exposed to seismic pulses (Harris *et al.,* 2001; Moulton and Lawson, 2002). These seismic projects usually involved arrays of 6 to 16 airguns with total volumes of 560 to 1,500 in^3. The combined results suggest that some seals avoid the immediate area around seismic vessels. In most survey years, ringed seal sightings tended to be farther away from the seismic vessel when the airguns were operating than when they were not (Moulton and Lawson, 2002). However, these avoidance movements were relatively small, on the order of 100 m (328 ft) to a few hundreds of meters, and many seals remained within 100–200 m (328–656 ft) of the trackline as the operating airgun array passed by. Seal sighting rates at the water surface were lower during airgun array operations than during no-airgun periods in each survey year except 1997. Similarly, seals are often very tolerant of pulsed sounds from seal-scaring devices (Mate and Harvey, 1987; Jefferson and Curry, 1994; Richardson *et al.,* 1995). However, initial telemetry work suggests that avoidance and other behavioral reactions by two other species of seals to small airgun sources may at times be stronger than evident to date from visual studies of pinniped reactions to airguns (Thompson *et al.,* 1998). Even if reactions of the species occurring in the present study area are as strong as those evident in the telemetry study, reactions are expected to be confined to relatively small distances and durations, with no long-term effects on pinniped individuals or populations.

Blackwell *et al.* (2004) observed 12 ringed seals during low-altitude overflights of a Bell 212 helicopter at Northstar in June and July 2000 (9 observations took place concurrent with pipe-driving activities). One seal showed no reaction to the aircraft while the remaining 11 (92%) reacted, either by looking at the helicopter (n=10) or by departing from their basking site (n=1). Blackwell *et al.* (2004) concluded that none of the reactions to helicopters were strong or long lasting, and that seals near Northstar in June and July 2000 probably had habituated to industrial sounds and visible activities that had occurred often during the preceding winter and spring. There have been few systematic studies of pinniped reactions to aircraft overflights, and most of the available data concern pinnipeds hauled out on land or ice rather than pinnipeds in the water (Richardson *et al.,* 1995; Born *et al.,* 1999).

4. Threshold Shift (Noise-induced Loss of Hearing)

When animals exhibit reduced hearing sensitivity (i.e., sounds must be louder for an animal to detect them) following exposure to an intense sound or sound for long duration, it is referred to as a noise-induced threshold shift (TS). An animal can experience temporary threshold shift (TTS) or permanent threshold shift (PTS). TTS can last from minutes or hours to days (i.e., there is complete recovery), can occur in specific frequency ranges (i.e., an animal might only have a temporary loss of hearing sensitivity between the frequencies of 1 and 10 kHz), and can be of varying amounts (for example, an animal's hearing sensitivity might be reduced initially by only 6 dB or reduced by 30 dB). PTS is permanent, but some recovery is possible. PTS can also occur in a specific frequency range and amount as mentioned above for TTS.

The following physiological mechanisms are thought to play a role

in inducing auditory TS: effects to sensory hair cells in the inner ear that reduce their sensitivity, modification of the chemical environment within the sensory cells, residual muscular activity in the middle ear, displacement of certain inner ear membranes, increased blood flow, and post-stimulatory reduction in both efferent and sensory neural output (Southall *et al.,* 2007). The amplitude, duration, frequency, temporal pattern, and energy distribution of sound exposure all can affect the amount of associated TS and the frequency range in which it occurs. As amplitude and duration of sound exposure increase, so, generally, does the amount of TS, along with the recovery time. For intermittent sounds, less TS could occur than compared to a continuous exposure with the same energy (some recovery could occur between intermittent exposures depending on the duty cycle between sounds) (Kryter *et al.,* 1966; Ward, 1997). For example, one short but loud (higher SPL) sound exposure may induce the same impairment as one longer but softer sound, which in turn may cause more impairment than a series of several intermittent softer sounds with the same total energy (Ward, 1997). Additionally, though TTS is temporary, prolonged exposure to sounds strong enough to elicit TTS, or shorter-term exposure to sound levels well above the TTS threshold, can cause PTS, at least in terrestrial mammals (Kryter, 1985). Although in the case of the proposed seismic survey, animals are not expected to be exposed to sound levels high for a long enough period to result in PTS.

PTS is considered auditory injury (Southall *et al.,* 2007). Irreparable damage to the inner or outer cochlear hair cells may cause PTS; however, other mechanisms are also involved, such as exceeding the elastic limits of certain tissues and membranes in the middle and inner ears and resultant changes in the chemical composition of the inner ear fluids (Southall *et al.,* 2007).

Although the published body of scientific literature contains numerous theoretical studies and discussion papers on hearing impairments that can occur with exposure to a loud sound, only a few studies provide empirical information on the levels at which noise-induced loss in hearing sensitivity occurs in nonhuman animals. For marine mammals, published data are limited to the captive bottlenose dolphin, beluga, harbor porpoise, and Yangtze finless porpoise (Finneran *et al.,* 2000, 2002b, 2003, 2005a, 2007, 2010a, 2010b; Finneran and Schlundt, 2010; Lucke *et al.,* 2009; Mooney *et al.,* 2009a, 2009b; Popov *et al.,* 2011a, 2011b; Kastelein *et al.,* 2012a; Schlundt *et al.,* 2000; Nachtigall *et al.,* 2003, 2004). For pinnipeds in water, data are limited to measurements of TTS in harbor seals, an elephant seal, and California sea lions (Kastak *et al.,* 1999, 2005; Kastelein *et al.,* 2012b).

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (i.e., recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. Also, depending on the degree and frequency range, the effects of PTS on an animal could range in severity, although it is considered generally more serious because it is a permanent condition. Of note, reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so we can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

Marine mammals are unlikely to be exposed to received levels of seismic pulses strong enough to cause more than slight TTS, and, given the higher level of sound necessary to cause PTS, it is even less likely that PTS could occur as a result of the proposed seismic survey.

5. Non-Auditory Physical Effects

Non-auditory physical effects might occur in marine mammals exposed to strong underwater sound. Possible types of non-auditory physiological effects or injuries that theoretically might occur in mammals close to a strong sound source include stress, neurological effects, bubble formation, and other types of organ or tissue damage. Some marine mammal species (i.e., beaked whales) may be especially susceptible to injury and/or stranding when exposed to strong pulsed sounds.

Classic stress responses begin when an animal's central nervous system perceives a potential threat to its homeostasis. That perception triggers stress responses regardless of whether a stimulus actually threatens the animal; the mere perception of a threat is sufficient to trigger a stress response (Moberg, 2000; Sapolsky *et al.,* 2005; Seyle, 1950). Once an animal's central nervous system perceives a threat, it mounts a biological response or defense that consists of a combination of the four general biological defense responses: Behavioral responses; autonomic nervous system responses; neuroendocrine responses; or immune responses.

In the case of many stressors, an animal's first and most economical (in terms of biotic costs) response is behavioral avoidance of the potential stressor or avoidance of continued exposure to a stressor. An animal's second line of defense to stressors involves the sympathetic part of the autonomic nervous system and the classical ''fight or flight'' response, which includes the cardiovascular system, the gastrointestinal system, the exocrine glands, and the adrenal medulla to produce changes in heart rate, blood pressure, and gastrointestinal activity that humans commonly associate with ''stress.'' These responses have a relatively short duration and may or may not have significant long-term effects on an animal's welfare.

An animal's third line of defense to stressors involves its neuroendocrine or sympathetic nervous systems; the system that has received the most study has been the hypothalmus-pituitary-adrenal system (also known as the HPA axis in mammals or the hypothalamus-pituitary-interrenal axis in fish and some reptiles). Unlike stress responses associated with the autonomic nervous system, virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction (Moberg, 1987; Rivier, 1995), altered metabolism (Elasser *et al.,* 2000), reduced immune competence (Blecha, 2000), and behavioral disturbance. Increases in the circulation of glucocorticosteroids (cortisol, corticosterone, and aldosterone in marine mammals; see Romano *et al.,* 2004) have been equated with stress for many years.

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and

distress is the biotic cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose a risk to the animal's welfare. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other biotic functions, which impair those functions that experience the diversion. For example, when mounting a stress response diverts energy away from growth in young animals, those animals may experience stunted growth. When mounting a stress response diverts energy from a fetus, an animal's reproductive success and fitness will suffer. In these cases, the animals will have entered a pre-pathological or pathological state which is called ''distress'' (sensu Seyle, 1950) or ''allostatic loading'' (sensu McEwen and Wingfield, 2003). This pathological state will last until the animal replenishes its biotic reserves sufficient to restore normal function. Note that these examples involved a long-term (days or weeks) stress response exposure to stimuli.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses have also been documented fairly well through controlled experiment; because this physiology exists in every vertebrate that has been studied, it is not surprising that stress responses and their costs have been documented in both laboratory and free-living animals (for examples see, Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005; Reneerkens *et al.,* 2002; Thompson and Hamer, 2000). Although no information has been collected on the physiological responses of marine mammals to anthropogenic sound exposure, studies of other marine animals and terrestrial animals would lead us to expect some marine mammals to experience physiological stress responses and, perhaps, physiological responses that would be classified as ''distress'' upon exposure to anthropogenic sounds.

For example, Jansen (1998) reported on the relationship between acoustic exposures and physiological responses that are indicative of stress responses in humans (e.g., elevated respiration and increased heart rates). Jones (1998) reported on reductions in human performance when faced with acute, repetitive exposures to acoustic disturbance. Trimper *et al.* (1998) reported on the physiological stress responses of osprey to low-level aircraft noise while Krausman *et al.* (2004) reported on the auditory and physiology stress responses of endangered Sonoran pronghorn to military overflights. Smith *et al.* (2004a, 2004b) identified noise-induced physiological transient stress responses in hearing-specialist fish (i.e., goldfish) that accompanied short- and long-term hearing losses. Welch and Welch (1970) reported physiological and behavioral stress responses that accompanied damage to the inner ears of fish and several mammals.

Hearing is one of the primary senses marine mammals use to gather information about their environment and communicate with conspecifics. Although empirical information on the relationship between sensory impairment (TTS, PTS, and acoustic masking) on marine mammals remains limited, we assume that reducing a marine mammal's ability to gather information about its environment and communicate with other members of its species would induce stress, based on data that terrestrial animals exhibit those responses under similar conditions (NRC, 2003) and because marine mammals use hearing as their primary sensory mechanism. Therefore, we assume that acoustic exposures sufficient to trigger onset PTS or TTS would be accompanied by physiological stress responses. More importantly, marine mammals might experience stress responses at received levels lower than those necessary to trigger onset TTS. Based on empirical studies of the time required to recover from stress responses (Moberg, 2000), NMFS also assumes that stress responses could persist beyond the time interval required for animals to recover from TTS and might result in pathological and pre-pathological states that would be as significant as behavioral responses to TTS.

Resonance effects (Gentry, 2002) and direct noise-induced bubble formations (Crum *et al.,* 2005) are implausible in the case of exposure to an impulsive broadband source like an airgun array. If seismic surveys disrupt diving patterns of deep-diving species, this might result in bubble formation and a form of the bends, as speculated to occur in beaked whales exposed to sonar. However, there is no specific evidence of this upon exposure to airgun pulses. Additionally, no beaked whale species occur in the proposed project area.

In general, very little is known about the potential for strong, anthropogenic underwater sounds to cause non-auditory physical effects in marine mammals. Such effects, if they occur at all, would presumably be limited to short distances and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. There is no definitive evidence that any of these effects occur even for marine mammals in close proximity to large arrays of airguns, which are not proposed for use during this program. In addition, marine mammals that show behavioral avoidance of industry activities, including bowheads, belugas, and some pinnipeds, are especially unlikely to incur non-auditory impairment or other physical effects.

6. Stranding and Mortality

Marine mammals close to underwater detonations of high explosive can be killed or severely injured, and the auditory organs are especially susceptible to injury (Ketten *et al.,* 1993; Ketten, 1995). Airgun pulses are less energetic and their peak amplitudes have slower rise times. To date, there is no evidence that serious injury, death, or stranding by marine mammals can occur from exposure to airgun pulses, even in the case of large airgun arrays. Additionally, BP's project will use medium sized airgun arrays in shallow water. NMFS does not expect any marine mammals will incur serious injury or mortality in the shallow waters of Prudhoe Bay or strand as a result of the proposed seismic survey.

7. Potential Effects From Pingers on Marine Mammals

Active acoustic sources other than the airguns have been proposed for BP's 2014 seismic survey in Prudhoe Bay, Beaufort Sea, Alaska. The specifications for the pingers (source levels and frequency ranges) were provided earlier in this document. In general, the potential effects of this equipment on marine mammals are similar to those from the airguns, except the magnitude of the impacts is expected to be much less due to the lower intensity of the source.

Vessel Impacts

Vessel activity and noise associated with vessel activity will temporarily increase in the action area during BP's seismic survey as a result of the operation of 8–10 vessels. To minimize the effects of vessels and noise associated with vessel activity, BP will alter speed if a marine mammal gets too

close to a vessel. In addition, source vessels will be operating at slow speed (1–5 knots) when conducting surveys. Marine mammal monitoring observers will alert vessel captains as animals are detected to ensure safe and effective measures are applied to avoid coming into direct contact with marine mammals. Therefore, NMFS neither anticipates nor authorizes takes of marine mammals from ship strikes.

McCauley *et al.* (1996) reported several cases of humpback whales responding to vessels in Hervey Bay, Australia. Results indicated clear avoidance at received levels between 118 to 124 dB in three cases for which response and received levels were observed/measured.

Palka and Hammond (2001) analyzed line transect census data in which the orientation and distance off transect line were reported for large numbers of minke whales. The authors developed a method to account for effects of animal movement in response to sighting platforms. Minor changes in locomotion speed, direction, and/or diving profile were reported at ranges from 1,847 to 2,352 ft (563 to 717 m) at received levels of 110 to 120 dB.

Odontocetes, such as beluga whales, killer whales, and harbor porpoises, often show tolerance to vessel activity; however, they may react at long distances if they are confined by ice, shallow water, or were previously harassed by vessels (Richardson *et al.,* 1995). Beluga whale response to vessel noise varies greatly from tolerance to extreme sensitivity depending on the activity of the whale and previous experience with vessels (Richardson *et al.,* 1995). Reactions to vessels depends on whale activities and experience, habitat, boat type, and boat behavior (Richardson *et al.,* 1995) and may include behavioral responses, such as altered headings or avoidance (Blane and Jaakson, 1994; Erbe and Farmer, 2000); fast swimming; changes in vocalizations (Lesage *et al.,* 1999; Scheifele *et al.,* 2005); and changes in dive, surfacing, and respiration patterns.

There are few data published on pinniped responses to vessel activity, and most of the information is anecdotal (Richardson *et al.,* 1995). Generally, sea lions in water show tolerance to close and frequently approaching vessels and sometimes show interest in fishing vessels. They are less tolerant when hauled out on land; however, they rarely react unless the vessel approaches within 100–200 m (330–660 ft; reviewed in Richardson *et al.,* 1995).

The addition of 8–10 vessels and noise due to vessel operations associated with the seismic survey is not expected to have effects that could cause significant or long-term consequences for individual marine mammals or their populations.

Anticipated Effects on Marine Mammal Habitat

The primary potential impacts to marine mammal habitat and other marine species are associated with elevated sound levels produced by airguns and other active acoustic sources. However, other potential impacts to the surrounding habitat from physical disturbance are also possible. This section describes the potential impacts to marine mammal habitat from the specified activity. Because the marine mammals in the area feed on fish and/or invertebrates there is also information on the species typically preyed upon by the marine mammals in the area.

Common Marine Mammal Prey in the Project Area

All of the marine mammal species that may occur in the proposed project area prey on either marine fish or invertebrates. The ringed seal feeds on fish and a variety of benthic species, including crabs and shrimp. Bearded seals feed mainly on benthic organisms, primarily crabs, shrimp, and clams. Spotted seals feed on pelagic and demersal fish, as well as shrimp and cephalopods. They are known to feed on a variety of fish including herring, capelin, sand lance, Arctic cod, saffron cod, and sculpins. Ribbon seals feed primarily on pelagic fish and invertebrates, such as shrimp, crabs, squid, octopus, cod, sculpin, pollack, and capelin. Juveniles feed mostly on krill and shrimp.

Bowhead whales feed in the eastern Beaufort Sea during summer and early autumn but continue feeding to varying degrees while on their migration through the central and western Beaufort Sea in the late summer and fall (Richardson and Thomson [eds.], 2002). When feeding in relatively shallow areas, bowheads feed throughout the water column. However, feeding is concentrated at depths where zooplankton is concentrated (Wursig *et al.,* 1984, 1989; Richardson [ed.], 1987; Griffiths *et al.,* 2002). Lowry and Sheffield (2002) found that copepods and euphausiids were the most common prey found in stomach samples from bowhead whales harvested in the Kaktovik area from 1979 to 2000. Areas to the east of Barter Island (which is approximately 120 mi east of BP's proposed seismic area) appear to be used regularly for feeding as bowhead whales migrate slowly westward across the Beaufort Sea (Thomson and Richardson, 1987; Richardson and Thomson [eds.], 2002).

Recent articles and reports have noted bowhead whales feeding in several areas of the U.S. Beaufort Sea. The Barrow area is commonly used as a feeding area during spring and fall, with a higher proportion of photographed individuals displaying evidence of feeding in fall rather than spring (Mocklin, 2009). A bowhead whale feeding ''hotspot'' (Okkonen *et al.,* 2011) commonly forms on the western Beaufort Sea shelf off Point Barrow in late summer and fall. Favorable conditions concentrate euphausiids and copepods, and bowhead whales congregate to exploit the dense prey (Ashjian *et al.,* 2010, Moore *et al.,* 2010; Okkonen *et al.,* 2011). Surveys have also noted bowhead whales feeding in the Camden Bay area during the fall (Koski and Miller, 2009; Quakenbush *et al.,* 2010).

The 2006–2008 BWASP Final Report (Clarke *et al.,* 2011a) and the 2009 BWASP Final Report (Clarke *et al.,* 2011b) note sightings of feeding bowhead whales in the Beaufort Sea during the fall season. During that 4 year period, the largest groups of feeding whales were sighted between Smith Bay and Point Barrow (hundreds of miles to the west of Prudhoe Bay), and none were sighted feeding in Camden Bay (Clarke *et al.,* 2011a,b). Clarke and Ferguson (undated) examined the raw BWASP data from the years 2000–2009. They noted that feeding behavior was noted more often in September than October and that while bowheads were observed feeding throughout the study area (which includes the entire U.S. Beaufort Sea), sightings were less frequent in the central Alaskan Beaufort than they were east of Kaktovik and west of Smith Bay. Additionally, Clarke and Ferguson (undated) and Clarke *et al.* (2011b) refer to information from Ashjian *et al.* (2010), which describes the importance of wind-driven currents that produce favorable feeding conditions for bowhead whales in the area between Smith Bay and Point Barrow. Increased winds in that area may be increasing the incidence of upwelling, which in turn may be the reason for increased sightings of feeding bowheads in the area. Clarke and Ferguson (undated) also note that the incidence of feeding bowheads in the eastern Alaskan Beaufort Sea has decreased since the early 1980s.

Beluga whales feed on a variety of fish, shrimp, squid and octopus (Burns and Seaman, 1985). Very few beluga whales occur nearshore; their main migration route is much further

offshore. Like several of the other species in the area, harbor porpoise feed on demersal and benthic species, mainly schooling fish and cephalopods. Depending on the type of killer whale (transient or resident), they feed on fish and/or marine mammals. However, harbor porpoises and killer whales are not commonly found in Prudhoe Bay.

Gray whales are primarily bottom feeders, and benthic amphipods and isopods form the majority of their summer diet, at least in the main summering areas west of Alaska (Oliver *et al.,* 1983; Oliver and Slattery, 1985). Farther south, gray whales have also been observed feeding around kelp beds, presumably on mysid crustaceans, and on pelagic prey such as small schooling fish and crab larvae (Hatler and Darling, 1974). However, the central Beaufort Sea is not known to be a primary feeding ground for gray whales.

Two kinds of fish inhabit marine waters in the study area: (1) True marine fish that spend all of their lives in salt water, and (2) anadromous species that reproduce in fresh water and spend parts of their life cycles in salt water.

Most arctic marine fish species are small, benthic forms that do not feed high in the water column. The majority of these species are circumpolar and are found in habitats ranging from deep offshore water to water as shallow as 16.4–33 ft (5–10 m; Fechhelm *et al.,* 1995). The most important pelagic species, and the only abundant pelagic species, is the Arctic cod. The Arctic cod is a major vector for the transfer of energy from lower to higher trophic levels (Bradstreet *et al.,* 1986). In summer, Arctic cod can form very large schools in both nearshore and offshore waters (Craig *et al.,* 1982; Bradstreet *et al.,* 1986). Locations and areas frequented by large schools of Arctic cod cannot be predicted but can be almost anywhere. The Arctic cod is a major food source for beluga whales, ringed seals, and numerous species of seabirds (Frost and Lowry, 1984; Bradstreet *et al.,* 1986).

Anadromous Dolly Varden char and some species of whitefish winter in rivers and lakes, migrate to the sea in spring and summer, and return to fresh water in autumn. Anadromous fish form the basis of subsistence, commercial, and small regional sport fisheries. Dolly Varden char migrate to the sea from May through mid-June (Johnson, 1980) and spend about 1.5–2.5 months there (Craig, 1989). They return to rivers beginning in late July or early August with the peak return migration occurring between mid-August and early September (Johnson, 1980). At sea, most anadromous corregonids (whitefish) remain in nearshore waters within several kilometers of shore (Craig, 1984, 1989). They are often termed ''amphidromous'' fish in that they make repeated annual migrations into marine waters to feed, returning each fall to overwinter in fresh water.

Benthic organisms are defined as bottom dwelling creatures. Infaunal organisms are benthic organisms that live within the substrate and are often sedentary or sessile (bivalves, polychaetes). Epibenthic organisms live on or near the bottom surface sediments and are mobile (amphipods, isopods, mysids, and some polychaetes). Epifauna, which live attached to hard substrates, are rare in the Beaufort Sea because hard substrates are scarce there. A small community of epifauna, the Boulder Patch, occurs in Stefansson Sound.

Many of the nearshore benthic marine invertebrates of the Arctic are circumpolar and are found over a wide range of water depths (Carey *et al.,* 1975). Species identified include polychaetes (*Spio filicornis, Chaetozone setosa, Eteone longa*), bivalves (*Cryrtodaria kurriana, Nucula tenuis, Liocyma fluctuosa*), an isopod (*Saduria entomon*), and amphipods (*Pontoporeia femorata, P. affinis*).

Nearshore benthic fauna have been studied in Beaufort Sea lagoons and near the mouth of the Colville River (Kinney *et al.,* 1971, 1972; Crane and Cooney, 1975). The waters of Simpson Lagoon, Harrison Bay, and the nearshore region support a number of infaunal species including crustaceans, mollusks, and polychaetes. In areas influenced by river discharge, seasonal changes in salinity can greatly influence the distribution and abundance of benthic organisms. Large fluctuations in salinity and temperature that occur over a very short time period, or on a seasonal basis, allow only very adaptable, opportunistic species to survive (Alexander *et al.,* 1974). Since shorefast ice is present for many months, the distribution and abundance of most species depends on annual (or more frequent) recolonization from deeper offshore waters (Woodward Clyde Consultants, 1995). Due to ice scouring, particularly in water depths of less than 8 ft (2.4 m), infaunal communities tend to be patchily distributed. Diversity increases with water depth until the shear zone is reached at 49–82 ft (15–25 m; Carey, 1978). Biodiversity then declines due to ice gouging between the landfast ice and the polar pack ice (Woodward Clyde Consultants, 1995).

Potential Impacts From Sound Generation

With regard to fish as a prey source for odontocetes and seals, fish are known to hear and react to sounds and to use sound to communicate (Tavolga *et al.,* 1981) and possibly avoid predators (Wilson and Dill, 2002). Experiments have shown that fish can sense both the strength and direction of sound (Hawkins, 1981). Primary factors determining whether a fish can sense a sound signal, and potentially react to it, are the frequency of the signal and the strength of the signal in relation to the natural background noise level.

Fishes produce sounds that are associated with behaviors that include territoriality, mate search, courtship, and aggression. It has also been speculated that sound production may provide the means for long distance communication and communication under poor underwater visibility conditions (Zelick *et al.,* 1999), although the fact that fish communicate at low-frequency sound levels where the masking effects of ambient noise are naturally highest suggests that very long distance communication would rarely be possible. Fishes have evolved a diversity of sound generating organs and acoustic signals of various temporal and spectral contents. Fish sounds vary in structure, depending on the mechanism used to produce them (Hawkins, 1993). Generally, fish sounds are predominantly composed of low frequencies (less than 3 kHz).

Since objects in the water scatter sound, fish are able to detect these objects through monitoring the ambient noise. Therefore, fish are probably able to detect prey, predators, conspecifics, and physical features by listening to environmental sounds (Hawkins, 1981). There are two sensory systems that enable fish to monitor the vibration-based information of their surroundings. The two sensory systems, the inner ear and the lateral line, constitute the acoustico-lateralis system.

Although the hearing sensitivities of very few fish species have been studied to date, it is becoming obvious that the intra- and inter-specific variability is considerable (Coombs, 1981). Nedwell *et al.* (2004) compiled and published available fish audiogram information. A noninvasive electrophysiological recording method known as auditory brainstem response is now commonly used in the production of fish audiograms (Yan, 2004). Generally, most fish have their best hearing in the low-frequency range (i.e., less than 1 kHz). Even though some fish are able to detect sounds in the ultrasonic frequency

range, the thresholds at these higher frequencies tend to be considerably higher than those at the lower end of the auditory frequency range.

Literature relating to the impacts of sound on marine fish species can be divided into the following categories: (1) Pathological effects; (2) physiological effects; and (3) behavioral effects. Pathological effects include lethal and sub-lethal physical damage to fish; physiological effects include primary and secondary stress responses; and behavioral effects include changes in exhibited behaviors of fish. Behavioral changes might be a direct reaction to a detected sound or a result of the anthropogenic sound masking natural sounds that the fish normally detect and to which they respond. The three types of effects are often interrelated in complex ways. For example, some physiological and behavioral effects could potentially lead to the ultimate pathological effect of mortality. Hastings and Popper (2005) reviewed what is known about the effects of sound on fishes and identified studies needed to address areas of uncertainty relative to measurement of sound and the responses of fishes. Popper *et al.* (2003/2004) also published a paper that reviews the effects of anthropogenic sound on the behavior and physiology of fishes.

Potential effects of exposure to sound on marine fish include TTS, physical damage to the ear region, physiological stress responses, and behavioral responses such as startle response, alarm response, avoidance, and perhaps lack of response due to masking of acoustic cues. Most of these effects appear to be either temporary or intermittent and therefore probably do not significantly impact the fish at a population level. The studies that resulted in physical damage to the fish ears used noise exposure levels and durations that were far more extreme than would be encountered under conditions similar to those expected during BP's proposed survey.

The level of sound at which a fish will react or alter its behavior is usually well above the detection level. Fish have been found to react to sounds when the sound level increased to about 20 dB above the detection level of 120 dB (Ona, 1988); however, the response threshold can depend on the time of year and the fish's physiological condition (Engas *et al.,* 1993). In general, fish react more strongly to pulses of sound rather than a continuous signal (Blaxter *et al.,* 1981), such as the type of sound that will be produced by the drillship, and a quicker alarm response is elicited when the sound signal intensity rises rapidly compared to sound rising more slowly to the same level.

Investigations of fish behavior in relation to vessel noise (Olsen *et al.,* 1983; Ona, 1988; Ona and Godo, 1990) have shown that fish react when the sound from the engines and propeller exceeds a certain level. Avoidance reactions have been observed in fish such as cod and herring when vessels approached close enough that received sound levels are 110 dB to 130 dB (Nakken, 1992; Olsen, 1979; Ona and Godo, 1990; Ona and Toresen, 1988). However, other researchers have found that fish such as polar cod, herring, and capeline are often attracted to vessels (apparently by the noise) and swim toward the vessel (Rostad *et al.,* 2006). Typical sound source levels of vessel noise in the audible range for fish are 150 dB to 170 dB (Richardson *et al.,* 1995a). In calm weather, ambient noise levels in audible parts of the spectrum lie between 60 dB to 100 dB.

Short, sharp sounds can cause overt or subtle changes in fish behavior. Chapman and Hawkins (1969) tested the reactions of whiting (hake) in the field to an airgun. When the airgun was fired, the fish dove from 82 to 180 ft (25 to 55 m) depth and formed a compact layer. The whiting dove when received sound levels were higher than 178 dB re 1 μPa (Pearson *et al.,* 1992).

Pearson *et al.* (1992) conducted a controlled experiment to determine effects of strong noise pulses on several species of rockfish off the California coast. They used an airgun with a source level of 223 dB re 1 μPa. They noted:

- Startle responses at received levels of 200–205 dB re 1 μPa and above for two sensitive species, but not for two other species exposed to levels up to 207 dB;
- Alarm responses at 177–180 dB for the two sensitive species, and at 186 to 199 dB for other species;
- An overall threshold for the above behavioral response at about 180 dB;
- An extrapolated threshold of about 161 dB for subtle changes in the behavior of rockfish; and
- A return to pre-exposure behaviors within the 20–60 minute exposure period.

In summary, fish often react to sounds, especially strong and/or intermittent sounds of low frequency. Sound pulses at received levels of 160 dB re 1 μPa may cause subtle changes in behavior. Pulses at levels of 180 dB may cause noticeable changes in behavior (Chapman and Hawkins, 1969; Pearson *et al.,* 1992; Skalski *et al.,* 1992). It also appears that fish often habituate to repeated strong sounds rather rapidly, on time scales of minutes to an hour. However, the habituation does not endure, and resumption of the strong sound source may again elicit disturbance responses from the same fish.

Some of the fish species found in the Arctic are prey sources for odontocetes and pinnipeds. A reaction by fish to sounds produced by BP's proposed survey would only be relevant to marine mammals if it caused concentrations of fish to vacate the area. Pressure changes of sufficient magnitude to cause that type of reaction would probably occur only very close to the sound source, if any would occur at all. Impacts on fish behavior are predicted to be inconsequential. Thus, feeding odontocetes and pinnipeds would not be adversely affected by this minimal loss or scattering, if any, of reduced prey abundance.

Some mysticetes, including bowhead whales, feed on concentrations of zooplankton. Some feeding bowhead whales may occur in the Alaskan Beaufort Sea in July and August, but feeding bowheads are more likely to occur in the area after the cessation of airgun operations. Reactions of zooplankton to sound are, for the most part, not known. Their ability to move significant distances is limited or nil, depending on the type of zooplankton. Behavior of zooplankters is not expected to be affected by the survey. These animals have exoskeletons and no air bladders. Many crustaceans can make sounds, and some crustacea and other invertebrates have some type of sound receptor. A reaction by zooplankton to sounds produced by the seismic survey would only be relevant to whales if it caused concentrations of zooplankton to scatter. Pressure changes of sufficient magnitude to cause that type of reaction would probably occur only very close to the sound source, if any would occur at all. Impacts on zooplankton behavior are predicted to be inconsequential. Thus, feeding mysticetes would not be adversely affected by this minimal loss or scattering, if any, of reduced zooplankton abundance.

Based on the preceding discussion, the proposed activity is not expected to have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations.

Proposed Mitigation

In order to issue an incidental take authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and

other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant). Later in this document in the ''Proposed Incidental Harassment Authorization'' section, NMFS lays out the proposed conditions for review, as they would appear in the final IHA (if issued).

Mitigation Measures Proposed by BP

For the proposed mitigation measures, BP proposed general mitigation measures that apply to all vessels involved in the survey and specific mitigation measures that apply to the source vessels operating airguns. The proposed protocols are discussed next and can also be found in Section 11 of BP's application (see **ADDRESSES**).

1. General Mitigation Measures

These general mitigation measures are proposed to apply to all vessels that are part of the Prudhoe Bay seismic survey, including crew transfer vessels. The two source vessels would also operate under an additional set of specific mitigation measures during airgun operations (described a bit later in this document).

The general mitigation measures include: (1) adjusting speed to avoid collisions with whales and during periods of low visibility; (2) checking the waters immediately adjacent to vessels with propellers to ensure that no marine mammals will be injured; (3) avoiding concentrations of groups of whales and not operating vessels in a way that separates members of a group; (4) reducing vessel speeds to less than 10 knots in the presence of feeding whales; (5) reducing speed and steering around groups of whales if circumstances allow (but never cutting off a whale's travel path) and avoiding multiple changes in direction and speed when within 900 ft of whales; (6) maintaining an altitude of at least 1,000 ft when flying helicopters, except in emergency situations or during take-offs and landings; and (7) not hovering or circling with helicopters above or within 0.3 mi of groups of whales.

2. Seismic Airgun Mitigation Measures

BP proposes to establish and monitor Level A harassment exclusion zones for all marine mammal species. These zones will be monitored by PSOs (more detail later). Should marine mammals enter these exclusion zones, the PSOs will call for and implement the suite of mitigation measures described next.

Ramp-up Procedure: Ramp-up procedures of an airgun array involve a step-wise increase in the number of operating airguns until the required discharge volume is achieved. The purpose of a ramp-up (sometimes referred to as ''soft-start'') is to provide marine mammals in the vicinity of the activity the opportunity to leave the area and to avoid the potential for injury or impairment of their hearing abilities.

During ramp-up, BP proposes to implement the common procedure of doubling the number of operating airguns at 5-minute intervals, starting with the smallest gun in the array. For the 620 in^3 sub-array this is estimated to take approximately 15 minutes and for the 1,240 in^3 airgun array approximately 20 minutes. During ramp-up, the exclusion zone for the full airgun array will be observed. The ramp-up procedures will be applied as follows:

1. A ramp-up, following a cold start, can be applied if the exclusion zone has been free of marine mammals for a consecutive 30-minute period. The entire exclusion zone must have been visible during these 30 minutes. If the entire exclusion zone is not visible, then ramp-up from a cold start cannot begin.

2. Ramp-up procedures from a cold start will be delayed if a marine mammal is sighted within the exclusion zone during the 30-minute period prior to the ramp-up. The delay will last until the marine mammal(s) has been observed to leave the exclusion zone or until the animal(s) is not sighted for at least 15 minutes (seals) or 30 minutes (cetaceans).

3. A ramp-up, following a shutdown, can be applied if the marine mammal(s) for which the shutdown occurred has been observed to leave the exclusion zone or until the animal(s) has not been sighted for at least 15 minutes (seals) or 30 minutes (cetaceans). This assumes there was a continuous observation effort prior to the shutdown and the entire exclusion zone is visible.

4. If, for any reason, power to the airgun array has been discontinued for a period of 10 minutes or more, ramp-up procedures need to be implemented. Only if the PSO watch has been suspended, a 30-minute clearance of the exclusion zone is required prior to commencing ramp-up. Discontinuation of airgun activity for less than 10 minutes does not require a ramp-up.

5. The seismic operator and PSOs will maintain records of the times when ramp-ups start and when the airgun arrays reach full power.

Power Down Procedure: A power down is the immediate reduction in the number of operating airguns such that the radii of the 190 dB and 180 dB (rms) zones are decreased to the extent that an observed marine mammal is not in the applicable exclusion zone of the full array. During a power down, one airgun (or some other number of airguns less than the full airgun array) continues firing. The continued operation of one airgun is intended to (a) alert marine mammals to the presence of airgun activity, and (b) retain the option of initiating a ramp up to full operations under poor visibility conditions.

1. The array will be immediately powered down whenever a marine mammal is sighted approaching close to or within the applicable exclusion zone of the full array, but is outside the applicable exclusion zone of the single mitigation airgun;

2. Likewise, if a mammal is already within the exclusion zone when first detected, the airguns will be powered down immediately;

3. If a marine mammal is sighted within or about to enter the applicable exclusion zone of the single mitigation airgun, it too will be shut down; and

4. Following a power down, ramp-up to the full airgun array will not resume until the marine mammal has cleared the applicable exclusion zone. The animal will be considered to have cleared the exclusion zone if it has been visually observed leaving the exclusion zone of the full array, or has not been seen within the zone for 15 minutes (seals) or 30 minutes (cetaceans).

Shut-down Procedures: The operating airgun(s) will be shut down completely if a marine mammal approaches or enters the 190 or 180 dB (rms) exclusion radius of the smallest airgun. Airgun activity will not resume until the marine mammal has cleared the applicable exclusion radius of the full array. The animal will be considered to have cleared the exclusion radius as described above under ramp-up procedures.

Poor Visibility Conditions: BP plans to conduct 24-hr operations. PSOs will not be on duty during ongoing seismic operations during darkness, given the very limited effectiveness of visual observation at night (there will be no periods of darkness in the survey area until mid-August). The proposed provisions associated with operations at night or in periods of poor visibility include the following:

- If during foggy conditions, heavy snow or rain, or darkness (which may be encountered starting in late August), the full 180 dB exclusion zone is not visible, the airguns cannot commence a ramp-up procedure from a full shut-down; and
- If one or more airguns have been operational before nightfall or before the

onset of poor visibility conditions, they can remain operational throughout the night or poor visibility conditions. In this case ramp-up procedures can be initiated, even though the exclusion zone may not be visible, on the assumption that marine mammals will be alerted by the sounds from the single airgun and have moved away.

BP is aware that available techniques to effectively detect marine mammals during limited visibility conditions (darkness, fog, snow, and rain) are in need of development and has in recent years supported research and field trials intended to improve methods of detecting marine mammals under these conditions. BP intends to continue research and field trials to improve methods of detecting marine mammals during periods of low visibility.

Additional Mitigation Measures Proposed by NMFS

The mitigation airgun will be operated at approximately one shot per minute and will not be operated for longer than three hours in duration during daylight hours and good visibility. In cases when the next start-up after the turn is expected to be during lowlight or low visibility, use of the mitigation airgun may be initiated 30 minutes before darkness or low visibility conditions occur and may be operated until the start of the next seismic acquisition line. The mitigation gun must still be operated at approximately one shot per minute.

Mitigation Conclusions

NMFS has carefully evaluated BP's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measures are expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).
2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of seismic airguns, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of seismic airguns or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of seismic airguns or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing the severity of harassment takes only).
5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.
6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance. Proposed measures to ensure availability of such species or stock for taking for certain subsistence uses are discussed later in this document (see ''Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses'' section).

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. BP submitted information regarding marine mammal monitoring to be conducted during seismic operations as part of the IHA application. That information can be found in Sections 11 and 13 of the application. The monitoring measures may be modified or supplemented based on comments or new information received from the public during the public comment period.

Monitoring measures proposed by the applicant or prescribed by NMFS should accomplish one or more of the following top-level goals:

1. An increase in our understanding of the likely occurrence of marine mammal species in the vicinity of the action, i.e., presence, abundance, distribution, and/or density of species.
2. An increase in our understanding of the nature, scope, or context of the likely exposure of marine mammal species to any of the potential stressor(s) associated with the action (e.g. sound or visual stimuli), through better understanding of one or more of the following: the action itself and its environment (e.g. sound source characterization, propagation, and ambient noise levels); the affected species (e.g. life history or dive pattern); the likely co-occurrence of marine mammal species with the action (in whole or part) associated with specific adverse effects; and/or the likely biological or behavioral context of exposure to the stressor for the marine mammal (e.g. age class of exposed animals or known pupping, calving or feeding areas).
3. An increase in our understanding of how individual marine mammals respond (behaviorally or physiologically) to the specific stressors associated with the action (in specific contexts, where possible, e.g., at what distance or received level).
4. An increase in our understanding of how anticipated individual responses, to individual stressors or anticipated combinations of stressors, may impact either: the long-term fitness and survival of an individual; or the population, species, or stock (e.g. through effects on annual rates of recruitment or survival).

5. An increase in our understanding of how the activity affects marine mammal habitat, such as through effects on prey sources or acoustic habitat (e.g., through characterization of longer-term contributions of multiple sound sources to rising ambient noise levels and assessment of the potential chronic effects on marine mammals).

6. An increase in understanding of the impacts of the activity on marine mammals in combination with the impacts of other anthropogenic activities or natural factors occurring in the region.

7. An increase in our understanding of the effectiveness of mitigation and monitoring measures.

8. An increase in the probability of detecting marine mammals (through improved technology or methodology), both specifically within the safety zone (thus allowing for more effective implementation of the mitigation) and in general, to better achieve the above goals.

Proposed Monitoring Measures

1. Visual Monitoring

Two observers referred to as PSOs will be present on each seismic source vessel. Of these two PSOs, one will be on watch at all times to monitor the 190 and 180 dB exclusion zones for the presence of marine mammals during airgun operations. The main objectives of the vessel-based marine mammal monitoring are as follows: (1) To implement mitigation measures during seismic operations (e.g. course alteration, airgun power down, shut-down and ramp-up); and (2) To record all marine mammal data needed to estimate the number of marine mammals potentially affected, which must be reported to NMFS within 90 days after the survey.

BP intends to work with experienced PSOs. At least one Alaska Native resident, who is knowledgeable about Arctic marine mammals and the subsistence hunt, is expected to be included as one of the team members aboard the vessels. Before the start of the seismic survey, the crew of the seismic source vessels will be briefed on the function of the PSOs, their monitoring protocol, and mitigation measures to be implemented.

On all source vessels, at least one observer will monitor for marine mammals at any time during daylight hours (there will be no periods of total darkness until mid-August). PSOs will be on duty in shifts of a maximum of 4 hours at a time, although the exact shift schedule will be established by the lead PSO in consultation with the other PSOs.

The source vessels will offer suitable platforms for marine mammal observations. Observations will be made from locations where PSOs have the best view around the vessel. During daytime, the PSO(s) will scan the area around the vessel systematically with reticle binoculars and with the naked eye. Because the main purpose of the PSO on board the vessel is detecting marine mammals for the implementation of mitigation measures according to specific guidelines, BP prefers to keep the information to be recorded as concise as possible, allowing the PSO to focus on detecting marine mammals. The following information will be collected by the PSOs:

- Environmental conditions—consisting of sea state (in Beaufort Wind force scale according to NOAA), visibility (in km, with 10 km indicating the horizon on a clear day), and sun glare (position and severity). These will be recorded at the start of each shift, whenever there is an obvious change in one or more of the environmental variables, and whenever the observer changes shifts;
- Project activity—consisting of airgun operations (on or off), number of active guns, line number. This will be recorded at the start of each shift, whenever there is an obvious change in project activity, and whenever the observer changes shifts; and
- Sighting information—consisting of the species (if determinable), group size, position and heading relative to the vessel, behavior, movement, and distance relative to the vessel (initial and closest approach). These will be recorded upon sighting a marine mammal or group of animals.

When marine mammals in the water are detected within or about to enter the designated exclusion zones, the airgun(s) power down or shut-down procedures will be implemented immediately. To assure prompt implementation of power downs and shut-downs, multiple channels of communication between the PSOs and the airgun technicians will be established. During the power down and shut-down, the PSO(s) will continue to maintain watch to determine when the animal(s) are outside the exclusion radius. Airgun operations can be resumed with a ramp-up procedure (depending on the extent of the power down) if the observers have visually confirmed that the animal(s) moved outside the exclusion zone, or if the animal(s) were not observed within the exclusion zone for 15 minutes (seals) or for 30 minutes (cetaceans). Direct communication with the airgun operator will be maintained throughout these procedures.

All marine mammal observations and any airgun power down, shut-down, and ramp-up will be recorded in a standardized format. Data will be entered into or transferred to a custom database. The accuracy of the data entry will be verified daily through QA/QC procedures. Recording procedures will allow initial summaries of data to be prepared during and shortly after the field program, and will facilitate transfer of the data to other programs for further processing and archiving.

2. Fish and Airgun Sound Monitoring

BP proposes to conduct research on fish species in relation to airgun operations, including prey species important to ice seals, during the proposed seismic survey. The North Prudhoe Bay OBS seismic survey offers a unique opportunity to assess the impacts of airgun sounds on fish, specifically on changes in fish abundance in fyke nets that have been sampled in the area for more than 30 years. The monitoring study would occur over a 2-month period during the open-water season. During this time, fish are counted and sized every day, unless sampling is prevented by weather, the presence of bears, or other events. Fish mortality is also noted.

The fish-sampling period coincides with the North Prudhoe seismic survey, resulting in a situation where each of the four fyke nets will be exposed to varying daily exposures to airgun sounds. That is, as source vessels move back and forth across the project area, fish caught in nets will be exposed to different sounds levels at different nets each day. To document relationships between fish catch in each fyke net and received sound levels, BP will attempt to instrument each fyke net location with a recording hydrophone. Recording hydrophones, to the extent possible, will have a dynamic range that extends low enough to record near ambient sounds and high enough to capture sound levels during relatively close approaches by the airgun array (i.e., likely levels as high as about 200 dB re 1 uPa). Bandwidth will extend from about 10 Hz to at least 500 Hz. In addition, because some fish (especially salmonids) are likely to be sensitive to particle velocity instead of or in addition to sound pressure level, BP will attempt to instrument each fyke net location with a recording particle velocity meter. Acoustic and environmental data will be used in statistical models to assess relationships

between acoustic and fish variables. Additional information on the details of the fish monitoring study can be found in Section 13.1 of BP's application (see **ADDRESSES**).

Monitoring Plan Peer Review

The MMPA requires that monitoring plans be independently peer reviewed ''where the proposed activity may affect the availability of a species or stock for taking for subsistence uses'' (16 U.S.C. 1371(a)(5)(D)(ii)(III)). Regarding this requirement, NMFS' implementing regulations state, ''Upon receipt of a complete monitoring plan, and at its discretion, [NMFS] will either submit the plan to members of a peer review panel for review or within 60 days of receipt of the proposed monitoring plan, schedule a workshop to review the plan'' (50 CFR 216.108(d)).

NMFS convened an independent peer review panel, comprised of experts in the fields of marine mammal ecology and underwater acoustics, to review BP's Prudhoe Bay OBS Seismic Survey Monitoring Plan. The panel met on January 8–9, 2013, and provided their final report to NMFS on February 25, 2013. The full panel report can be viewed on the Internet at: *http://www.nmfs.noaa.gov/pr/pdfs/permits/openwater/bp_panel2013.pdf*.

NMFS provided the panel with BP's monitoring plan and asked the panel to answer the following questions regarding the plan:

1. Will the applicant's stated objectives effectively further the understanding of the impacts of their activities on marine mammals and otherwise accomplish the goals stated above? If not, how should the objectives be modified to better accomplish the goals above?

2. Can the applicant achieve the stated objectives based on the methods described in the plan?

3. Are there technical modifications to the proposed monitoring techniques and methodologies proposed by the applicant that should be considered to better accomplish their stated objectives?

4. Are there techniques not proposed by the applicant (i.e., additional monitoring techniques or methodologies) that should be considered for inclusion in the applicant's monitoring program to better accomplish their stated objectives?

5. What is the best way for an applicant to present their data and results (formatting, metrics, graphics, etc.) in the required reports that are to be submitted to NMFS (i.e., 90-day report and comprehensive report)?

NMFS shared the panel's report with BP in March 2013. BP originally submitted this IHA application with a monitoring plan to conduct this program during the 2013 open-water season; however, after undergoing peer review of the monitoring plan in early 2013, BP subsequently cancelled the 2013 operation. The proposed 2014 program is the same as that reviewed by the panel in 2013. BP reviewed the 2013 panel recommendation report and incorporated several of the panel's recommendations into the monitoring plan contained in the 2014 application. NMFS reviewed the panel's report and agrees with the recommendations included in BP's 2014 monitoring plan. A summary of the measures that were included is provided next.

Based on the panel report, NMFS recommends and BP proposes to follow a pre-determined regime for scanning of the area by PSOs that is based on the relative importance of detecting marine mammals in the near- and far fields. PSOs should simply record the primary behavioral state (i.e., traveling, socializing, feeding, resting, approaching or moving away from vessels) and relative location of the observed marine mammals and not try to precisely determine the behavior or the context.

Other recommendations made by panel members that NMFS supports and propose BP include in the monitoring plan include: (1) recording observations of pinnipeds on land and not just in the water; (2) developing a means by which PSOs record data with as little impact on observation time as possible; (3) continuing PSO observation watches when there is an extended period when no airguns on any of the source vessels are operating to collect additional observation data during periods of non-seismic; and (4) accounting for factors such as water depth when estimating the actual level of takes because of the difficulties in monitoring during darkness or inclement weather. Moreover, the panel recommended and NMFS agrees that BP should be very clear in the 90-day technical report about what periods are considered ''seismic'' and ''non-seismic'' for their analyses.

As recommended by the panel, NMFS encourages BP to examine data from ASAMM and other such programs to assess possible impacts from their seismic surveys. As noted earlier in this document, BP has proposed a fish and airgun sound monitoring study, which has been well received by past panel members. This study will also allow BP to collect sound signature data on equipment used during this proposed survey.

The panel also recommended that BP work to understand the cumulative nature of the activity and sound footprint. As described in Section 14 of the IHA application, BP remains committed to working with a wide range of experts to improve understanding of the cumulative effects of multiple sound sources and has sponsored an expert working group on the issue.

Reporting Measures

1. 90-Day Technical Report

A report will be submitted to NMFS within 90 days after the end of the proposed seismic survey. The report will summarize all activities and monitoring results conducted during in-water seismic surveys. The Technical Report will include the following:

- Summary of project start and end dates, airgun activity, number of guns, and the number and circumstances of implementing ramp-up, power down, shutdown, and other mitigation actions;
- Summaries of monitoring effort (e.g., total hours, total distances, and marine mammal distribution through the study period, accounting for sea state and other factors affecting visibility and detectability of marine mammals);
- Analyses of the effects of various factors influencing detectability of marine mammals (e.g., sea state, number of observers, and fog/glare);
- Species composition, occurrence, and distribution of marine mammal sightings, including date, water depth, numbers, age/size/gender categories (if determinable), and group sizes;
- Analyses of the effects of survey operations;
- Sighting rates of marine mammals during periods with and without seismic survey activities (and other variables that could affect detectability), such as: (i) Initial sighting distances versus survey activity state; (ii) closest point of approach versus survey activity state; (iii) observed behaviors and types of movements versus survey activity state; (iv) numbers of sightings/individuals seen versus survey activity state; (v) distribution around the source vessels versus survey activity state; and (vi) estimates of exposures of marine mammals to Level B harassment thresholds based on presence in the 160 dB harassment zone.

2. Fish and Airgun Sound Report

BP proposes to present the results of the fish and airgun sound study to NMFS in a detailed report that will also be submitted to a peer reviewed journal

for publication, presented at a scientific conference, and presented in Barrow and Nuiqsut.

3. Notification of Injured or Dead Marine Mammals

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury (Level A harassment), serious injury or mortality (e.g., ship-strike, gear interaction, and/or entanglement), BP would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinators. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with BP to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. BP would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that BP discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), BP would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with BP to determine whether modifications in the activities are appropriate.

In the event that BP discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), BP would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators, within 24 hours of the discovery. BP would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Monitoring Results From Previously Authorized Activities

BP has not requested and NMFS has not issued an IHA for this project previously. However, in 2012, BP conducted (and NMFS issued an IHA for) a similar seismic survey (known as an ocean bottom cable [OBC] survey) in the Simpson Lagoon area of the Beaufort Sea, Alaska, which is less than 50 mi west of Prudhoe Bay. Seismic acquisition for that survey occurred from July 29 through September 7, 2012. Three source vessels were used and operated in a flip-flop mode, which is the mode proposed for this Prudhoe Bay survey.

During the 2012 Simpson Lagoon seismic survey, BP employed PSOs to watch for marine mammals on all three source vessels. Over the course of the survey, PSOs observed for a total of 1,239 on-watch hours during daylight hours and for 247 on-watch hours during darkness or limited visibility hours. On-watch means the vessel was active (transiting, line shooting, off-line shooting). There were no periods of darkness for the first 2.5 weeks of the survey. The number of hours of darkness began to gradually increase beginning in mid-August with up to 8 hours of darkness on September 7, the last day of the survey. PSOs did not detect any cetaceans during the seismic survey. An estimated 47 pinnipeds were seen in 45 sightings within the seismic survey area from July 29 to September 7 from the three seismic source vessels. Sightings were of ringed, bearded, and spotted seals, as well as some recorded as unidentified seal or pinniped. Most pinnipeds were observed looking at the vessel, and a few swam away or dove after the initial sighting.

During the 2012 Simpson Lagoon OBC seismic survey, a total of five shut-downs (11 percent of sightings), three power-downs (7 percent of sightings), and five delayed ramp-ups (11 percent of sightings) occurred for pinnipeds. A delayed ramp-up occurred when a marine mammal was observed during the 30-min clearance period. If ramp-up was initiated (i.e., at least one airgun was operational) when a marine mammal was sighted, reducing the number of airguns was considered a power-down (one 40 in^3 airgun) or shut-down (no airguns were operational). Given the small size of the bridge on all source vessels, PSOs, gunners, and captains were in constant communication, and all PSO mitigation requests were implemented as soon as possible (within seconds). Four of the five shut-downs occurred when an animal was sighted at distances of 50 m, 50 m, 75 m and 150 m from the seismic source. The remaining shut-down occurred for an animal that was sighted at a distance of 500 m from the seismic source; while this was outside of the 190-dB exclusion zone, the animal was headed toward the exclusion zone. All three power-downs occurred when an animal was observed approaching the exclusion zone. More detail can be found in BP's final 90-day technical report on the Internet at: *http://www.nmfs.noaa.gov/pr/pdfs/permits/bp_openwater_90dayreport.pdf*.

Based on the information contained in BP's 90-day technical report of the 2012 Simpson Lagoon OBC seismic survey, BP complied with all mitigation and monitoring requirements in the IHA. The amount of estimated take did not exceed that analyzed for the IHA.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment]. Only take by Level B behavioral harassment of some species is anticipated as a result of the proposed OBS seismic survey. Anticipated impacts to marine mammals are associated with noise propagation from the sound sources (e.g., airguns and pingers) used in the seismic survey. No take is expected to result from vessel

strikes because of the slow speed of the vessels (1–5 knots while acquiring seismic data) and because of mitigation measures to reduce collisions with marine mammals. Additionally, no take is expected to result from helicopter operations because of altitude restrictions.

BP requested take of 11 marine mammal species by Level B harassment. However, for reasons mentioned earlier in this document, it is highly unlikely that humpback and minke whales would occur in the proposed seismic survey area. Therefore, NMFS does not propose to authorize take of these two species. The species for which take, by Level B harassment only, is proposed include: Bowhead, beluga, gray, and killer whales; harbor porpoise; and ringed, bearded, spotted, and ribbon seals.

The airguns produce impulsive sounds. The current acoustic thresholds used by NMFS to estimate Level B and Level A harassment are presented in Table 4.

TABLE 4—CURRENT ACOUSTIC EXPOSURE CRITERIA USED BY NMFS

Criterion	Criterion definition	Threshold
Level A Harassment (Injury)	Permanent Threshold Shift (PTS) (Any level above that which is known to cause TTS).	180 dB re 1 microPa-m (cetaceans)/190 dB re 1 microPa-m (pinnipeds) root mean square (rms).
Level B Harassment	Behavioral Disruption (for impulse noises)	160 dB re 1 microPa-m (rms).
Level B Harassment	Behavioral Disruption (for continuous, noise)	120 dB re 1 microPa-m (rms).

Section 6 of BP's application contains a description of the methodology used by BP to estimate takes by harassment, including calculations for the 160 dB (rms) isopleth and marine mammal densities in the areas of operation (see **ADDRESSES**), which is also provided in the following sections. NMFS verified BP's methods, and used the density and sound isopleth measurements in estimating take. However, as noted later in this section, NMFS proposes to authorize the maximum number of estimated takes for all species, not just for cetaceans as presented by BP in order to ensure that exposure estimates are not underestimated for pinnipeds.

During data acquisition, the source vessels of the proposed OBS Prudhoe Bay seismic survey will cover an area of about 190 mi^2 in water depths ranging from 3 to 50 ft. Seismic data acquisition will be halted at the start of the Cross Island fall bowhead whale hunt. The total duration of seismic data acquisition in the Prudhoe Bay area is estimated to be approximately 45 days. About 25% of downtime is included in this total, so the actual number of days that airguns are expected to be operating is about 34, based on a continuous 24-hr operation.

Marine Mammal Density Estimates

Most whale species are migratory and therefore show a seasonal distribution, with different densities for the summer period (covering July and August) and the fall period (covering September and October). Seal species in the Beaufort Sea do not show a distinct seasonal distribution during the open-water period between July and October. Data acquisition of the proposed seismic survey will only take place in summer (before start of Nuiqsut whaling in late August/early September), so BP estimated only summer densities for this proposed IHA. Whale and seal densities in the Beaufort Sea will further depend on the presence of sea ice. However, if ice cover within or close to the seismic survey area is more than approximately 10%, seismic survey activities may not start or will be halted. Densities related to ice conditions are therefore not included in the IHA application.

Spatial differentiation is another important factor for marine mammal densities, both in latitudinal and longitudinal gradient. Taking into account the shallow water operations of the proposed seismic survey area and the associated area of influence, BP used data from the nearshore zone of the Beaufort Sea for the calculation of densities, if available.

Density estimates are based on best available data. Because available data did not always cover the area of interest, this is subject to large temporal and spatial variation, and correction factors for perception and availability bias were not always known, there is some uncertainty in the data and assumptions used in the estimated number of exposures. To provide allowance for these uncertainties, maximum density estimates have been provided in addition to average density estimates.

1. Beluga Whale Density Estimates

The 1979–2011 BWASP aerial survey database, available from the NOAA Web site (*http://www.afsc.noaa.gov/NMML/software/bwasp-comida.php*), contains a total of 62 belugas (31 sightings) in block 1, which covers the nearshore and offshore Prudhoe Bay area. Except for one solitary animal in 1992, all these belugas were seen in September or October; the months with most aerial survey effort. None of the sightings occurred south of 70° N., which is to be expected because beluga whales generally travel much farther north (Moore *et al.,* 2000). The summer effort in the 1979–2011 database is limited. Therefore, BP considered and NMFS agreed that the 2012–2013 data to be the best available data for calculating beluga summer densities (Clarke *et al.,* 2013; *http://www.asfc.noaa.gov/nmml/cetacean/bwasp/2013*), even though the 2013 daily flight summaries posted on NOAA's Web site have not undergone post-season QA/QC.

To estimate the density of beluga whales in the Prudhoe Bay area, BP used the 2012 on-transect beluga sighting and effort data from the ASAMM surveys flown in July and August in the Beaufort Sea. The area most applicable to our survey was the area from 140° W.-154° W. and water depths of 0–20 m (Table 13 in Clarke *et al.,* 2013). In addition, BP used beluga sighting and effort data of the 2013 survey, as reported in the daily flight summaries on the NOAA Web site. BP intended to only select flights that covered block 1. However, in many cases the aerial surveys flown in block 1 also covered blocks 2 and 10, which were much farther from shore. Because it was difficult to determine the survey effort specific to block 1 from the available information, BP included the sighting and effort data from block 2 and 10 in the calculations. BP used the number of individuals counted on transect, together with the transect kilometers flown, to calculate density estimates (Table 4 in the application and Table 5 here). To convert the number of individuals per transect kilometer (ind/km) to a density per area (ind/km^2), BP used the effective strip width (ESW) of 0.614 km for belugas calculated from 2008–2012 aerial survey

data flown with the Commander aircraft (M. Ferguson, NMML, pers. comm., 30 Oct 2013).

Table 5. Summary of beluga sighting and effort data from the 2012 and 2013 ASAMM aerial surveys flown in July and August in the Beaufort Sea.

YEAR	EFFORT (IND/KM)	NR. IND	IND/KM	IND/KM^2
2012	1431	5	0.0035	0.0028
2013	7572	99	0.0131	0.0182
			Average	*0.0105*
			Maximum	*0.0182*
			Minimum	*0.0028*

2. Bowhead Whale Density Estimates

To estimate summer bowhead whale densities, BP used data from the 2012 and 2013 ASAMM aerial surveys flown in the Beaufort Sea (Clarke *et al.,* 2013; *www.asfc.noaa.gov/nmml/*). The 1979–2011 ASAMM database contains only one on-transect bowhead whale sighting during July and August (in 2011), likely due to the limited summer survey effort. In contrast, the 2012 and 2013 surveys include substantial effort during the summer season and are thus considered to be the best available data, even though the 2013 daily flight summaries posted on NOAA's Web site have not undergone post-season QA/QC.

To estimate the density of bowhead whales in the Prudhoe Bay area, BP used the 2012 on-transect bowhead sighting and effort data from surveys flown in July and August in block 1 (Table 4 in Clarke *et al.,* 2013). In addition, BP used the on-transect bowhead sighting and effort data of the 2013 survey, as reported in the daily flight summaries on the NOAA Web site. BP intended to only select flights that covered block 1. However, in many cases the aerial surveys flown in block 1 also covered blocks 2 and 10, which were much farther from shore. Because it was difficult to determine the survey effort specific to block 1 from the available information, BP included the sighting and effort data from block 2 and 10 in the calculations (Table 5 in the application and Table 6 here). To convert the number of individuals per line transect (ind/km) to a density per area (ind/km2), BP used the ESW of 1.15 km for bowheads, calculated from 2008–2012 aerial survey data flown with the Commander aircraft (M. Ferguson, NMML, pers. comm., 30 Oct 2013).

Table 6. Summary of bowhead sighting and effort data from the 2012 and 2013 ASAMM aerial surveys flown in July and August in the Beaufort Sea.

YEAR	EFFORT (IND/KM)	NR. IND	IND/KM	IND/KM^2
2012	1493	5	0.0033	0.0015
2013	3973	88	0.0221	0.0096
			Average	*0.0055*
			Maximum	*0.0096*
			Minimum	*0.0015*

3. Other Whale Species

No densities have been estimated for gray whales and for whale species that are rare or extralimital to the Beaufort Sea (killer whale and harbor porpoise) because sightings of these animals have been very infrequent. Gray whales may be encountered in small numbers throughout the summer and fall, especially in the nearshore areas. Small numbers of harbor porpoises may be encountered as well. During an aerial survey offshore of Oliktok Point in 2008, approximately 40 mi (65 km) west of the proposed survey area, two harbor porpoises were sighted offshore of the barrier islands, one on 25 August and the other on 10 September (Hauser *et al.,* 2008). For the purpose of this IHA request, small numbers have been included in the requested ''take'' authorization to cover incidental occurrences of any of these species during the proposed survey.

4. Seal Density Estimates

Ice seals of the Beaufort Sea are mostly associated with sea ice, and most census methods count seals when they are hauled out on the ice. To account for the proportion of animals present but not hauled out (availability bias) or seals present on the ice but missed (detection bias), a correction factor should be applied to the ''raw'' counts. This correction factor is dependent on the behavior of each species. To estimate what proportion of ringed seals were generally visible resting on the sea ice, radio tags were placed on seals during spring 1999–2003 (Kelly *et al.,* 2006). The probability that seals were visible,

derived from the satellite data, was applied to seal abundance data from past aerial surveys and indicated that the proportion of seals visible varied from less than 0.4 to more than 0.75 between survey years. The environmental factors that are important in explaining the availability of seals to be counted were found to be time of day, date, wind speed, air temperature, and days from snow melt (Kelly *et al.,* 2006). Besides the uncertainty in the correction factor, using counts of basking seals from spring surveys to predict seal abundance in the open-water period is further complicated by the fact that seal movements differ substantially between these two seasons. Data from nine ringed seals that were tracked from one subnivean period (early winter through mid-May or early June) to the next showed that ringed seals covered large distances during the open-water foraging period (Kelly *et al.,* 2010b). Ringed seals tagged in 2011 close to Barrow also show long distances traveled during the open-water season (Herreman *et al.,* 2012).

To estimate densities for ringed, bearded, and spotted seals, BP used data collected during four shallow water OBC seismic surveys in the Beaufort Sea (Harris *et al.,* 2001; Aerts *et al.,* 2008; Hauser *et al.,* 2008; HDR, 2012). Habitat and survey specifics are very similar to the proposed survey; therefore, these data were considered to be more representative than basking seal densities from spring aerial survey data (e.g., Moulton *et al.,* 2002; Frost *et al.,* 2002, 2004). NMFS agreed that these data are likely more representative and appropriate for use. However, since these data were not collected during surveys designed to determine abundance, NMFS used the maximum estimates for the proposed number of takes in this proposed IHA.

Because survey effort in kilometers was only reported for one of the surveys, BP used sighting rate (ind/h) for calculating potential seal exposures. No distinction is made in seal density between summer and autumn season. Also, no correction factors have been applied to the reported seal sighting rates.

Seal species ratios: During the 1996 OBC survey, 92% of all seal species identified were ringed seals, 7% bearded seals and 1% spotted seals (Harris *et al.,* 2001). This 1996 survey occurred in two habitats, one about 19 mi east of Prudhoe Bay near the McClure Islands, mainly inshore of the barrier islands in water depths of 10 to 26 ft and the other 6 to 30 mi northwest of Prudhoe Bay, about 0 to 8 mile offshore of the barrier islands in water depths of 10 to 56 ft (Harris *et al.,* 2001). In 2008, two OBC seismic surveys occurred in the Beaufort Sea, one in Foggy Island Bay, about 15 mi SE of Prudhoe Bay (Aerts *et al.,* 2008), and the other at Oliktok Point, >30 mi west of Prudhoe Bay (Hauser *et al.,* 2008). In 2012, an OBC seismic was done in Simpson Lagoon, bordering the area surveyed in 2008 at Oliktok Point (HDR, 2012). Based on the number of identified individuals the ratio ringed, bearded, and spotted seal was 75%, 8%, and 17%, respectively in Foggy Island Bay (Aerts *et al.,* 2008), 22%, 39%, and 39%, respectively at Oliktok Point (Hauser *et al.,* 2008), and 62%, 15%, and 23%, respectively in Simpson Lagoon (HDR, 2012). Because it is often difficult to identify seals to species, a large proportion of seal sightings were unidentified in all four OBC surveys described here. The total seal sighting rate was therefore used to calculate densities for each species, using the average ratio over all four surveys for ringed, bearded, and spotted seals, i.e., 63% ringed, 17% bearded, and 20% spotted seals.

Seal sighting rates: During the 1996 OBC survey (Harris *et al.,* 2001) the sighting rate for all seals during periods when airguns were not operating was 0.63 ind/h. The sighting rate during non-seismic periods was 0.046 ind/h for the survey in Foggy Island Bay, just east of Prudhoe Bay (Aerts *et al.,* 2008). The OBC survey that took place at Oliktok Point recorded 0.0674 ind/h when airguns were not operating (Hauser *et al.,* 2008), and the maximum sighting rate during the Simpson Lagoon OBC seismic survey was 0.030 ind/h (HDR, 2012).

The average seal sighting rate, based on these four surveys, was 0.193 ind/h. The maximum was 0.63 ind/h and the minimum 0.03 ind/h. Using the proportion of ringed, bearded, and spotted seals as mentioned above, BP estimated the average and maximum sighting rates (ind/h) for each of the three seal species (Table 6 in the application and Table 7 here).

5. Marine Mammal Density Summary

For the purpose of calculating the potential number of beluga and bowhead whale exposures to received sound levels of ≥160 dB re 1 μPa, BP used the minimum density from Tables 5 and 6 in this document as the average density. The reason for this decision is that the 2012 data only covered block 1 and were considered more representative. To derive a maximum estimated number of exposures, BP used the average densities from Tables 5 and 6 in this document. BP considered this approach reasonable because the 2013 beluga and bowhead whale sighting data included areas outside the zone of influence of the proposed project. For example, in 2013, only 3 of the 89 beluga sightings were seen in block 1. Table 7 in this document summarizes the densities used in the calculation of potential number of exposures.

Table 7. Estimated summer densities of whales and sighting rates of seals (average and maximum) for the proposed North Prudhoe Bay survey. Densities are provided in number of individuals per square kilometer (ind/km^2), and sighting rates are in number of individuals per hour (ind/h). No densities or sighting rates were estimated for extralimital species.

SPECIES	SUMMER DENSITIES (IND/KM^2)	
	AVERAGE	MAXIMUM
Bowhead whale	0.0015	0.0055
Beluga whale	0.0028	0.0105
	SUMMER SIGHTING RATES (IND/H)	
	AVERAGE	MAXIMUM
Ringed seal	0.122	0.397
Bearded seal	0.033	0.107
Spotted seal	0.039	0.126

Level A and Level B Harassment Zone Distances

For the proposed 2014 OBS seismic survey, BP used existing sound source verification (SSV) measurements to establish distances to received sound pressure levels (SPLs). Airgun arrays consist of a cluster of independent sources. Because of this, and many other factors, sounds generated by these arrays therefore do not propagate evenly in all directions. BP included both broadside and endfire measurements of the array in calculating distances to the various received sound levels. Broadside and endfire measurements are not applicable to mitigation gun measurements.

Five SSV measurements exist of an array consisting of eight airguns (totaling to 880 in^3) in the shallow water environment of the Beaufort Sea. All these measurements were from 2008: One in Foggy Island Bay and four in Oliktok Point (two source vessels and two water depths). There is one measurement of a 16 airgun array (640 in^3), from the 2012 Simpson Lagoon OBC seismic survey along water depths of approximately 40–60 ft (outside the barrier islands). Table 7 in BP's application shows average, maximum, and minimum measured distances to each of the four received SPL rms levels of the 880 in^3 array and the 880 and 640 in^3 arrays combined. BP used the average distance of the combined 640–880 in^3 SSV measurements as the mitigation radii (see Table 8 in BP's application). Although the discharge volumes of the proposed sub-array (620 in^3) and combined sub-arrays (1240 in^3) are different than the airgun arrays measured before, the acoustic properties are very similar due to the airgun configuration (number of guns and sizes). As an example, the rms source level of the eight-gun 880 in^3 array and the eight-gun 620 in^3 arrays are very similar (217 and 218 dB re 1 µPa rms, respectively). Likewise, the rms source levels of the 16-gun 640 in^3 and 1240 in^3 were comparable (223 and 224 dB re 1 µPa rms, respectively). BP therefore considered the distances derived from the existing airgun arrays as summarized in Table 7 in BP's application as representative for the proposed 620–1240 in^3 arrays. NMFS concurs with this approach.

Three shallow water SSV measurements were used to calculate the average, maximum, and minimum distances for the 40 in^3 mitigation gun (see Table 7 in BP's application). Two measurements were from the 2012 Simpson lagoon seismic survey (in water depths of approximately 40–60 ft and 6.5 ft) and one measurement from the 2011 Harrison Bay shallow hazard survey in 6.5 ft water depth (from a 4 × 10 in^3 cluster). BP derived the distances for the 10 in^3 mitigation gun from four shallow hazard SSV measurements in the Beaufort Sea: One in 2007, two in 2008, and one in 2011.

Table 8 in this document presents the radii used to estimate take (160 dB isopleth) and to implement mitigation measures (180 dB and 190 dB isopleths) from the full airgun array and the 40 in^3 and 10 in^3 mitigation guns. However, take is only estimated using the larger radius of the full airgun array.

TABLE 8—DISTANCES (IN METERS) TO BE USED FOR ESTIMATING TAKE BY LEVEL B HARASSMENT AND FOR MITIGATION PURPOSES DURING THE PROPOSED 2014 NORTH PRUDHOE BAY 2014 SEISMIC SURVEY

Airgun discharge volume (in^3)	190 dB re 1 µPa	180 dB re 1 µPa	160 dB re 1 µPa
620–1240 in^3	300	600	5000
40 in^3	70	200	2000
10 in^3	20	50	600

Numbers of Marine Mammals Potentially Taken by Harassment

The potential number of marine mammals that might be exposed to the 160 dB re 1 µPa (rms) SPL was calculated differently for cetaceans and pinnipeds, as described in Section 6.3 of BP's application and next here.

1. Number of Cetaceans Potentially Taken by Harassment

The potential number of bowhead and beluga whales that might be exposed to the 160 dB re 1 µPa (rms) sound pressure level was calculated by multiplying:

- The expected bowhead and beluga density as provided in Tables 5 and 6 in this document (Tables 4 and 5 in BP's application);
- the anticipated area around each source vessel that is ensonified by the 160 dB re 1 µPa (rms) sound pressure level; and
- the estimated number of 24-hr days that the source vessels are operating.

The area expected to be ensonified by the 620–1,240 in^3 array was determined based on the maximum distance to the 160 dB re 1 µPa (rms) sound pressure level as determined from the maximum 640–880 in^3 array measurements (Table 7 in BP's application and summarized

in Table 8 in this document), rounded to 5 km. Based on a radius of 5 km, the 160 dB isopleth used in the exposure calculations was 78.5 km². It is expected that on average, two source vessels will be operating simultaneously, although one source vessel might sometimes be engaged in crew change, maintenance, fueling, or other activities that do not require the operation of airguns. The minimum distance between the two source vessels will be about 550 ft. Although there will be an overlap in ensonified area, for the estimated number of exposures, BP summed the exposed area of each source vessel. Using the maximum distance and summing the isopleths of both source vessels provides a likely overestimate of marine mammal exposures.

The estimated number of 24-hr days of airgun operations was determined by assuming a 25% downtime during the 45-day planned data acquisition period. Downtime is related to weather, equipment maintenance, mitigation implementation, and other circumstances. The total number of full 24-hr days that data acquisition is expected to occur is approximately 34 days or 816 hours.

Average and maximum estimates of the number of bowhead and beluga whales potentially exposed to sound pressure levels of 160 dB re 1 μPa (rms) or more are summarized in Table 9 in BP's application. Species such as gray whale, killer whale, and harbor porpoise are not expected to be encountered but might be present in very low numbers; the maximum expected number of exposures for these species provided in Table 9 of BP's application is based on the likelihood of incidental occurrences.

The average and maximum number of bowhead whales potentially exposed to sound levels of 160 dB re 1 μPa (rms) or more is estimated at 8 and 29, respectively. BP requested the maximum number of expected exposures based on the unexpected large numbers of bowheads observed in August during the 2013 ASAMM survey. The average and maximum number of potential beluga exposures to 160 dB is 15 and 36, respectively. Belugas are known to show aggregate behavior and can occur in large numbers in nearshore zones, as evidenced by the sighting at Endicott in August 2013. Therefore, for the unlikely event that a group of belugas appears within the 160 dB isopleth during the proposed seismic survey, BP added a number of 75 to the requested authorization. Chance encounters with small numbers of other whale species are possible.

These estimated exposures do not take into account the proposed mitigation measures, such as PSOs watching for animals, shutdowns or power downs of the airguns when marine mammals are seen within defined ranges, and ramp-up of airguns.

2. Number of Pinnipeds Potentially Taken by Harassment

The estimated number of seals that might be exposed to pulsed sounds of 160 dB re 1 μPa (rms) was calculated by multiplying:

- The expected species specific sighting rate as provided in Table 7 in this document (also in Table 6 in BP's application); and
- the total number of hours that each source vessel will be operating during the data acquisition period.

The estimated number of hours that each source vessel will operate its airguns was determined by assuming a 25% downtime during a 45-day survey period, which is a total of 816 hours (34 days of 24 hour operations). It is expected that on average, two source vessels will be operating simultaneously. As a comparison, during a similar survey in Simpson Lagoon, three source vessels were operating their airguns for a total of approximately 710 hrs to cover an area of 110 mi². The 816 hours of airgun operations for the North Prudhoe survey seems therefore a reasonable estimate. The resulting average and maximum number of ringed, bearded, and spotted seal exposures based on 816 hours of airgun operations are summarized in Table 9 of BP's application. BP assumed that all seal sightings would occur within the 160 dB isopleth. These estimated exposures do not take into account the proposed mitigation measures, such as PSOs watching for animals, shutdowns or power downs of the airguns when marine mammals are seen within defined ranges, and ramp-up of airguns.

Estimated Take by Harassment Summary

Table 9 here outlines the density estimates used to estimate Level B takes, the proposed Level B harassment take levels, the abundance of each species in the Beaufort Sea, the percentage of each species or stock estimated to be taken, and current population trends. As explained earlier in this document, NMFS used the maximum density estimates or sighting rates and proposes to authorize the maximum estimates of exposures. Additionally, as explained earlier, density estimates are not available for species that are uncommon in the proposed seismic survey area.

TABLE 9—DENSITY ESTIMATES OR SPECIES SIGHTING RATES, PROPOSED LEVEL B HARASSMENT TAKE LEVELS, SPECIES OR STOCK ABUNDANCE, PERCENTAGE OF POPULATION PROPOSED TO BE TAKEN, AND SPECIES TREND STATUS

Species	Density (#/km²)	Sighting rate (ind/hr)	Proposed level B take	Abundance	Percentage of population	Trend
Beluga whale	0.0105	.....	75	39,258	0.19	No reliable information.
Killer whale	NA	.....	3	552	0.54	Stable.
Harbor porpoise	NA	.....	3	48,215	0.01	No reliable information.
Bowhead whale	0.0055	.....	29	16,892	0.17	Increasing.
Gray whale	NA	.....	3	19,126	0.02	Increasing.
Bearded seal	.....	0.107	87	155,000	0.06	No reliable information.
Ringed seal	.....	0.397	324	300,000	0.11	No reliable information.
Spotted seal	.....	0.126	103	141,479	0.07	No reliable information.
Ribbon seal	.....	NA	3	49,000	0.01	No reliable information.

Analysis and Preliminary Determinations

Negligible Impact

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

No injuries or mortalities are anticipated to occur as a result of BP's proposed 3D OBS seismic survey, and none are proposed to be authorized. Additionally, animals in the area are not expected to incur hearing impairment (i.e., TTS or PTS) or non-auditory physiological effects. The number of takes that are anticipated and authorized are expected to be limited to short-term Level B behavioral harassment. While the airguns will be operated continuously for about 34 days, the project time frame will occur when cetacean species are typically not found in the project area or are found only in low numbers. While pinnipeds are likely to be found in the proposed project area more frequently, their distribution is dispersed enough that they likely will not be in the Level B harassment zone continuously. As mentioned previously in this document, pinnipeds appear to be more tolerant of anthropogenic sound than mystiectes.

The Alaskan Beaufort Sea is part of the main migration route of the Western Arctic stock of bowhead whales. However, the seismic survey has been planned to occur when the majority of the population is found in the Canadian Beaufort Sea. Active airgun operations will cease by midnight on August 25 before the main fall migration begins and well before cow/calf pairs begin migrating through the area. Additionally, several locations within the Beaufort Sea serve as feeding grounds for bowhead whales. However, as mentioned earlier in this document, the primary feeding grounds are not found in Prudhoe Bay. The majority of bowhead whales feed in the Alaskan Beaufort Sea during the fall migration period, which will occur after the cessation of the airgun survey.

Belugas that migrate through the U.S. Beaufort Sea typically do so farther offshore (more than 37 mi [60 km]) and in deeper waters (more than 656 ft [200 m]) than where the proposed 3D OBS seismic survey activities would occur. Gray whales are rarely sighted this far east in the U.S. Beaufort Sea. Additionally, there are no known feeding grounds for gray whales in the Prudhoe Bay area. The most northern feeding sites known for this species are located in the Chukchi Sea near Hanna Shoal and Point Barrow. The other cetacean species for which take is proposed are uncommon in Prudhoe Bay, and no known feeding or calving grounds occur in Prudhoe Bay for these species. Based on these factors, exposures of cetaceans to anthropogenic sounds are not expected to last for prolonged periods (i.e., several days or weeks) since they are not known to remain in the area for extended periods of time in July and August. Also, the shallow water location of the survey makes it unlikely that cetaceans would remain in the area for prolonged periods. Based on all of this information, the proposed project is not anticipated to affect annual rates of recruitment or survival for cetaceans in the area.

Ringed seals breed and pup in the Alaskan Beaufort Sea; however, the proposed seismic survey will occur outside of the breeding and pupping seasons. The Beaufort Sea does not provide suitable habitat for the other three ice seal species for breeding and pupping. Based on this information, the proposed project is not anticipated to affect annual rates of recruitment or survival for pinnipeds in the area.

Of the nine marine mammal species for which take is authorized, one is listed as endangered under the ESA—the bowhead whale—and two are listed as threatened—ringed and bearded seals. Schweder *et al.* (2009) estimated the yearly growth rate to be 3.2% (95% CI = 0.5–4.8%) between 1984 and 2003 using a sight-resight analysis of aerial photographs. There are currently no reliable data on trends of the ringed and bearded seal stocks in Alaska. The ribbon seal is listed as a species of concern under the ESA. Certain stocks or populations of gray, killer, and beluga whales and spotted seals are listed as endangered or are proposed for listing under the ESA; however, none of those stocks or populations occur in the activity area. There is currently no established critical habitat in the project area for any of these nine species.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from BP's proposed 3D OBS seismic survey in Prudhoe Bay, Beaufort Sea, Alaska, will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

The requested takes proposed to be authorized represent less than 1% of all populations or stocks (see Table 9 in this document). These take estimates represent the percentage of each species or stock that could be taken by Level B behavioral harassment if each animal is taken only once. The numbers of marine mammals taken are small relative to the affected species or stock sizes. In addition, the mitigation and monitoring measures (described previously in this document) proposed for inclusion in the IHA (if issued) are expected to reduce even further any potential disturbance to marine mammals. NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks. Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Relevant Subsistence Uses

The disturbance and potential displacement of marine mammals by sounds from the proposed seismic survey are the principal concerns related to subsistence use of the area. Subsistence remains the basis for Alaska Native culture and community. Marine mammals are legally hunted in Alaskan waters by coastal Alaska Natives. In rural Alaska, subsistence activities are often central to many aspects of human existence, including patterns of family life, artistic expression, and community religious and celebratory activities. Additionally, the animals taken for subsistence provide a significant portion of the food that will last the community throughout the year. The main species that are hunted include bowhead and beluga whales, ringed, spotted, and bearded seals, walruses, and polar bears. (As mentioned previously in this document, both the walrus and the polar bear are under the USFWS' jurisdiction.) The importance of each of

these species varies among the communities and is largely based on availability.

Residents of the village of Nuiqsut are the primary subsistence users in the project area. The communities of Barrow and Kaktovik also harvest resources that pass through the area of interest but do not hunt in or near the Prudhoe Bay area. Subsistence hunters from all three communities conduct an annual hunt for autumn-migrating bowhead whales. Barrow also conducts a bowhead hunt in spring. Residents of all three communities hunt seals. Other subsistence activities include fishing, waterfowl and seaduck harvests, and hunting for walrus, beluga whales, polar bears, caribou, and moose.

Nuiqsut is the community closest to the seismic survey area (approximately 54 mi [87 km] southwest). Nuiqsut hunters harvest bowhead whales only during the fall whaling season (Long, 1996). In recent years, Nuiqsut whalers have typically landed three or four whales per year. Nuiqsut whalers concentrate their efforts on areas north and east of Cross Island, generally in water depths greater than 66 ft (20 m; Galginaitis, 2009). Cross Island is the principal base for Nuiqsut whalers while they are hunting bowheads (Long, 1996). Cross Island is located approximately 35 mi (56.4 km) east of the seismic survey area.

Kaktovik whalers search for whales east, north, and occasionally west of Kaktovik. Kaktovik is located approximately 120 mi (193 km) east of Prudhoe Bay. The western most reported harvest location was about 13 mi (21 km) west of Kaktovik, near 70°10′ N., 144°11′ W. (Kaleak, 1996). That site is about 112 mi (180 km) east of the proposed survey area.

Barrow whalers search for whales much farther from the Prudhoe Bay area—about 155+ mi (250+ km) to the west. Barrow hunters have expressed concerns about ''downstream'' effects to bowhead whales during the westward fall migration; however, BP will cease airgun operations prior to the start of the fall migration.

Beluga whales are not a prevailing subsistence resource in the communities of Kaktovik and Nuiqsut. Kaktovik hunters may harvest one beluga whale in conjunction with the bowhead hunt; however, it appears that most households obtain beluga through exchanges with other communities. Although Nuiqsut hunters have not hunted belugas for many years while on Cross Island for the fall hunt, this does not mean that they may not return to this practice in the future. Data presented by Braund and Kruse (2009) indicate that only 1% of Barrow's total harvest between 1962 and 1982 was of beluga whales and that it did not account for any of the harvested animals between 1987 and 1989.

Ringed seals are available to subsistence users in the Beaufort Sea year-round, but they are primarily hunted in the winter or spring due to the rich availability of other mammals in the summer. Bearded seals are primarily hunted during July in the Beaufort Sea; however, in 2007, bearded seals were harvested in the months of August and September at the mouth of the Colville River Delta, which is approximately 50+ mi (80+ km) from the proposed seismic survey area. However, this sealing area can reach as far east as Pingok Island, which is approximately 20 mi (32 km) west of the survey area. An annual bearded seal harvest occurs in the vicinity of Thetis Island (which is a considerable distance from Prudhoe Bay) in July through August. Approximately 20 bearded seals are harvested annually through this hunt. Spotted seals are harvested by some of the villages in the summer months. Nuiqsut hunters typically hunt spotted seals in the nearshore waters off the Colville River Delta. The majority of the more established seal hunts that occur in the Beaufort Sea, such as the Colville delta area hunts, are located a significant distance (in some instances 50 mi [80 km] or more) from the project area.

Potential Impacts to Subsistence Uses

NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as: ''. . . an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.''

Noise and general activity during BP's proposed 3D OBS seismic survey have the potential to impact marine mammals hunted by Native Alaskan. In the case of cetaceans, the most common reaction to anthropogenic sounds (as noted previously) is avoidance of the ensonified area. In the case of bowhead whales, this often means that the animals divert from their normal migratory path by several kilometers. Helicopter activity also has the potential to disturb cetaceans and pinnipeds by causing them to vacate the area. Additionally, general vessel presence in the vicinity of traditional hunting areas could negatively impact a hunt. Native knowledge indicates that bowhead whales become increasingly ''skittish'' in the presence of seismic noise. Whales are more wary around the hunters and tend to expose a much smaller portion of their back when surfacing (which makes harvesting more difficult). Additionally, natives report that bowheads exhibit angry behaviors in the presence of seismic, such as tail-slapping, which translate to danger for nearby subsistence harvesters.

Plan of Cooperation or Measures To Minimize Impacts to Subsistence Hunts

Regulations at 50 CFR 216.104(a)(12) require IHA applicants for activities that take place in Arctic waters to provide a Plan of Cooperation or information that identifies what measures have been taken and/or will be taken to minimize adverse effects on the availability of marine mammals for subsistence purposes. BP has begun discussions with the Alaska Eskimo Whaling Commission (AEWC) to develop a Conflict Avoidance Agreement (CAA) intended to minimize potential interference with bowhead subsistence hunting. BP also attended and participated in meetings with the AEWC on December 13, 2013, and will attend future meetings to be scheduled in 2014. The CAA, when executed, will describe measures to minimize any adverse effects on the availability of bowhead whales for subsistence uses.

The North Slope Borough Department of Wildlife Management (NSB–DWM) will be consulted, and BP plans to present the project to the NSB Planning Commission in 2014. BP will hold meetings in the community of Nuiqsut to present the proposed project, address questions and concerns from community members, and provide them with contact information of project management to which they can direct concerns during the survey. During the NMFS Open-Water Meeting in Anchorage in 2013, BP presented their proposed projects to various stakeholders that were present during this meeting.

BP will continue to engage with the affected subsistence communities regarding its Beaufort Sea activities. As in previous years, BP will meet formally and/or informally with several stakeholder entities: the NSB Planning Department, NSB–DWM, NMFS, AEWC, Inupiat Community of the Arctic Slope, Inupiat History Language and Culture Center, USFWS, Nanuq and Walrus

Commissions, and Alaska Department of Fish & Game.

Project information was provided to and input on subsistence obtained from the AEWC and Nanuq Commission at the following meetings:

- AEWC, October 17, 2013; and
- Nanuq Commission, October 17, 2013.

Additional meetings with relevant stakeholders will be scheduled and a record of attendance and topics discussed will be maintained and submitted to NMFS.

BP proposes to implement several mitigation measures to reduce impacts on the availability of marine mammals for subsistence hunts in the Beaufort Sea. Many of these measures were developed from the 2013 CAA and previous NSB Development Permits. In addition to the measures listed next, BP will cease all airgun operations by midnight on August 25 to allow time for the Beaufort Sea communities to prepare for their fall bowhead whale hunts prior to the beginning of the fall westward migration through the Beaufort Sea. Some of the measures mentioned next have been mentioned previously in this document:

- PSOs on board vessels are tasked with looking out for whales and other marine mammals in the vicinity of the vessel to assist the vessel captain in avoiding harm to whales and other marine mammals;
- Vessels and aircraft will avoid areas where species that are sensitive to noise or vessel movements are concentrated;
- Communications and conflict resolution are detailed in the CAA. BP will participate in the Communications Center that is operated annually during the bowhead subsistence hunt;
- Communications with the village of Nuiqsut to discuss community questions or concerns including all subsistence hunting activities. Pre-project meeting(s) with Nuiqsut representatives will be held at agreed times with groups in the community of Nuiqsut. If additional meetings are requested, they will be set up in a similar manner;
- Contact information for BP will be provided to community members and distributed in a manner agreed at the community meeting;
- BP has contracted with a liaison from Nuiqsut who will help coordinate meetings and serve as an additional contact for local residents during planning and operations; and
- Inupiat Communicators will be employed and work on seismic source vessels. They will also serve as PSOs.

Unmitigable Adverse Impact Analysis and Preliminary Determination

BP has adopted a spatial and temporal strategy for its Prudhoe Bay survey that should minimize impacts to subsistence hunters. First, BP's activities will not commence until after the spring hunts have occurred. Second, BP will cease all airgun operations by midnight on August 25 prior to the start of the bowhead whale fall westward migration and any fall subsistence hunts by Beaufort Sea communities. Prudhoe Bay is not commonly used for subsistence hunts. Although some seal hunting co-occurs temporally with BP's proposed seismic survey, the locations do not overlap. BP's presence will not place physical barriers between the sealers and the seals. Additionally, BP will work closely with the closest affected communities and support Communications Centers and employ local Inupiat Communicators. Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the proposed mitigation and monitoring measures, NMFS has preliminarily determined that there will not be an unmitigable adverse impact on subsistence uses from BP's proposed activities.

Endangered Species Act (ESA)

Within the project area, the bowhead whale is listed as endangered and the ringed and bearded seals are listed as threatened under the ESA. NMFS' Permits and Conservation Division has initiated consultation with staff in NMFS' Alaska Region Protected Resources Division under section 7 of the ESA on the issuance of an IHA to BP under section 101(a)(5)(D) of the MMPA for this activity. Consultation will be concluded prior to a determination on the issuance of an IHA.

National Environmental Policy Act (NEPA)

NMFS is currently conducting an analysis, pursuant to NEPA, to determine whether this proposed IHA may have a significant effect on the human environment. This analysis will be completed prior to the issuance or denial of this proposed IHA.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to BP for conducting a 3D OBS seismic survey in the Prudhoe Bay area of the Beaufort Sea, Alaska, during the 2014 open-water season, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This IHA is valid from July 1, 2014, through September 30, 2014.

2. This IHA is valid only for activities associated with open-water OBS seismic surveys and related activities in the Beaufort Sea. The specific areas where BP's surveys will be conducted are within the Prudhoe Bay Area, Beaufort Sea, Alaska, as shown in Figures 1 and 2 of BP's IHA application.

3. Species Authorized and Level of Take

a. The incidental taking of marine mammals, by Level B harassment only, is limited to the following species in the waters of the Beaufort Sea:

i. Odontocetes: 75 beluga whales; 3 killer whales; and 3 harbor porpoises.

ii. Mysticetes: 29 bowhead whales and 3 gray whales.

iii. Pinnipeds: 324 ringed seals; 87 bearded seals; 103 spotted seals; and 3 ribbon seals.

iv. If any marine mammal species not listed in conditions 3(a)(i) through (iii) are encountered during seismic survey operations and are likely to be exposed to sound pressure levels (SPLs) greater than or equal to 160 dB re 1 μPa (rms) for impulse sources, then the Holder of this IHA must shut-down the sound source to avoid take.

b. The taking by injury (Level A harassment) serious injury, or death of any of the species listed in condition 3(a) or the taking of any kind of any other species of marine mammal is prohibited and may result in the modification, suspension or revocation of this IHA.

4. The authorization for taking by harassment is limited to the following acoustic sources (or sources with comparable frequency and intensity) and from the following activities:

a. 620 in^3 airgun arrays;

b. 1,240 in^3 airgun arrays;

c. 40 in^3 and/or 10 in^3 mitigation airguns; and

d. Vessel activities related to the OBS seismic survey.

5. The taking of any marine mammal in a manner prohibited under this Authorization must be reported within 24 hours of the taking to the Alaska Regional Administrator or his designee and the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, or her designee.

6. The holder of this Authorization must notify the Chief of the Permits and

Conservation Division, Office of Protected Resources, at least 48 hours prior to the start of collecting seismic data (unless constrained by the date of issuance of this IHA in which case notification shall be made as soon as possible).

7. Mitigation Requirements: The Holder of this Authorization is required to implement the following mitigation requirements when conducting the specified activities to achieve the least practicable impact on affected marine mammal species or stocks:

a. General Vessel and Aircraft Mitigation

i. Avoid concentrations or groups of whales by all vessels under the direction of BP. Operators of support vessels should, at all times, conduct their activities at the maximum distance possible from such concentrations of whales.

ii. Transit and node laying vessels shall be operated at speeds necessary to ensure no physical contact with whales occurs. If any barge or transit vessel approaches within 1.6 km (1 mi) of observed whales, except when providing emergency assistance to whalers or in other emergency situations, the vessel operator will take reasonable precautions to avoid potential interaction with the whales by taking one or more of the following actions, as appropriate:

A. Reducing vessel speed to less than 5 knots within 300 yards (900 feet or 274 m) of the whale(s);

B. Steering around the whale(s) if possible;

C. Operating the vessel(s) in such a way as to avoid separating members of a group of whales from other members of the group;

D. Operating the vessel(s) to avoid causing a whale to make multiple changes in direction;

E. Checking the waters immediately adjacent to the vessel(s) to ensure that no whales will be injured when the propellers are engaged; and

F. Reducing vessel speed to less than 9 knots when weather conditions reduce visibility.

iii. When weather conditions require, such as when visibility drops, adjust vessel speed accordingly to avoid the likelihood of injury to whales.

iv. In the event that any aircraft (such as helicopters) are used to support the planned survey, the mitigation measures below would apply:

A. Under no circumstances, other than an emergency, shall aircraft be operated at an altitude lower than 1,000 feet above sea level when within 0.3 mile (0.5 km) of groups of whales.

B. Helicopters shall not hover or circle above or within 0.3 mile (0.5 km) of groups of whales.

C. At all other times, aircraft should attempt not to fly below 1,000 ft except during emergencies and take-offs and landings.

b. Seismic Airgun Mitigation

i. Whenever a marine mammal is detected outside the exclusion zone radius and based on its position and motion relative to the ship track is likely to enter the exclusion radius, calculate and implement an alternative ship speed or track or de-energize the airgun array, as described in condition 7(b)(iv) below.

ii. *Exclusion Zones:*

A. Establish and monitor with trained PSOs an exclusion zone for cetaceans surrounding the airgun array on the source vessel where the received level would be 180 dB re 1 μPa rms. This radius is estimated to be 600 m from the seismic source for the 620 in^3 airgun arrays, 200 m for a single 40 in^3 airgun, and 50 m for a single 10 in^3 airgun.

B. Establish and monitor with trained PSOs an exclusion zone for pinnipeds surrounding the airgun array on the source vessel where the received level would be 190 dB re 1 μPa rms. This radius is estimated to be 300 m from the seismic source for the 620 in^3 airgun arrays, 70 m for the single 40 in^3 airgun, and 20 m for a single 10 in^3 airgun.

iii. *Ramp-up*

A. A ramp-up, following a cold start, can be applied if the exclusion zone has been free of marine mammals for a consecutive 30-minute period. The entire exclusion zone must have been visible during these 30 minutes. If the entire exclusion zone is not visible, then ramp-up from a cold start cannot begin.

B. Ramp-up procedures from a cold start shall be delayed if a marine mammal is sighted within the exclusion zone during the 30-minute period prior to the ramp up. The delay shall last until the marine mammal(s) has been observed to leave the exclusion zone or until the animal(s) is not sighted for at least 15 or 30 minutes. The 15 minutes applies to pinnipeds, while a 30 minute observation period applies to cetaceans.

C. A ramp-up, following a shutdown, can be applied if the marine mammal(s) for which the shutdown occurred has been observed to leave the exclusion zone or until the animal(s) is not sighted for at least 15 minutes (pinnipeds) or 30 minutes (cetaceans).

D. If, for any reason, electrical power to the airgun array has been discontinued for a period of 10 minutes or more, ramp-up procedures shall be implemented. Only if the PSO watch has been suspended, a 30-minute clearance of the exclusion zone is required prior to commencing ramp-up. Discontinuation of airgun activity for less than 10 minutes does not require a ramp-up.

E. The seismic operator and PSOs shall maintain records of the times when ramp-ups start and when the airgun arrays reach full power.

F. The ramp-up will be conducted by doubling the number of operating airguns at 5-minute intervals, starting with the smallest gun in the array.

iv. *Power-down/Shutdown*

A. The airgun array shall be immediately powered down (reduction in the number of operating airguns such that the radii of exclusion zones are decreased) whenever a marine mammal is sighted approaching close to or within the applicable exclusion zone of the full array, but is outside the applicable exclusion zone of the single mitigation airgun.

B. If a marine mammal is already within the exclusion zone when first detected, the airguns shall be powered down immediately.

C. Following a power-down, ramp-up to the full airgun array shall not resume until the marine mammal has cleared the exclusion zone. The animal will be considered to have cleared the exclusion zone if it is visually observed to have left the exclusion zone of the full array, or has not been seen within the zone for 15 minutes (pinnipeds) or 30 minutes (cetaceans).

D. If a marine mammal is sighted within or about to enter the 190 or 180 dB (rms) applicable exclusion zone of the single mitigation airgun, the airgun array shall be shutdown immediately.

E. Airgun activity after a complete shutdown shall not resume until the marine mammal has cleared the exclusion zone of the full array. The animal will be considered to have cleared the exclusion zone as described above under ramp-up procedures.

v. *Poor Visibility Conditions*

A. If during foggy conditions, heavy snow or rain, or darkness, the full 180 dB exclusion zone is not visible, the airguns cannot commence a ramp-up procedure from a full shut-down.

B. If one or more airguns have been operational before nightfall or before the onset of poor visibility conditions, they can remain operational throughout the night or poor visibility conditions. In this case ramp-up procedures can be initiated, even though the exclusion zone may not be visible, on the assumption that marine mammals will be alerted by the sounds from the single airgun and have moved away.

C. The mitigation airgun will be operated at approximately one shot per

minute and will not be operated for longer than three hours in duration during daylight hours and good visibility. In cases when the next start-up after the turn is expected to be during lowlight or low visibility, use of the mitigation airgun may be initiated 30 minutes before darkness or low visibility conditions occur and may be operated until the start of the next seismic acquisition line. The mitigation gun must still be operated at approximately one shot per minute.

c. Subsistence Mitigation

i. Airgun operations must cease no later than midnight on August 25, 2014;

ii. BP will participate in the Communications Center that is operated annually during the bowhead subsistence hunt; and

iii. Inupiat communicators will work on the seismic vessels.

8. Monitoring

a. The holder of this Authorization must designate biologically-trained, on-site individuals (PSOs) to be onboard the source vessels, who are approved in advance by NMFS, to conduct the visual monitoring programs required under this Authorization and to record the effects of seismic surveys and the resulting sound on marine mammals.

i. PSO teams shall consist of Inupiat observers and experienced field biologists. An experienced field crew leader will supervise the PSO team onboard the survey vessel. New observers shall be paired with experienced observers to avoid situations where lack of experience impairs the quality of observations.

ii. Crew leaders and most other biologists serving as observers will be individuals with experience as observers during recent seismic or shallow hazards monitoring projects in Alaska, the Canadian Beaufort, or other offshore areas in recent years.

iii. PSOs shall complete a training session on marine mammal monitoring, to be conducted shortly before the anticipated start of the 2014 open-water season. The training session(s) will be conducted by qualified marine mammalogists with extensive crew-leader experience during previous vessel-based monitoring programs. An observers' handbook, adapted for the specifics of the planned survey program will be reviewed as part of the training.

iv. If there are Alaska Native PSOs, the PSO training that is conducted prior to the start of the survey activities shall be conducted with both Alaska Native PSOs and biologist PSOs being trained at the same time in the same room. There shall not be separate training courses for the different PSOs.

v. Crew members should not be used as primary PSOs because they have other duties and generally do not have the same level of expertise, experience, or training as PSOs, but they could be stationed on the fantail of the vessel to observe the near field, especially the area around the airgun array and implement a power-down or shutdown if a marine mammal enters the exclusion zone).

vi. If crew members are to be used as PSOs, they shall go through some basic training consistent with the functions they will be asked to perform. The best approach would be for crew members and PSOs to go through the same training together.

vii. PSOs shall be trained using visual aids (e.g., videos, photos), to help them identify the species that they are likely to encounter in the conditions under which the animals will likely be seen.

viii. BP shall train its PSOs to follow a scanning schedule that consistently distributes scanning effort according to the purpose and need for observations. For example, the schedule might call for 60% of scanning effort to be directed toward the near field and 40% at the far field. All PSOs should follow the same schedule to ensure consistency in their scanning efforts.

ix. PSOs shall be trained in documenting the behaviors of marine mammals. PSOs should simply record the primary behavioral state (i.e., traveling, socializing, feeding, resting, approaching or moving away from vessels) and relative location of the observed marine mammals.

b. To the extent possible, PSOs should be on duty for four (4) consecutive hours or less, although more than one four-hour shift per day is acceptable; however, an observer shall not be on duty for more than 12 hours in a 24-hour period.

c. Monitoring is to be conducted by the PSOs onboard the active seismic vessels to ensure that no marine mammals enter the appropriate exclusion zone whenever the seismic acoustic sources are on and to record marine mammal activity as described in condition 8(f). Two PSOs will be present on each seismic source vessel. At least one PSO shall monitor for marine mammals at any time during daylight hours.

d. At all times, the crew must be instructed to keep watch for marine mammals. If any are sighted, the bridge watch-stander must immediately notify the PSO(s) on-watch. If a marine mammal is within or closely approaching its designated exclusion zone, the seismic acoustic sources must be immediately powered down or shutdown (in accordance with condition 7(b)(iv)).

e. Observations by the PSOs on marine mammal presence and activity will begin a minimum of 30 minutes prior to the estimated time that the seismic source is to be turned on and/or ramped-up.

f. All marine mammal observations and any airgun power-down, shut-down and ramp-up will be recorded in a standardized format. Data will be entered into a custom database. The accuracy of the data entry will be verified daily through QA/QC procedures. These procedures will allow initial summaries of data to be prepared during and shortly after the field program, and will facilitate transfer of the data to other programs for further processing and archiving.

g. Monitoring shall consist of recording:

i. The species, group size, age/size/sex categories (if determinable), the general behavioral activity, heading (if consistent), bearing and distance from seismic vessel, sighting cue, behavioral pace, and apparent reaction of all marine mammals seen near the seismic vessel and/or its airgun array (e.g., none, avoidance, approach, paralleling, etc);

ii. The time, location, heading, speed, and activity of the vessel (shooting or not), along with sea state, visibility, cloud cover and sun glare at:

A. Any time a marine mammal is sighted (including pinnipeds hauled out on barrier islands),

B. At the start and end of each watch, and

C. During a watch (whenever there is a change in one or more variable);

iii. The identification of all vessels that are visible within 5 km of the seismic vessel whenever a marine mammal is sighted, and the time observed, bearing, distance, heading, speed and activity of the other vessel(s);

iv. Any identifiable marine mammal behavioral response (sighting data should be collected in a manner that will not detract from the PSO's ability to detect marine mammals);

v. Any adjustments made to operating procedures; and

iv. Visibility during observation periods so that total estimates of take can be corrected accordingly.

h. BP shall work with its observers to develop a means for recording data that does not reduce observation time significantly.

i. PSOs shall use the best possible positions for observing (e.g., outside and as high on the vessel as possible), taking into account weather and other working conditions. PSOs shall carefully document visibility during observation

periods so that total estimates of take can be corrected accordingly.

j. PSOs shall scan systematically with the unaided eye and reticle binoculars, and other devices.

k. PSOs shall attempt to maximize the time spent looking at the water and guarding the exclusion radii. They shall avoid the tendency to spend too much time evaluating animal behavior or entering data on forms, both of which detract from their primary purpose of monitoring the exclusion zone.

l. Night-vision equipment (Generation 3 binocular image intensifiers, or equivalent units) shall be available for use during low light hours, and BP shall continue to research methods of detecting marine mammals during periods of low visibility.

m. PSOs shall understand the importance of classifying marine mammals as ''unknown'' or ''unidentified'' if they cannot identify the animals to species with confidence. In those cases, they shall note any information that might aid in the identification of the marine mammal sighted. For example, for an unidentified mysticete whale, the observers should record whether the animal had a dorsal fin.

n. Additional details about unidentified marine mammal sightings, such as ''blow only'', mysticete with (or without) a dorsal fin, ''seal splash'', etc., shall be recorded.

o. BP shall conduct a fish and airgun sound monitoring program as described in the IHA application and further refined in consultation with an expert panel.

9. Data Analysis and Presentation in Reports:

a. Estimation of potential takes or exposures shall be improved for times with low visibility (such as during fog or darkness) through interpolation or possibly using a probability approach. Those data could be used to interpolate possible takes during periods of restricted visibility.

b. Water depth should be continuously recorded by the vessel and for each marine mammal sighting. Water depth should be accounted for in the analysis of take estimates.

c. BP shall be very clear in their report about what periods are considered ''non-seismic'' for analyses.

d. BP shall examine data from ASAMM and other such programs to assess possible impacts from their seismic survey.

e. To better assess impacts to marine mammals, data analysis shall be separated into periods when a seismic airgun array (or a single mitigation airgun) is operating and when it is not. Final and comprehensive reports to NMFS should summarize and plot:

i. Data for periods when a seismic array is active and when it is not; and

ii. The respective predicted received sound conditions over fairly large areas (tens of km) around operations.

f. To help evaluate the effectiveness of PSOs and more effectively estimate take, if appropriate data are available, BP shall perform analysis of sightability curves (detection functions) for distance-based analyses.

g. BP should improve take estimates and statistical inference into effects of the activities by incorporating the following measures:

i. Reported results from all hypothesis tests should include estimates of the associated statistical power when practicable.

ii. Estimate and report uncertainty in all take estimates. Uncertainty could be expressed by the presentation of confidence limits, a minimum-maximum, posterior probability distribution, etc.; the exact approach would be selected based on the sampling method and data available.

10. Reporting Requirements

The Holder of this Authorization is required to:

a. A report will be submitted to NMFS within 90 days after the end of the proposed seismic survey. The report will summarize all activities and monitoring results conducted during in-water seismic surveys. The Technical Report will include the following:

i. Summary of project start and end dates, airgun activity, number of guns, and the number and circumstances of implementing ramp-up, power down, shutdown, and other mitigation actions;

ii. Summaries of monitoring effort (e.g., total hours, total distances, and marine mammal distribution through the study period, accounting for sea state and other factors affecting visibility and detectability of marine mammals);

iii. Analyses of the effects of various factors influencing detectability of marine mammals (e.g., sea state, number of observers, and fog/glare);

iv. Species composition, occurrence, and distribution of marine mammal sightings, including date, water depth, numbers, age/size/gender categories (if determinable), and group sizes;

v. Analyses of the effects of survey operations;

vi. Sighting rates of marine mammals during periods with and without seismic survey activities (and other variables that could affect detectability), such as:

A. Initial sighting distances versus survey activity state;

B. Closest point of approach versus survey activity state;

C. Observed behaviors and types of movements versus survey activity state;

D. Numbers of sightings/individuals seen versus survey activity state;

E. Distribution around the source vessels versus survey activity state; and

F. Estimates of exposures of marine mammals to Level B harassment thresholds based on presence in the 160 dB harassment zone.

b. The draft report will be subject to review and comment by NMFS. Any recommendations made by NMFS must be addressed in the final report prior to acceptance by NMFS. The draft report will be considered the final report for this activity under this Authorization if NMFS has not provided comments and recommendations within 90 days of receipt of the draft report.

c. BP will present the results of the fish and airgun sound study to NMFS in a detailed report.

11. Notification of Dead or Injured Marine Mammals

a. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA, such as an injury (Level A harassment), serious injury or mortality (e.g., ship-strike, gear interaction, and/or entanglement), BP would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinators. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with BP to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA

compliance. BP would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

b. In the event that BP discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), BP would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with BP to determine whether modifications in the activities are appropriate.

c. In the event that BP discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), BP would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators, within 24 hours of the discovery. BP would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

12. Activities related to the monitoring described in this IHA do not require a separate scientific research permit issued under section 104 of the MMPA.

13. BP is required to comply with the Reasonable and Prudent Measures and Terms and Conditions of the Incidental Take Statement (ITS) corresponding to NMFS' Biological Opinion.

14. A copy of this IHA and the ITS must be in the possession of all contractors and PSOs operating under the authority of this IHA.

15. Penalties and Permit Sanctions: Any person who violates any provision of this Incidental Harassment Authorization is subject to civil and criminal penalties, permit sanctions, and forfeiture as authorized under the MMPA.

16. This Authorization may be modified, suspended or withdrawn if the Holder fails to abide by the conditions prescribed herein or if the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals, or if there is an unmitigable adverse impact on the availability of such species or stocks for subsistence uses.

Request for Public Comments

NMFS requests comment on our analysis, the draft authorization, and any other aspect of the Notice of Proposed IHA for BP's proposed 3D OBS seismic survey in the Prudhoe Bay area of the Beaufort Sea, Alaska, during the 2014 open-water season. Please include with your comments any supporting data or literature citations to help inform our final decision on BP's request for an MMPA authorization.

Dated: April 8, 2014.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

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