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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34–71194A; File No. S7–15–11]

RIN 3235–AL14

Removal of Certain References to Credit Ratings Under the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; correction.

SUMMARY: The Securities and Exchange Commission published a document in the **Federal Register** of January 8, 2014 that contained an incorrect instruction. This correction is being published to correct instruction 5.b in that document.

DATES: Effective July 7, 2014.

FOR FURTHER INFORMATION CONTACT: Carrie A. O'Brien, Special Counsel, at (202) 551–5640; Office of Financial Responsibility (Net Capital, Customer Protection, and Books and Records Requirements).

SUPPLEMENTARY INFORMATION:

§ 240.15c3–1a [Corrected]

In the **Federal Register** of January 8, 2014, in FR Doc. 2013–31426, on page 1549, in the 14th line of the third column, Instruction 5.b. is corrected to read as follows:

■ b. Removing paragraphs (c)(4)(vi)(A) through (c)(4)(vi)(D);

Dated: July 2, 2014.

Lynn M. Powalski,

Deputy Secretary.

[FR Doc. 2014–15841 Filed 7–7–14; 8:45 am]

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DEPARTMENT OF THE TREASURY

17 CFR Parts 400, 401, 402, 403, 405, 420, 449, and 450

[Docket No. BPD GSRS 11–01]

RIN 1535–AA02

Government Securities Act Regulations; Replacement of References to Credit Ratings and Technical Amendments

AGENCY: Office of the Assistant Secretary for Financial Markets, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (Treasury) is issuing in final form an amendment to the regulations issued under the Government Securities Act of 1986, as amended (GSA), to replace references to credit ratings in the regulations with alternative requirements. Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) requires Federal agencies to remove from their applicable regulations any reference to or requirement of reliance on credit ratings and to substitute a standard of creditworthiness as the agency determines appropriate for such regulations. This final rule amendment provides a substitute standard of creditworthiness for use in the liquid capital rule required by GSA regulations. It also contains several non-substantive, technical amendments to Treasury's GSA regulations to update certain information or to delete certain requirements that are no longer applicable.

DATES: The amendments will become effective August 7, 2014.

ADDRESSES: This final rule is available on the Bureau of the Fiscal Service's Web site at *http://www.treasurydirect.gov*. It is also available for public inspection and copying at the Treasury Department Library, 1500 Pennsylvania Avenue NW., Annex, Room 1020, Washington, DC, 20220. To visit the library, call (202) 622–0990 for an appointment.

FOR FURTHER INFORMATION CONTACT: Lori Santamorena, Executive Director, Chuck Andreatta, Associate Director, or Kevin Hawkins, Government Securities Advisor, Department of the Treasury, Bureau of the Fiscal Service, Government Securities Regulations Staff, (202) 504–3632 or email us at *govsecreg@fiscal.treasury.gov*.

SUPPLEMENTARY INFORMATION: We are amending Treasury's liquid capital rule for registered government securities brokers and dealers under the GSA regulations at 17 CFR part 402 to remove references to credit ratings and substitute a standard of creditworthiness. We are issuing this amendment in order to comply with the requirements of the Dodd-Frank Act.[1] We are not narrowing or broadening the scope of financial instruments that would qualify for beneficial treatment under the existing liquid capital rule. Section 939A(a) of the Dodd-Frank Act requires that Federal agencies, to the extent applicable, ''review (1) any regulation issued by such agency that requires the use of an assessment of the credit-worthiness of a security or money market instrument; and (2) any references to or requirements in such regulations regarding credit ratings.'' Section 939A(b) requires the agency to modify any regulations identified to ''remove any reference to or requirement of reliance on credit ratings and to substitute in such regulations such standard of credit-worthiness'' as the agency determines to be appropriate for such regulations.[2]

I. Current Liquid Capital Rule

Treasury's liquid capital rule (17 CFR 402.2) prescribes minimum regulatory capital requirements for registered government securities brokers and dealers. In general, the liquid capital rule is a minimum ratio requirement of liquid capital to risk, as measured using various ''haircuts,'' [3] which are designed to account for the market risk inherent in a government securities broker's or dealer's securities positions and create a buffer of liquidity to protect against other risks associated with its securities business. Specifically, a government securities broker or dealer may not permit its liquid capital to be below an amount equal to 120 percent of ''total haircuts,'' which is the sum of ''credit risk haircuts'' and ''market risk

[1] Public Law 111–203, 124 Stat. 1376 (2010).

[2] *See* Section 939A of the Dodd-Frank Act.

[3] A ''haircut'' in the context of Treasury's liquid capital rule refers to a deduction in the market value of securities or other instruments held by a government securities broker or dealer as part of net worth for calculating its liquid capital.

haircuts'' calculated by each government securities broker or dealer.[4]

In describing the method for registered government securities brokers and dealers to calculate their minimum capital requirements, the liquid capital rule categorizes certain dollar-denominated securities, debt instruments, and derivative instruments as ''Treasury market risk instruments.'' [5] These instruments receive a more favorable capital treatment than instruments that are more susceptible to changes in value due to market fluctuations, which receive a higher ''other securities haircut.'' [6] The definition of Treasury market risk instruments includes commercial paper which, in order to receive the more favorable haircut treatment of Treasury market risk instruments, must be of no more than one year to maturity [and] rated in one of the three highest categories by at least two nationally recognized statistical rating organizations.[7]

The liquid capital rule includes three references to a rating by a nationally recognized statistical rating organization (NRSRO), i.e., a credit rating, each in regard to commercial paper. NRSROs are credit rating agencies that are subject to Securities and Exchange Commission (SEC) registration and oversight.[8] At present, there are three registered government securities brokers and dealers, none of which currently or routinely hold commercial paper.

II. The Proposed Rule

On September 27, 2011, Treasury published a proposed rule amendment [9] in which we proposed to replace references to credit ratings in our liquid capital rule, all of which pertain to commercial paper, with a substitute standard of creditworthiness. In place of these references, we proposed amending the term ''Treasury market risk instrument'' in the liquid capital rule to include commercial paper that has only a minimal amount of credit risk as reasonably determined by the government securities broker or dealer pursuant to written policies and procedures the government securities broker or dealer establishes, maintains, and enforces to assess creditworthiness.[10] In making an assessment of credit and liquidity risk, the government securities broker or dealer would be required to follow written policies and procedures that it would establish, maintain, and enforce. The government securities broker or dealer could consider the following factors, to the extent appropriate, with respect to commercial paper in making this assessment.[11]

- Credit spreads (i.e., whether it is possible to demonstrate that a position in commercial paper is subject to a minimal amount of credit risk based on the spread between the commercial paper's yield and the yield of Treasury or other securities, or based on credit default swap spreads that reference the security);
- Price and/or yield (i.e., whether the price and yield of a security are consistent with other securities that the government securities broker or dealer has reasonably determined are subject to a minimal amount of credit risk and whether the price resulted from active trading);
- Liquidity (i.e., whether the commercial paper can be sold quickly at a minimal transaction cost);
- Securities-related research (i.e., whether providers of securities-related research believe the issuer of the commercial paper will be able to meet its financial commitments, generally, or specifically, with respect to the commercial paper held by the government securities broker or dealer);
- Internal or external credit risk assessments (i.e., whether credit assessments developed internally by the government securities broker or dealer or externally by a credit rating agency, irrespective of its status as an NRSRO, express a view as to the credit risk associated with a particular security);
- Default statistics (i.e., whether providers of credit information relating to securities express a view that the commercial paper has a probability of default consistent with other commercial paper with a minimal amount of credit risk);
- Inclusion on an index (i.e., whether a security, or issuer of the security, is included as a component of a recognized index of instruments that are subject to a minimal amount of credit risk); and
- Factors specific to the commercial paper market (e.g., general liquidity conditions). The range and type of specific factors considered by the government securities broker or dealer, and how frequently it updates its assessment, would vary depending on the particular commercial paper under review.

If the government securities broker or dealer conducts an assessment of creditworthiness and determines that the commercial paper it holds has more than a minimal amount of credit risk, the government securities broker or dealer would not classify the commercial paper as a Treasury market risk instrument, and would apply the higher ''other securities haircut'' in its liquid capital computation. Similarly, if the government securities broker or dealer does not have written policies and procedures to assess creditworthiness, or chooses not to use its policies and procedures, it would apply the ''other securities haircut'' treatment to the commercial paper it holds.

Under Treasury's GSA regulations that govern recordkeeping requirements,[12] which generally incorporate the SEC's Rule 17a–4 recordkeeping requirements for brokers and dealers,[13] each government securities broker or dealer is required to preserve for a period of not less than three years, the first two years in an easily accessible place, the written policies and procedures that it establishes, maintains, and enforces for assessing credit risk for commercial paper. The SEC amended Rule 17a–4 to require brokers and dealers to preserve the written policies and procedures they establish, document, maintain, and enforce to assess creditworthiness.[14] No amendment is necessary to Treasury's recordkeeping requirements in § 404.3 because it incorporates by reference the SEC's Rule 17a–4, and through such incorporation Rule 17a–4 extends to registered government securities brokers and dealers.

III. Comment Received in Response to the Proposed Rule

We received one comment letter on the proposed rule amendment from a

[4] *See* § 402.2(a) and (g). The market risk haircut equals the sum of the Treasury market risk haircut and other securities haircut. The credit risk haircut equals the sum of the total counterparty exposure haircut, the total concentration of credit haircut, and the credit volatility haircut.

[5] *See* § 402.2(e). The Treasury market risk haircut methodology quantifies risk by placing positions in the categories corresponding to their remaining term to maturity and applying different haircut factors to positions grouped in the categories.

[6] *See* § 402.2a(b).

[7] *See* § 402.2(e)(1)(v), § 402.2a(c)—Instructions to Schedule A—Liquid Capital Requirement Summary Computation, Line 3—Haircuts on credit exposure, paragraph c, and § 402.2a(c)—Instructions to Schedule B—Calculation of Net Immediate Position in Securities and Financings, Columns 3 and 4, paragraph (5), as amended.

[8] 72 FR 33564 (June 18, 2007).

[9] 76 FR 59592 (September 27, 2011).

[10] *Id.* at 59595.

[11] This list of factors is not exhaustive or mutually exclusive. It is closely aligned with the list of factors in the SEC's recent amendments to Exchange Act Rule 15c3–1, and the Rule's appendices, to remove references to credit ratings in the SEC's Net Capital Rule. 79 FR 1522 (January 8, 2014).

[12] *See* § 404.3(a).

[13] *See* 17 CFR 240.17a–4.

[14] 79 FR 1522 (January 8, 2014).

nonprofit public interest organization.[15] The commenter believes the proposed rule ''is a commendable effort to implement Section 939A of the Dodd-Frank Act and to ensure that the liquid capital rule for government securities brokers and dealers includes appropriate standards of creditworthiness . . .'' The commenter, however, advocated strengthening the proposed rule in several areas.

The commenter asserted that the proposed rule must establish an explicit and detailed list of mandatory factors that government securities brokers and dealers are required to apply in the credit analysis of commercial paper and that those factors must be set forth in the text of the rule itself. Merely providing a suggested list of optional factors that might be considered, ''is an exceedingly vague concept that allows for a wide range of interpretations,'' the commenter wrote. The minimal amount of credit risk standard we are adopting is intended, in part, to promote a heightened level of internal due diligence among government securities brokers and dealers. The standard therefore provides an appropriate degree of flexibility by allowing government securities brokers and dealers to use and evaluate a variety of factors in assessing the credit and liquidity risks associated with commercial paper for liquid capital. In addition, the factors relevant to a credit risk determination may vary in significance over time. For these reasons, we do not believe the specific factors described above should be included in the rule itself.

The commenter also asserted that the rule should expand the list of factors used to assess creditworthiness. The commenter argued that the list must be more comprehensive, and must contain a catchall provision that requires government securities brokers and dealers to consider all material factors that bear on the creditworthiness of the commercial paper being evaluated, including the nature of the issuer, the terms of the security, and the financial and regulatory context in which the issuer is operating. We agree that a government securities broker or dealer might want to consider additional factors in evaluating the creditworthiness of commercial paper. Upon consideration of the comment, however, we determined that other factors should not be added to the list because it is not meant to be exhaustive and government securities brokers and dealers should tailor their written policies and procedures for assessing credit risk to their particular circumstances and consider those factors they deem appropriate, including factors that are not described above.

The commenter further asserted that the rule must fully eliminate continued reliance on credit ratings, claiming that the factor referring to internal or external credit risk assessments would conflict with section 939A of the Dodd-Frank Act. We considered this comment, but determined that the minimal amount of credit risk standard that we are adopting is consistent with section 939A because it replaces the requirement that commercial paper must be ''rated in one of the three highest categories by at least two nationally recognized statistical rating organizations'' in order to receive the more favorable haircut treatment of Treasury market risk instruments. In place of that requirement, the minimal amount of credit risk standard provides flexibility to government securities brokers and dealers by allowing them to use and evaluate a variety of factors, which could include external credit risk assessments, in assessing the credit and liquidity risks of commercial paper.

Finally, the commenter stated that the rule must require ''each government securities broker or dealer to create and maintain a record of each creditworthiness determination that it makes'' in order to promote compliance by government securities brokers and dealers and to increase the regulators' ability to monitor and enforce compliance with the liquid capital rule. As discussed above, through incorporation of SEC Rule 17a–4, as recently amended by the SEC,[16] each government securities broker or dealer is required to preserve for a period of not less than three years, the first two years in an easily accessible place, the written policies and procedures that it establishes, maintains, and enforces for assessing credit risk for commercial paper. Although not required to maintain a record of each of its credit risk determinations for purposes of the liquid capital rule, a government securities broker or dealer should be able to support each of its credit risk determinations both for internal risk management purposes and in the context of an SEC or self-regulatory organization (SRO) examination. A government securities broker or dealer should maintain documentation of its credit risk determinations for this purpose. However, we believe that requiring government securities brokers and dealers to create and maintain a record of every creditworthiness determination could be overly burdensome.

IV. Final Rule

A. Liquid Capital Rule

We are adopting amendments to Treasury's liquid capital rule (17 CFR 402.2) to remove references to NRSRO credit ratings and to substitute a standard of creditworthiness based on a minimal amount of credit risk as determined by the government securities broker or dealer pursuant to reasonably designed written policies and procedures. The final rule amendments include several modifications to the proposed rule text in regard to the policies and procedures adopted by the government securities broker or dealer for assessing creditworthiness, as described below.

We have added the words ''and monitor'' to the minimal amount of credit risk standard to clarify that, after the initial creditworthiness determination, a commercial paper position must continue to have only a minimal amount of credit risk to remain qualified for the lower haircut and that monitoring must be done in accordance with the firm's policies and procedures.[17] Government securities brokers and dealers may not permit their liquid capital to be below an amount equal to 120 percent of total haircuts.[18] Therefore, a government securities broker or dealer must monitor its commercial paper position to ensure that it is applying the appropriate haircut. A government securities broker's or dealer's written policies and procedures for assessing whether an issuance of commercial paper has only a minimal amount of credit risk must include a process that is reasonably designed to ensure that its credit determinations are current, and address the frequency with which it reviews and reassesses its credit determinations. We expect that a government securities broker's or dealer's process for monitoring its credit determinations will be customized to the size and activities of the firm to ensure that it maintains the required amount of liquid capital at ''all times.'' [19]

[15] Treasury's proposed rule amendment and Better Markets, Inc.'s comment letter, dated November 28, 2011, are available at *http://www.treasurydirect.gov/instit/statreg/gsareg/gsareg.htm.*

[16] 79 FR 1522 (January 8, 2014).

[17] *See* § 402.2(e)(1)(v), § 402.2a(c)—Instructions to Schedule A—Liquid Capital Requirement Summary Computation, Line 3—Haircuts on credit exposure, paragraph c, and § 402.2a(c)—Instructions to Schedule B—Calculation of Net Immediate Position in Securities and Financings, Columns 3 and 4, paragraph (5), as amended.

[18] *See* § 402.2(a) and (g).

[19] *See* 17 CFR 240.15c3–1(a).

Compared with reliance on NRSRO credit ratings, the minimal amount of credit risk standard is a more subjective approach to determining whether a lower haircut can be applied to commercial paper. Moreover, this standard provides flexibility to government securities brokers and dealers by allowing them to use and evaluate a variety of factors, both objective and subjective, in assessing the credit and liquidity risks associated with their commercial paper positions. However, we do not intend for the minimal amount of credit risk standard to result in a more liberal requirement that broadens the scope of the rule by allowing more positions to qualify for the lower haircuts. We note that credit ratings and market data (such as credit spreads and yields) can serve as useful benchmarks for evaluating whether the written policies and procedures of a government securities broker or dealer, as applied to the minimal amount of credit risk standard, are increasing the types of commercial paper to which it applies the lower haircuts as compared to the eliminated NRSRO credit rating standard.

To reduce the potential subjectivity of the proposed minimal amount of credit risk standard, we modified the final rule to add new text that provides that reasonably designed, written policies and procedures should result in assessments of creditworthiness that typically are consistent with market data.[20] In particular, this standard for evaluating the reasonableness of the policies and procedures of a government securities broker or dealer will require examiners under the SEC's rule [21] to compare market data (*e.g.,* external factors such as credit spreads) with the broker's or dealer's determinations that a commercial paper instrument has only a minimal amount of credit risk.

Under Treasury's Rule 404, the written policies and procedures of a government securities broker or dealer for assessing credit risk for commercial paper are subject to review in regulatory examinations by the SEC and SROs. Although not required to maintain a record of each credit risk determination for purposes of the liquid capital rule, the written policies and procedures of a government securities broker or dealer should specify with sufficient detail the steps the government securities broker or dealer will take in performing a credit assessment so that the SEC and SRO examiners can evaluate them.

B. Technical Amendments

In addition, as part of our review of our Federal regulations required by Executive Order 13563, we are updating the GSA regulations by deleting certain requirements. Specifically, we are deleting the sections in our reporting requirements that refer to year 2000 (Y2K) readiness reports because they are no longer needed.[22] We are also deleting references to various other requirements in the GSA regulations that are contingent on actions to be taken by specific dates in the past and therefore are no longer applicable. We are also replacing references to the Bureau of the Public Debt with references to the Bureau of the Fiscal Service,[23] as well as updating the addresses for the Bureau and the Treasury Department Library. Finally, we are deleting references to the Office of Thrift Supervision because that agency no longer exists.

V. Special Analysis

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

This final amendment would potentially affect three registered government securities brokers or dealers, none of which currently or routinely holds commercial paper. For that reason, the amendment would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*).

[20] *See* § 402.2a(c)—Instructions to Schedule A—Liquid Capital Requirement Summary Computation, Line 3—Haircuts on credit exposure, paragraph c, as amended.

[21] *See* 17 CFR 240.15c3–1(c)(2)(vi)(I) of Rule, as amended.

[22] *See* § 405.2(a)(11) through (14).

[23] The Bureau of the Public Debt and the Financial Management Service were consolidated and redesignated as the Bureau of the Fiscal Service by Treasury Order 136–01 on October 7, 2012. 78 FR 31629 (May 24, 2013).

List of Subjects

17 CFR Part 400

Administrative practice and procedure, Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

17 CFR Part 401

Banks, banking, Brokers, Government securities.

17 CFR Part 402

Brokers, Government securities.

17 CFR Part 403

Banks, banking, Brokers, Government securities.

17 CFR Part 405

Brokers, Government securities, Reporting and recordkeeping requirements.

17 CFR Part 420

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

17 CFR Part 449

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

17 CFR Part 450

Banks, banking, Government securities, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 17 CFR chapter IV is amended as follows:

PART 400—RULES OF GENERAL APPLICATION

■ 1. The authority citation for part 400 continues to read as follows:

Authority: 15 U.S.C. 78*o*–5.

■ 2. In § 400.2, revise the last sentence of paragraph (a), the first sentence of paragraph (c)(3)(vi), and the last sentence of paragraph (c)(7)(i) to read as follows:

§ 400.2 Office responsible for regulations; filing of requests for exemption, for interpretations and of other materials.

(a) * * * The office responsible for implementing the regulations, including interpretations and action on requests for exemption, classification, or modification, is the Office of the Commissioner, Bureau of the Fiscal Service.

* * * * *

(c) * * *

(3) * * *

(vi) An original and two copies of each request letter shall be submitted to

the Office of the Commissioner, Government Securities Regulations Staff, Bureau of the Fiscal Service, 5th Floor, 401 14th Street SW., Washington, DC 20227. * * *

(7)(i) * * * These documents will be made available at the following location: Treasury Department Library, 1500 Pennsylvania Avenue NW., Annex, Room 1020, Washington, DC 20220.

* * * * *

■ 3. In § 400.3, revise the definition of *Treasury* to read as follows:

§ 400.3 Definitions.

* * * * *

Treasury or *Department* means the Department of the Treasury, including in particular the Bureau of the Fiscal Service.

PART 401—EXEMPTIONS

■ 4. The authority citation for part 401 continues to read as follows:

Authority: Sec. 101, Pub. L. 99–571, 100 Stat. 3209 (15 U.S.C. 78o–5(a)(4)).

§§ 401.7 and 401.8 [Removed]

■ 5. Remove §§ 401.7 and 401.8.

§ 401.9 [Redesignated as § 401.7]

■ 6. Redesignate § 401.9 as § 401.7.

PART 402—FINANCIAL RESPONSIBILITY

■ 7. The authority citation for part 402 is revised to read as follows:

Authority: 15 U.S.C. 78o–5(b)(1)(A), (b)(4), Pub. L. 111–203, 124 Stat. 1376.

■ 8. In § 402.1, revise paragraph (f) to read as follows:

§ 402.1 Application of part to registered brokers and dealers and financial institutions; special rules for futures commission merchants and government securities interdealer brokers; effective date.

* * * * *

(f) This part shall be effective July 25, 1987.

■ 9. In § 402.2, revise paragraphs (b), (c), and (e)(1)(v) to read as follows:

§ 402.2 Capital requirements for registered government securities brokers and dealers.

* * * * *

(b)(1) *Minimum liquid capital for brokers or dealers that carry customer accounts.* Notwithstanding the provisions of paragraph (a) of this section, a government securities broker or dealer that carries customer or broker or dealer accounts and receives or holds funds or securities for those persons within the meaning of § 240.15c3–1(a)(2)(i) of this title, shall have and maintain liquid capital in an amount not less than $250,000, after deducting total haircuts as defined in paragraph (g) of this section.

(2) *Minimum liquid capital for brokers or dealers that carry customer accounts, but do not generally hold customer funds or securities.* Notwithstanding the provisions of paragraphs (a) and (b)(1) of this section, a government securities broker or dealer that carries customer or broker or dealer accounts and is exempt from the provisions of § 240.15c3–3 of this title, as made applicable to government securities brokers and dealers by § 403.4 of this part, pursuant to paragraph (k)(2)(i) thereof (17 CFR 240.15c3–3(k)(2)(i)), shall have and maintain liquid capital in an amount not less than $100,000, after deducting total haircuts as defined in paragraph (g) of this section.

(c)(1) *Minimum liquid capital for introducing brokers that receive securities.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, a government securities broker or dealer that introduces on a fully disclosed basis transactions and accounts of customers to another registered or noticed government securities broker or dealer but does not receive, directly or indirectly, funds from or for, or owe funds to, customers, and does not carry the accounts of, or for, customers shall have and maintain liquid capital in an amount not less than $50,000, after deducting total haircuts as defined in paragraph (g) of this section. A government securities broker or dealer operating pursuant to this paragraph (c)(1) may receive, but shall not hold customer or other broker or dealer securities.

(2) *Minimum liquid capital for introducing brokers that do not receive or handle customer funds or securities.* Notwithstanding the provisions of paragraphs (a), (b), and (c)(1) of this section, a government securities broker or dealer that does not receive, directly or indirectly, or hold funds or securities for, or owe funds or securities to, customers, and does not carry accounts of, or for, customers and that effects ten or fewer transactions in securities in any one calendar year for its own investment account shall have and maintain liquid capital in an amount not less than $25,000, after deducting total haircuts as defined in paragraph (g) of this section.

* * * * *

(e) * * *

(1) * * *

(v) Commercial paper of no more than one year to maturity and which has only a minimal amount of credit risk as determined by the government securities broker or dealer pursuant to reasonably designed written policies and procedures the government securities broker or dealer establishes, maintains, and enforces to assess and monitor creditworthiness. These policies and procedures should result in creditworthiness assessments that typically are consistent with market data;

* * * * *

■ 10. In § 402.2a, revise the Instructions to Schedule A—Liquid Capital Requirement Summary Computation, Line 3, paragraph c., and Instructions to Schedule B—Calculation of Net Immediate Position in Securities and Financing, Columns 3 and 4, paragraph (5) to read as follows:

§ 402.2a Appendix A—Calculation of market risk haircut for purposes of § 402.2(g)(2).

* * * * *

Instructions to Schedules A Through E

* * * * *

Schedule A—Liquid Capital Requirement Summary Computation

* * * * *

Line 3—Haircuts on credit exposure:

* * * * *

c. Enter the credit volatility haircut which equals a factor of 0.15 percent applied to the larger of the gross long or gross short position in money market instruments qualifying as Treasury market risk instruments which mature in 45 days or more, in futures and forwards on these instruments that are settled on a cash or delivery basis, and in futures and forwards on time deposits described in § 402.2(e)(1)(vii), that mature in 45 days or more, settled on a cash or delivery basis. Money market instruments qualifying as Treasury market risk instruments are (1) marketable certificates of deposit with no more than one year to maturity, (2) bankers acceptances, and (3) commercial paper of no more than one year to maturity and which has only a minimal amount of credit risk as determined by the government securities broker or dealer pursuant to reasonably designed written policies and procedures the government securities broker or government securities dealer establishes, maintains, and enforces to assess and monitor creditworthiness. These policies and procedures should result in creditworthiness assessments that

typically are consistent with market data.

* * * * *

Schedule B—Calculation of Net Immediate Position in Securities and Financings

* * * * *

(5) Commercial paper of no more than one year to maturity and which has only a minimal amount of credit risk as determined by the government securities broker or dealer pursuant to reasonably designed written policies and procedures the government securities broker or dealer establishes, maintains, and enforces to assess and monitor creditworthiness. These policies and procedures should result in creditworthiness assessments that typically are consistent with market data; and

* * * * *

§ 402.2e [Removed]

■ 11. Remove § 402.2e.

PART 403—PROTECTION OF CUSTOMER SECURITIES AND BALANCES

■ 12. The authority citation for part 403 is revised to read as follows:

Authority: Sec. 101, Pub. L. 99–571, 100 Stat. 3209; sec. 4(b), Pub. L. 101–432, 104 Stat. 963; sec. 102, sec. 106, Pub. L. 103–202, 107 Stat. 2344 (15 U.S.C. 78o–5(a)(5), (b)(1)(A), (b)(4)).

§ 403.7 [Amended]

■ 13. In § 403.7, remove paragraphs (d) and (e).

PART 405—REPORTS AND AUDIT

■ 14. The authority citation for part 405 continues to read as follows:

Authority: 15 U.S.C. 78o–5 (b)(1)(B), (b)(1)(C), (b)(2), (b)(4).

§ 405.2 [Amended]

■ 15. In § 405.2, remove paragraphs (a)(11) through (14) and redesignate paragraphs (a)(15) and (16) as paragraphs (a)(11) and (12), respectively.

§ 405.5 [Amended]

■ 16. In § 405.5, remove paragraph (a)(7).

PART 420—LARGE POSITION REPORTING

■ 17. The authority citation for part 420 continues to read as follows:

Authority: 15 U.S.C. 78*o*–5(f).

■ 18. In § 420.4, revise paragraph (a) to read as follows:

§ 420.4 Recordkeeping.

(a) An aggregating entity that controls a portion of its reporting entity's reportable position in a recently-issued Treasury security, when such reportable position of the reporting entity equals or exceeds the minimum large position threshold, shall be responsible for making and maintaining the records prescribed in this section.

* * * * *

PART 449—FORMS, SECTION 15C OF THE SECURITIES EXCHANGE ACT OF 1934

■ 19. The authority citation for part 449 continues to read as follows:

Authority: 15 U.S.C. 78o–5(a), (b)(1)(B), (b)(4).

■ 20. In § 449.1, revise the last sentence to read as follows:

§ 449.1 Form G–FIN, notification by financial institutions of status as government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934.

* * * The form is promulgated by the Board of Governors of the Federal Reserve System and is available from the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the SEC.

■ 21. In § 449.2, revise the last sentence to read as follows:

§ 449.2 Form G–FINW, notification by financial institutions of cessation of status as government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 and § 400.6 of this chapter.

* * * The form is promulgated by the Board of Governors of the Federal Reserve System and is available from the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the SEC.

■ 22. In § 449.3, revise the last sentence to read as follows:

§ 449.3 Form G–FIN–4, notification by persons associated with financial institutions that are government securities brokers and dealers pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 and § 400.4 of this chapter.

* * * The form is promulgated by the Department of the Treasury and is available from the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the SEC.

■ 23. In § 449.4, revise the last sentence to read as follows:

§ 449.4 Form G–FIN–5, notification of termination of association with a financial institution that is a government securities broker or dealer pursuant to section 15C(a)(1)(B)(i) of the Securities Exchange Act of 1934 and § 400.4 of this chapter.

* * * The form is promulgated by the Department of the Treasury and is available from the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the SEC.

PART 450—CUSTODIAL HOLDINGS OF GOVERNMENT SECURITIES BY DEPOSITORY INSTITUTIONS

■ 24. The authority citation for part 450 continues to read as follows:

Authority: Sec. 201, Pub. L. 99–571, 100 Stat. 3222–23 (31 U.S.C. 3121, 9110); Sec. 101, Pub. L. 99–571, 100 Stat. 3208 (15 U.S.C. 78o–5(b)(1)(A), (b)(4), (b)(5)(B)).

■ 25. In § 450.1, revise the second sentence of paragraph (b) to read as follows:

§ 450.1 Scope of regulations; office responsible.

* * * * *

(b) * * * The office responsible for the regulations is the Office of the Commissioner, Bureau of the Fiscal Service.

■ 26. In § 450.3, revise the first sentence of paragraph (a) to read as follows:

§ 450.3 Exemption for holdings subject to fiduciary standards.

(a) The Secretary has determined that the rules and standards of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation governing the holding of government securities in a fiduciary capacity by depository institutions subject thereto are adequate. * * *

Matthew S. Rutherford,

Assistant Secretary for Financial Markets.

[FR Doc. 2014–15731 Filed 7–7–14; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 882

[Docket No. FDA–2014–M–0850]

Medical Devices; Neurological Devices; Classification of the Transcranial Magnetic Stimulator for Headache

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying the transcranial magnetic stimulator for headache into class II (special controls). The special controls that will apply to the device are identified in this order, and will be part of the codified language for the transcranial magnetic stimulator for headache classification. The Agency is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device.

DATES: This order is effective August 7, 2014. The classification was applicable on December 13, 2013.

FOR FURTHER INFORMATION CONTACT: Michael Hoffmann, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1434, Silver Spring, MD 20993–0002, 301–796–6476, *michael.hoffmann@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976 (the date of enactment of the Medical Device Amendments of 1976), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of the regulations.

Section 513(f)(2) of the FD&C Act, as amended by section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), provides two procedures by which a person may request FDA to classify a device under the criteria set forth in section 513(a)(1). Under the first procedure, the person submits a premarket notification under section 510(k) of the FD&C Act for a device that has not previously been classified and, within 30 days of receiving an order classifying the device into class III under section 513(f)(1) of the FD&C Act, the person requests a classification under section 513(f)(2). Under the second procedure, rather than first submitting a premarket notification under section 510(k) and then a request for classification under the first procedure, the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence and requests a classification under section 513(f)(2) of the FD&C Act. If the person submits a request to classify the device under this second procedure, FDA may decline to undertake the classification request if FDA identifies a legally marketed device that could provide a reasonable basis for review of substantial equivalence with the device or if FDA determines that the device submitted is not of ''low-moderate risk'' or that general controls would be inadequate to control the risks and special controls to mitigate the risks cannot be developed.

In response to a request to classify a device under either procedure provided by section 513(f)(2) of the FD&C Act, FDA will classify the device by written order within 120 days. This classification will be the initial classification of the device.

On March 1, 2013, Neuralieve (now eNeura Therapeutics LLC), submitted a request for classification of the NEURALIEVE CERENA Transcranial Magnetic Stimulator under section 513(f)(2) of the FD&C Act. The manufacturer recommended that the device be classified into class II (Ref. 1).

In accordance with section 513(f)(2) of the FD&C Act, FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1). FDA classifies devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the de novo request, FDA determined that the device can be classified into class II with the establishment of special controls. FDA believes these special controls, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on December 13, 2013, FDA issued an order to the requester classifying the device into class II. FDA is codifying the classification of the device by adding § 882.5808.

Following the effective date of this final classification administrative order, any firm submitting a premarket notification (510(k)) for a transcranial magnetic stimulator for headache will need to comply with the special controls named in the final administrative order.

The device is assigned the generic name transcranial magnetic stimulator for headache, and it is identified as a device that delivers brief duration, rapidly alternating, or pulsed, magnetic fields that are externally directed at spatially discrete regions of the brain to induce electrical currents for the treatment of headache.

FDA has identified the following risks to health associated with this type of device and the measures required to mitigate these risks in table 1:

TABLE 1—TRANSCRANIAL MAGNETIC STIMULATOR FOR HEADACHE RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Failure to identify correct population	Clinical testing. Labeling.
Ineffective treatment	Clinical testing. Non-clinical testing. Software verification, validation, and hazard analysis. Labeling.

TABLE 1—TRANSCRANIAL MAGNETIC STIMULATOR FOR HEADACHE RISKS AND MITIGATION MEASURES—Continued

Identified risks	Mitigation measures
Risk of seizure	Clinical testing. Non-clinical testing. Labeling.
Scalp discomfort, scalp burn, dizziness, nausea, or other adverse effects.	Clinical testing. Non-clinical testing. Thermal safety. Software verification, validation, and hazard analysis. Labeling.
Adverse tissue reaction	Biocompatibility. Labeling.
Electrical shock, burn	Electrical equipment safety. Thermal safety. Labeling.
Interference with other electrical equipment	Electromagnetic compatibility. Labeling.
Noise irritation and hearing loss	Non-clinical testing. Labeling.

FDA believes that the following special controls, in addition to the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness:

- Appropriate analysis/testing must demonstrate electromagnetic compatibility, electrical safety, and thermal safety.
- Appropriate verification, validation, and hazard analysis must be performed on the device software and firmware.
- The elements of the device that contact the patient must be assessed to be biocompatible.
- Non-clinical testing data must demonstrate that the device performs as intended under anticipated conditions of use. This includes full characterization of the magnetic pulse output and resulting magnetic field map. This also includes characterization of the sound level of the device during use.
- Clinical testing must demonstrate that the device is safe and effective for treating headache in the indicated patient population.
- The physician and patient labeling must include the following:
  - A summary of the clinical performance testing, including any adverse events and complications;
  - The intended use population in terms of the types of headaches appropriate for use with the device;
  - Information on how to report adverse events and device malfunctions; and
  - A diagram or picture depicting the proper placement of the device on the user.

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For this type of device, FDA has determined that premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of the device. Therefore, this device type is not exempt from premarket notification requirements. Persons who intend to market this type of device must submit to FDA a premarket notification prior to marketing the device, which contains information about the transcranial magnetic stimulator for headache they intend to market.

II. Environmental Impact

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

III. Paperwork Reduction Act of 1995

This final administrative order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120, and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

IV. Reference

The following reference has been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and is available electronically at *http://www.regulations.gov*.

1. K130556 De Novo Petition for the NEURALIEVE CERENA Transcranial Magnetic Stimulator From Neuralieve, dated March 1, 2013.

List of Subjects in 21 CFR Part 882

Medical devices, Neurological devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 882 is amended as follows:

PART 882—NEUROLOGICAL DEVICES

■ 1. The authority citation for 21 CFR part 882 continues to read as follows:

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

■ 2. Add § 882.5808 to subpart F to read as follows:

§ 882.5808 Transcranial magnetic stimulator for headache.

(a) *Identification.* A transcranial magnetic stimulator device for headache is a device that delivers brief duration, rapidly alternating, or pulsed, magnetic fields that are externally directed at spatially discrete regions of the brain to induce electrical currents for the treatment of headache.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) Appropriate analysis/testing must demonstrate electromagnetic compatibility, electrical safety, and thermal safety.

(2) Appropriate verification, validation, and hazard analysis must be performed on the device software and firmware.

(3) The elements of the device that contact the patient must be assessed to be biocompatible.

(4) Non-clinical testing data must demonstrate that the device performs as intended under anticipated conditions of use. This includes full characterization of the magnetic pulse output and resulting magnetic field map. This also includes characterization of the sound level of the device during use.

(5) Clinical testing must demonstrate that the device is safe and effective for treating headache in the indicated patient population.

(6) The physician and patient labeling must include the following:

(i) A summary of the clinical performance testing, including any adverse events and complications.

(ii) The intended use population in terms of the types of headaches appropriate for use with the device.

(iii) Information on how to report adverse events and device malfunctions.

(iv) A diagram or picture depicting the proper placement of the device on the user.

Dated: July 2, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15876 Filed 7–7–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket No. USCG–2013–0904]

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

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulations.

SUMMARY: The Coast Guard will enforce the events throughout the Sector Northern New England Captain of the Port (COTP) Zone. This action is necessary to protect marine traffic and spectators from the hazards associated with powerboat races, regattas, boat parades, rowing and paddling boat races, swim events, and fireworks displays. During the enforcement period, no person or vessel may enter the Special Local Regulation area or Safety Zone without permission of the COTP.

DATES: The marine events listed in 33 CFR 100.120 and 33 CFR 165.171 will take place from July 30, 2014 through September 26, 2014, during the times and dates specified in Tables 1 and 2 below.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Lieutenant Junior Grade Elizabeth Gunn, U.S. Coast Guard, Sector Northern New England, Waterways Management Division, via telephone at 207–347–5014 or email at *Elizabeth.V.Gunn@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Special Local Regulations and Safety Zones listed in 33 CFR 100.120 and 33 CFR 165.171. These regulations will be enforced for the duration of each event, on or about the dates indicated in Tables 1 and 2. This is the second Notice of Enforcement published for events occurring in 2014. For the enforcement details of events other than the events listed here, refer to the Notice of Enforcement published in the **Federal Register** on May 20, 2014 (79 FR 28834) under the same docket number.

TABLE 1

[33 CFR 100.120]

July	
Tall Ships Visiting Portsmouth	• Event Type: Regatta and Boat Parade. • Sponsor: Portsmouth Maritime Commission, Inc. • Date: July 30, 2014. • Time: 9:00 am to 8:00 pm. • Location: The regulated area includes all waters of Portsmouth Harbor, New Hampshire in the vicinity of Castle Island within the following points (NAD 83): 43°03′11″ N, 070°42′26″ W. 43°03′18″ N, 070°41′51″ W. 43°04′42″ N, 070°42′11″ W. 43°04′28″ N, 070°44′12″ W. 43°05′36″ N, 070°45′56″ W. 43°05′29″ N, 070°46′09″ W. 43°04′19″ N, 070°44′16″ W. 43°04′22″ N, 070°42′33″ W.
August	
Southport Rowgatta Rowing and Paddling Boat Race	• Event Type: Rowing and Paddling Boat Race. • Sponsor: Boothbay Region YMCA. • Date: August 9, 2014. • Time: 7:00 am to 4:00 pm. • Location: The regulated area includes all waters of Sheepscot Bay and Boothbay, on the shore side of Southport Island, Maine within the following points (NAD 83): 43°50′26″ N, 069°39′10″ W. 43°49′10″ N, 069°38′35″ W. 43°46′53″ N, 069°39′06″ W. 43°46′50″ N, 069°39′32″ W. 43°49′07″ N, 069°41′43″ W.

TABLE 1—Continued

[33 CFR 100.120]

	43°50′19″ N, 069°41′14″ W. 43°51′11″ N, 069°40′06″ W.
Winter Harbor Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Winter Harbor Chamber of Commerce. • Date: August 9, 2014. • Time: 9:00 am to 3:00 pm. • Location: The regulated area includes all waters of Winter Harbor, Maine within the following points (NAD 83): 44°22′06″ N, 068°05′13″ W. 44°23′06″ N, 068°05′08″ W. 44°23′04″ N, 068°04′37″ W. 44°22′05″ N, 068°04′44″ W.
Lake Champlain Dragon Boat Festival	• Event Type: Rowing and Paddling Boat Race. • Sponsor: Dragonheart Vermont. • Date: August 3, 2014. • Time: 7:00 am to 5:00 pm. • Location: The regulated area includes all waters of Burlington Bay within the following points (NAD 83): 44°28′49″ N, 073°13′22″ W. 44°28′41″ N, 073°13′36″ W. 44°28′28″ N, 073°13′31″ W. 44°28′38″ N, 073°13′18″ W.
Merritt Brackett Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Town of Bristol, Maine. • Date: August 10, 2014. • Time: 9:30 am to 3:00 pm. • Location: The regulated area includes all waters of Pemaquid Harbor, Maine within the following points (NAD 83): 43°52′16″ N, 069°32′10″ W. 43°52′41″ N, 069°31′43″ W. 43°52′35″ N, 069°31′29″ W. 43°52′09″ N, 069°31′56″ W.
Multiple Sclerosis Harbor Fest Regatta And Lobster Boat/Tugboat Races.	• Event Type: Regatta and Sailboat Race; Power Boat Race. • Sponsor: Maine Chapter, Multiple Sclerosis Society. • Date: August 16 & 17, 2014. • Time: 10:00 am to 4:00 pm. • Location: The regulated area for the start of the race includes all waters of Casco Bay, Maine in the vicinity of Peaks Island within the following points (NAD 83): 43°40′25″ N, 070°14′21″ W. 43°40′36″ N, 070°13′56″ W. 43°39′58″ N, 070°13′21″ W. 43°39′46″ N, 070°13′51″ W.

TABLE 2

[33 CFR 165.171]

August	
Westerlund's Landing Party Fireworks	• Event Type: Fireworks Display. • Sponsor: Portside Marina. • Date: August 2, 2014. • Time: 8:00 pm to 10:30 pm. • Location: In the vicinity of Westerlund's Landing in South Gardiner, Maine in approximate position: 44°10′19″ N, 069°45′24″ W. (NAD 83).
Y-Tri Triathlon	• Event Type: Swim Event. • Sponsor: Plattsburgh YMCA. • Date: August 2, 2014. • Time: 8:00 am to 10:00 am. • Location: The regulated area includes all waters of Treadwell Bay on Lake Champlain in the vicinity of Point Au Roche State Park, Plattsburgh, New York within the following points (NAD 83): 44°46′30″ N, 073°23′26″ W. 44°46′17″ N, 073°23′26″ W. 44°46′17″ N, 073°23′46″ W.

TABLE 2—Continued
[33 CFR 165.171]

	44°46′29″ N, 073°23′46″ W.
York Beach Fire Department Fireworks	• Event Type: Fireworks Display. • Sponsor: York Beach Fire Department. • Date: August 3, 2014. • Time: 8:30 pm to 11:30 pm. • Location: In the vicinity of Short Sand Cove in York, Maine in approximate position: 43°10′27″ N, 070°36′25″ W. (NAD 83).
Tri for Preservation	• Event Type: Swim Event. • Sponsor: Tri-Maine Productions. • Date: August 17, 2014. • Time: 7:30 am to 9:00 am. • Location: In the vicinity of Crescent Beach State Park in Cape Elizabeth, Maine in approximate position: 43°33′46″ N, 070°13′48″ W. 43°33′41″ N, 070°13′46″ W. 43°33′44″ N, 070°13′40″ W. 43°33′47″ N, 070°13′46″ W.
North Hero Air Show	• Event Type: Air Show. • Sponsor: North Hero Fire Department. • Date: August 10, 2014. • Time: 10:00 am to 5:00 pm. • Location: In the vicinity of Shore Acres Dock, North Hero, Vermont in approximate position: 44°48′24″ N, 073°17′02″ W. 44°48′22″ N, 073°16′46″ W. 44°47′53″ N, 073°16′54″ W. 44°47′54″ N, 073°17′09″ W.
September	
Eastport Pirate Festival Fireworks	• Event Type: Fireworks Display. • Sponsor: Eastport Pirate Festival. • Date: September 6, 2014. • Time: 7:00 pm to 10:00 pm. • Location: From the Waterfront Public Pier in Eastport, Maine in approximate position: 44°54′17″ N, 066°58′58″ W. (NAD 83).
The Lobsterman Triathlon	• Event Type: Swim Event. • Sponsor: Tri-Maine Productions. • Date: September 6, 2014. • Time: 8:00 am to 11:00 am. • Location: The regulated area includes all waters in the vicinity of Winslow Park in South Freeport, Maine within the following points (NAD 83): 43°47′59″ N, 070°06′56″ W. 43°47′44″ N, 070°06′56″ W. 43°47′44″ N, 070°07′27″ W. 43°47′57″ N, 070°07′27″ W.
Eliot Festival Day Fireworks	• Event Type: Fireworks Display. • Sponsor: Eliot Festival Day Committee. • Date: September 26, 2014. • Time: 8:00 pm to 10:30 pm. • Location: In the vicinity of Eliot Town Boat Launch, Eliot, Maine in approximate position: 43°08′56″ N, 070°49′52″ W. (NAD 83).

For events where the date is different from the dates previously published for that event, new Temporary Rules may be issued to enforce limited access areas for the marine event. The Coast Guard may patrol each event area under the direction of a designated Coast Guard Patrol Commander (PATCOM). The PATCOM may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign ''PATCOM.'' 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 Northern New England. For information about regulations and restrictions for waterway use during the effective periods of these events, please refer to 33 CFR 100.120 and 33 CFR 165.171.

This notice is issued under authority of 33 CFR 100.120, 33 CFR 165.171, and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast

Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners and marine information broadcasts. If the COTP determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: June 24, 2014.

B.S. Gilda,

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

[FR Doc. 2014–15932 Filed 7–7–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0522]

RIN 1625–AA00

Safety Zone, Metedeconk River; Brick Township, NJ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the enforcement date of a safety zone for one recurring fireworks display in the Fifth Coast Guard District. This regulation applies to only one recurring fireworks event held in the waters of Metedeconk River in Brick Township, NJ. Instead of the usual enforcement periods—July 4, every Thursday in August, and the first Thursday in September—in 2014 enforcement will take place on July 3, July 17, and August 14. The safety zone is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of Metedeconk River near Brick Township, NJ, during the event.

DATES: This rule is effective from July 8, 2014 through August 14, 2014 and will be enforced from 8:30 p.m. to 10:00 p.m. on July 3, July 17, and August 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 rule, call or email Lieutenant Brennan Dougherty, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215) 271–4851, email *Brennan.P.Dougherty@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The governing regulation for this fireworks display event is 33 CFR 165.506. The specifics for this event are listed in the Table to § 165.506, section (a), item 9.

We are issuing this final rule without prior notice and opportunity to comment, and to take effect less than 30 days after publication in the **Federal Register**, pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b) and (d)(3), which authorize an agency to issue a rule without following usual APA procedures when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' We find that good cause exists for not following usual procedures because to do so would delay issuance of this rule beyond some of the dates for which it is intended, thereby exposing mariners and the public to dangers associated with fireworks displays, contrary to the public interest in safety.

B. Basis and Purpose

The legal basis of this rule is found in 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; and Department of Homeland Security Delegation No. 0170.1. The purpose of this rule is to promote public and maritime safety during a fireworks display.

C. Discussion of the Final Rule

We are temporarily changing the enforcement periods for Brick Township safety zone, to reflect that in 2014 fireworks will be held on July 3, July 17, and August 14. This change is needed to accommodate the sponsor's event plan. No other portion of the Table to § 165.506 or other provisions in § 165.506 is affected by this regulation.

The regulated area of this safety zone includes all the waters of the Metedeconk River within a 500 yard radius of the fireworks launch platform in approximate position latitude 40°03′24″ N, longitude 074°06′42″ W, near the shoreline at Brick Township, NJ.

During the period of the safety zone, all persons and vessels will be prohibited from entering, transiting, mooring, or remaining within the zone, unless specifically authorized by the Captain of the Port Delaware Bay, or her designated representative. Those persons authorized to transit through the safety zone shall abide by and follow all directions provided by the Captain of the Port Delaware Bay, or her designated representative, in order to ensure they are not disrupting the fireworks display. U.S. Coast Guard Sector Delaware Bay will notify the public by broadcast notice to mariners at least one hour prior to the times of enforcement.

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 or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) The Coast Guard will make extensive notification of the Safety Zone to the maritime public via maritime advisories so mariners can alter their plans accordingly; (ii) vessels may still be permitted to transit through the safety zone with the permission of the Captain of the Port on a case-by-case basis; and (iii) this rule will be enforced for only the duration of the fireworks display.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to anchor or transit along a portion of the Metedeconk River near Brick Township, New Jersey from 8:30 p.m. to 10:00 p.m. on July 3, July 17, and August 14, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reason: Vessel traffic will be allowed to pass through the zone with permission of the Coast Guard Captain of the Port Delaware Bay or her designated representative and zone is limited in size and duration. Sector Delaware Bay will issue maritime advisories widely available to users of the Delaware Bay and River.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR Part 165, applicable to safety zones on the navigable waterways. This zone will temporarily restrict vessel traffic from transiting the waters of the Metedeconk River along the shoreline of Brick Township, NJ, in order to protect the safety of life and property on the waters for the duration of the fireworks display. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping

requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T05–0522, to read as follows:

§ 165.T05–0522 Safety Zone, Metedeconk River; Brick Township, NJ.

(a) *Location.* The regulated area of this safety zone includes all the waters of the Metedeconk River within a 500 yard radius of the fireworks launch platform in approximate position latitude 40°03′24″ N, longitude 074°06′42″ W, near the shoreline at Brick Township, NJ.

(b) *Enforcement period.* This rule will be enforced from 8:30 p.m. to 10:00 p.m. on July 3, July 17, and August 14, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed.

(c) *Regulations.* All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.33.

(1) All persons or vessels wishing to transit through the Safety Zone must request authorization to do so from the Captain of the Port or her designated representative one hour prior to the intended time of transit.

(2) Vessels granted permission to transit must do so in accordance with the directions provided by the Captain of the Port or her designated representative to the vessel.

(3) To seek permission to transit the Safety Zone, the Captain of the Port's representative can be contacted via marine radio VHF Channel 16.

(4) This section applies to all vessels wishing to transit through the Safety Zone except vessels that are engaged in the following operations:

(i) Enforcing laws;

(ii) Servicing aids to navigation, and

(iii) Emergency response vessels.

(5) No person or vessel may enter or remain in a safety zone without the permission of the Captain of the Port;

(6) Each person and vessel in a safety zone shall obey any direction or order of the Captain of the Port;

(7) No person may board, or take or place any article or thing on board, any vessel in a safety zone without the permission of the Captain of the Port; and

(8) No person may take or place any article or thing upon any waterfront facility in a safety zone without the permission of the Captain of the Port.

(d) *Definitions.*

(1) The Captain of the Port means the Commander of Sector Delaware Bay or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on her behalf.

(e) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the Safety Zone by Federal, State, and local agencies.

■ 3. At § 165.506, in the Table to § 165.506, make the following amendments:

■ a. Under section (a). Coast Guard Sector Delaware Bay—COTP Zone, suspend entry ''9''.

■ b. Under, section (a). Coast Guard Sector Delaware Bay—COTP Zone, add entry ''17'', which will be enforced from 8:30 p.m. until 10 p.m. on July 3, July 17, and August 14, 2014, to read as follows:

§ 165.506 Safety Zones; Fireworks Displays in the Fifth Coast Guard District.

* * * * *

TABLE TO § 165.506

Number	Date	Location	Regulated area
(a) Coast Guard Sector Delaware Bay—COTP Zone			
*	*	*	*
17	July 3rd, July 17th, August 14th.	Metedeconk River, Brick Township, NJ, Safety Zone.	The waters of the Metedeconk River within a 500 yard radius of the fireworks launch platform in approximate position latitude 40°03′24″ N, longitude 074°06′42″ W, near the shoreline at Brick Township, NJ.
*	*	*	*

Dated: June 24, 2014.

K. Moore,

Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.

[FR Doc. 2014–15931 Filed 7–7–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2014–0277; FRL–9911–05]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 13 chemical substances which were the subject of premanufacture notices (PMNs). Three of these chemical substances are subject to TSCA section 5(e) consent orders issued by EPA. This action requires persons who intend to manufacture or process any of these 13 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification will provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

DATES: This rule is effective on September 8, 2014. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on July 22, 2014.

Written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs must be received on or before August 7, 2014 (see Unit VI. of the **SUPPLEMENTARY INFORMATION**). If EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs before August 7, 2014, EPA will withdraw the relevant sections of this direct final rule before its effective date.

For additional information on related reporting requirement dates, see Units I.A., VI., and VII. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2014–0277, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

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SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of a proposed or final rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What action is the Agency taking?

EPA is promulgating these SNURs using direct final procedures. These SNURs will require persons to notify EPA at least 90 days before commencing the manufacture or processing of a chemical substance for any activity designated by these SNURs as a significant new use. Receipt of such notices allows EPA to assess risks that may be presented by the intended uses and, if appropriate, to regulate the proposed use before it occurs. Additional rationale and background to these rules are more fully set out in the preamble to EPA's first direct final SNUR published in the **Federal Register** issue of April 24, 1990 (55 FR 17376). Consult that preamble for further information on the objectives, rationale, and procedures for SNURs and on the basis for significant new use designations, including provisions for developing test data.

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

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors listed in Unit III.

Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture or process the chemical substance for that use. Persons who must report are described in § 14;721.5.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA sections 5(b) and 5(d)(1), the exemptions authorized by TSCA sections 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA may take regulatory action under TSCA sections 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorized EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the 13 chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for 13 chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the TSCA section 5(e) consent order or, the basis for non-TSCA section 5(e) SNURs, (i.e., SNURs without TSCA section 5(e) consent orders).
- Tests recommended by EPA to provide sufficient information to evaluate the chemical substance (see Unit VIII. for more information).
- CFR citation assigned in the regulatory text section of this rule.

This rule includes two PMN substances, P-10-5 and P-11-339, whose reported chemical names include the term ''carbon nanotube'' or ''CNT''. Because of a lack of established nomenclature for carbon nanotubes, the TSCA Inventory names for carbon nanotubes are currently in generic form, e.g., carbon nanotube (CNT), multi-walled carbon nanotube (MWCNT), double-walled carbon nanotube (DWCNT), or single-walled carbon nanotube (SWCNT). EPA uses the specific structural characteristics provided by the PMN submitter to more specifically characterize the Inventory listing for an individual CNT. All submitters of new chemical notices for CNTs in this SNUR have claimed those specific structural characteristics as CBI. EPA is publishing the generic chemical name along with the PMN number to identify that a distinct chemical substance was the subject of the PMN without revealing the confidential chemical identity of the PMN substance. Confidentiality claims preclude a more detailed description of the identity of these CNTs. If an intended manufacturer or processor of CNTs is unsure of whether its CNTs are subject to this SNUR or any other SNUR, the company can either contact EPA or obtain a written determination from EPA pursuant to the bona fide procedures at § 721.11. EPA is using the specific structural characteristics, for all CNTs submitted as new chemical substances under TSCA, to help develop standard nomenclature for placing these chemical substances on the TSCA Inventory. EPA has compiled a generic list of those structural characteristics entitled ''Material Characterization of Carbon Nanotubes for Molecular Identity (MI) Determination & Nomenclature.'' A copy of this list is available in the docket for these SNURs under docket ID number EPA–HQ–OPPT–2014–0277. If EPA develops a more specific generic chemical name for these materials, that name will be made publicly available.

The regulatory text section of this rule specifies the activities designated as significant new uses. Certain new uses, including production volume limits (i.e., limits on manufacture volume) and other uses designated in this rule, may be claimed as CBI. Unit IX. discusses a procedure companies may use to ascertain whether a proposed use constitutes a significant new use.

This rule includes 3 PMN substances (P-10-5, P-11-339 and P-12-125) that are subject to ''risk-based'' consent orders under TSCA section 5(e)(1)(A)(ii)(I) where EPA determined that activities associated with the PMN substances may present unreasonable risk to human health or the environment. Those consent orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The so-called ''TSCA section 5(e) SNURs'' on these PMN substances are promulgated pursuant to § 721.160, and are based on and consistent with the provisions in the underlying consent orders. The TSCA section 5(e) SNURs designate as a ''significant new use'' the absence of the protective measures required in the corresponding consent orders.

This rule also includes SNURs on 10 PMN substances that are not subject to consent orders under TSCA section 5(e). In these cases, for a variety of reasons, EPA did not find that the use scenario described in the PMN triggered the determinations set forth under TSCA section 5(e). However, EPA does believe that certain changes from the use scenario described in the PMN could result in changes in exposures, thereby constituting a ''significant new use.'' These so-called ''non-TSCA section 5(e) SNURs'' are promulgated pursuant to § 721.170. EPA has determined that every activity designated as a ''significant new use'' in all non-TSCA section 5(e) SNURs issued under § 721.170 satisfies the two requirements stipulated in § 721.170(c)(2), i.e., these significant new use activities, ''(i) are different from those described in the premanufacture notice for the substance, including any amendments,

deletions, and additions of activities to the premanufacture notice, and (ii) may be accompanied by changes in exposure or release levels that are significant in relation to the health or environmental concerns identified'' for the PMN substance.

PMN Number P-10-5

Chemical name: Single-walled carbon nanotubes (generic).

CAS number: Claimed confidential.

Effective date of TSCA section 5(e) consent order: November 30, 2010.

Basis for TSCA section 5(e) consent order: The PMN states that the uses of the substance will be as a component for a conductive coating using the PMN substance in a dispersion or ink, and as an additive in resins/thermoplastics/elastomers for mechanical reinforcement. Based on structure-activity relationship (SAR) analysis of test data on analogous respirable, poorly soluble particulates and other carbon nanotubes (CNTs), EPA identified concerns for pulmonary toxicity, fibrosis, carcinogenicity, mutagenicity, and immunotoxicity. Further, available data suggests that pulmonary deposition of some nanoparticles, including CNT may induce cardiovascular toxicity if inhaled. Based on the uncertainty of the characterization and exposure of nanoscale materials in general, there may be additional potential for translocation across the dermis and effects on target organs via the oral route of exposure. Finally, EPA expects that some fraction of the CNTs, if released into the environment, will eventually be suspended in water. Based on findings of sublethal effects observed for CNTs in rainbow trout at levels as low as 100 parts per billion (ppb) and that toxicity of CNTs may be further altered by the presence of natural organic matter that may be associated with nanomaterials when released into the natural environment, EPA identified concerns for toxicity to aquatic organisms. The Order was issued under TSCA sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I) based on a finding that this substance may present an unreasonable risk of injury to human health and the environment. To protect against this risk, the Order requires:

1. Use of personal protective equipment including gloves and protective clothing impervious to the substance when there is potential dermal exposure and use of a National Institute of Occupational Safety and Health (NIOSH)-certified air-purifying, tight-fitting full-face respirator equipped with N–100 cartridges when there is potential inhalation exposure.

2. Use of the substance only as a component for a conductive coating using the PMN substance in a dispersion or ink or as an additive in resins/thermoplastics/elastomers for mechanical reinforcement.

3. Manufacture of the substance at a volume not to exceed a confidential volume specified in the consent order unless the company has submitted the results of certain health studies and physical/chemical properties data.

4. No surface water releases of the PMN substance, except for limited water releases resulting in no more than 1 ppb waste water effluent concentration determined by monitoring. The Company shall analyze the concentration of the PMN substance in waste water discharged to the city sewer from the facility every year and adhere to the monitoring procedure referenced in the consent order.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Recommended testing: EPA has determined that the results of a 90-day inhalation toxicity study in rats (OPPTS Test Guideline 870.3465 or Organisation for Economic Co-operation and Development (OECD) Test Guideline 413) with a post-exposure observation period of up to 3 months, including bronchoalveolar lavage fluid (BALF) analysis, a determination of cardiovascular toxicity (clinically-based blood/plasma protein analyses), and histopathology of the heart; and certain physical/chemical properties, would help characterize possible effects of the substance. The PMN submitter has agreed not to exceed the confidential production volume stated in the consent order without performing the inhalation toxicity study. In addition, in the consent order, the PMN submitter agreed to provide physical/chemical properties data within a specified time limit.

CFR citation: 40 CFR 721.10755.

PMN Number P-11-339

Chemical name: Multi-walled carbon nanotubes (generic).

CAS number: Claimed confidential.

Effective date of TSCA section 5(e) consent order: August 25, 2011.

Basis for TSCA section 5(e) consent order: The PMN states that the use of the substance will be as an additive in resins, thermoplastics, and elastomers for mechanical reinforcement and enhanced electrical performance, as a coating on metallic foils for battery applications, or in the manufacture of fabric composites. Based on SAR analysis of test data on analogous respirable, poorly soluble particulates and other CNTs, EPA identified concerns for pulmonary toxicity, fibrosis, carcinogenicity, mutagenicity, and immunotoxicity. Further, available data suggests that pulmonary deposition of some nanoparticles, including CNT may induce cardiovascular toxicity if inhaled. Finally, EPA expects that some fraction of the CNTs, if released into the environment, will eventually be suspended in water. Based on findings of sublethal effects observed for CNTs in rainbow trout at levels as low as 100 ppb and that toxicity of CNTs may be further altered by the presence of natural organic matter that may be associated with nanomaterials when released into the natural environment, EPA identified concerns for toxicity to aquatic organisms. The Order was issued under TSCA sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I) based on a finding that this substance may present an unreasonable risk of injury to human health and the environment. To protect against this risk, the Order requires:

1. Use of personal protective equipment including gloves and protective clothing impervious to the substance when there is potential dermal exposure and a NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N–100, R–100, or P–100 cartridges when there is potential for inhalation exposure.

2. Use of the substance only as an additive in resins, thermoplastics, and elastomers for mechanical reinforcement and enhanced electrical performance, as a coating on metallic foils for battery applications, or in the manufacture of fabric composites.

3. Manufacture of the substance at a volume not to exceed a confidential volume specified in the consent order unless the company has submitted the results of certain health studies and physical/chemical properties data.

4. No surface water releases of the PMN substance, except for limited water releases resulting in no more than 1 ppb waste water effluent concentration determined by monitoring. The Company shall analyze the concentration of the PMN substance in waste water discharged to the city sewer from the facility every year and adhere to the monitoring procedure referenced in the consent order.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Recommended testing: EPA has determined that the results of a 90-day inhalation toxicity study in rats (OPPTS Test Guideline 870.3465 or OECD Test Guideline 413) with a post exposure observation period of up to 3 months, including BALF analysis, a

determination of cardiovascular toxicity (clinically-based blood/plasma protein analyses), and histopathology of the heart; and certain physical/chemical properties, would help characterize possible effects of the substance. The PMN submitter has agreed not to exceed the confidential production volume stated in the consent order without performing the inhalation toxicity study. In the consent order, the PMN submitter agreed to provide physical/chemical properties data within a specified time limit.

CFR citation: 40 CFR 721.10756.

PMN Numbers P-12-100 and P-12-150

Chemical names: Fatty acids, diesters with dihydroxy bicyclic diether (generic).

CAS numbers: Claimed confidential.

Basis for action: The PMNs state that the uses of the substances will be as a polymer modifier and a seal swell additive for industrial applications. Based on test data on the PMN substances, as well as SAR analysis of test data on analogous esters, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substances in surface waters for greater than 20 days per year. This 20-day criterion is derived from partial life cycle tests (daphnid chronic and fish early life stage tests) that typically range from 21 to 28 days in duration. EPA predicts toxicity to aquatic organisms may occur if releases of the substances to surface water, from uses other than as described in the PMNs, exceed releases from the uses described in the PMNs. For the uses described in the PMNs, environmental releases did not exceed 1 ppb for more than 20 days per year. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that any use of the substances other than as polymer modifiers and seal swell additives for industrial applications may cause significant adverse environmental effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(i) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400) and a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300) would help characterize the environmental effects of the PMN substances.

CFR citation: 40 CFR 721.10757.

PMN Number P-12-125

Chemical name: Thermolized wasted plastic (generic).

CAS number: Claimed confidential.

Effective date of TSCA section 5(e) consent order: October 2, 2013.

Basis for TSCA section 5(e) consent order: The PMN states that the generic (non-confidential) use of the substance will be as a petroleum feedstock. Based on SAR analysis of test data on analogous styrenes and benzenes, EPA identified concerns for solvent irritation and solvent neurotoxicity; hydrocarbon pneumonia; liver, kidney, blood, developmental and reproductive toxicities; immunotoxicity, mutagenicity, and oncogenicity. Further, polychlorinated dibenzo-p-dioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs) impurities in the PMN substance are known to be highly persistent, bioaccumulative, and toxic (PBT) chemicals that cause developmental toxicity, inhalation effects, carcinogenicity and are highly toxic to aquatic life. The Order was issued under TSCA sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I) based on a finding that the substance may present an unreasonable risk of injury to human health and the environment. To protect against this risk, the consent order requires:

1. Establishment and use of a hazard communication program.

2. Manufacture of the PMN substance: (a) According to the chemical composition section of the consent order, including analyzing and reporting PCDD and PCDF levels in the PMN substance to EPA; (b) without exceeding the maximum established limit of 110 picogram/gram (pg/g) of PCDD/PCDF toxic equivalents (using the World Health Organization 2005 Toxic Equivalency Factors as detailed in the consent order); and (c) while monitoring the pH of the aqueous effluent stream from the manufacturing process as outlined in the consent order.

3. Use of the substance only as described in the consent order.

The SNUR designates as a ''significant new use'' the absence of these protective measures.

Recommended testing: EPA has determined, at this time, that there is no testing that would help further characterize the environmental/human health effects of the PMN substance. In the consent order, the PMN submitter agreed to analyze for PCDD and PCDF impurities every quarter during manufacture of the PMN substance, using EPA Test Method 8290A.

CFR citation: 40 CFR 721.10758.

PMN Number P-13-369

Chemical name: Polyphosphoric acids, esters with substituted amines, compounds with alkyl pyridines (generic).

CAS number: Claimed confidential.

Basis for action: The PMN states that the use of the substance is as a solids conglomeration additive for down-hole treatment of oil and gas wells to prevent the undesirable production of solids. Based on test data on the PMN substance, EPA predicts chronic toxicity to aquatic organisms may occur at concentrations that exceed 8 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 8 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 8 ppb or use other than as described in the PMN, or if disposed of during manufacturing by means other than incineration may result in significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(i).

Recommended testing: EPA has determined that the results of a mysid chronic toxicity test (OCSPP Test Guideline 850.1350); an algal toxicity test (OCSPP Test Guideline 850.4500); and a modified algal toxicity test (OCSPP Test Guideline 850.4500) where the PMN substance is substituted for the phosphate nutrient in the algal growth medium would help characterize the environmental effects of the PMN substance:

CFR citation: 40 CFR 721.10759.

PMN Number P-13-854

Chemical name: Zinc carboxylate salt (generic).

CAS number: Claimed confidential.

Basis for action: The PMN states that the use of the substance is as a petroleum production chemical. Based on SAR analysis of test data on analogous organozinc compounds, EPA predicts chronic toxicity to aquatic organisms may occur at concentrations that exceed 3 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 3 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has

determined, however, that any use of the substance resulting in surface water concentrations exceeding 3 ppb may result in significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10760.

PMN Numbers P-14-12, P-14-13, P-14-15, and P-14-16

Chemical names: Fatty acid amide (generic).

CAS numbers: Claimed confidential.

Basis for action: The PMNs state that the substances will be used as emulsifiers for use in asphalt applications. Based on SAR analysis of test data on analogous aliphatic amines, EPA predicts chronic toxicity to aquatic organisms may occur at concentrations that exceed the following values of the PMN substances in surface waters.

PMN No.	Concentration
P–14–12	110 ppb.
P–14–13	240 ppb.
P–14–15	53 ppb.
P–14–16	110 ppb.

For the use described in the PMNs, releases of the substances are not expected to result in surface water concentrations exceeding these values. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substances other than as emulsifiers for use in asphalt applications may cause significant adverse environmental effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance. The Agency recommends that testing be conducted on P-14-15 as EPA predicts this substance to be the most acutely toxic to aquatic organisms of these four PMN substances.

CFR citation: 40 CFR 721.10761.

PMN Number P-14-60

Chemical name: 1,1'-methylenebis[isocyanatobenzene], polymer with polycarboxylic acids in alkane polyols (generic).

CAS number: Claimed confidential.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a coating component. Based on SAR analysis of test data on analogous diisocyanates, EPA identified concerns for dermal and respiratory sensitization to persons exposed to the PMN substance. As described in the PMN, worker exposure will be minimal due to the use of adequate personal protective equipment, and EPA does not expect significant consumer exposure as the substance is not used in a consumer product. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance without a NIOSH-certified respirator with an assigned protection factor (APF) of at least 10, where there is potential inhalation exposure; or any use of the substance in consumer products may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of a skin sensitization test (OPPTS Test Guideline 870.2600) and a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465) would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10762.

PMN Number P-14-143

Chemical name: Alkanaminium, [substituted carbomonocycle [(alkylamino)carbomonocycle]alkylene]-substituted carbomonocycle, carboxylate salt (generic).

CAS number: Claimed confidential.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as an ingredient used in pigment synthesis. Based on SAR analysis of test data on analogous delocalized cationic dyes, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, environmental releases are not expected to result in surface water concentrations that exceed 1 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); a fish acute toxicity mitigated by humic acid test (OPPTS Test Guideline 850.1085); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10763.

V. Rationale and Objectives of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are subject to these SNURs, EPA concluded that for 3 of the 13 chemical substances, regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical substances. The basis for such findings is outlined in Unit IV. Based on these findings, TSCA section 5(e) consent orders requiring the use of appropriate exposure controls were negotiated with the PMN submitters. The SNUR provisions for these chemical substances are consistent with the provisions of the TSCA section 5(e) consent orders. These SNURs are promulgated pursuant to § 721.160 (see Unit VI.).

In the other 10 cases, where the uses are not regulated under a TSCA section 5(e) consent order, EPA determined that one or more of the criteria of concern established at § 721.170 were met, as discussed in Unit IV.

B. Objectives

EPA is issuing these SNURs for specific chemical substances which have undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this rule:

• EPA will receive notice of any person's intent to manufacture or process a listed chemical substance for the described significant new use before that activity begins.

• EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.

• EPA will be able to regulate prospective manufacturers or processors of a listed chemical substance before the described significant new use of that chemical substance occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6, or 7.

• EPA will ensure that all manufacturers and processors of the same chemical substance that is subject to a TSCA section 5(e) consent order are subject to similar requirements.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the Internet at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

VI. Direct Final Procedures

EPA is issuing these SNURs as a direct final rule, as described in § 721.160(c)(3) and § 721.170(d)(4). In accordance with § 721.160(c)(3)(ii) and § 721.170(d)(4)(i)(B), the effective date of this rule is September 8, 2014 without further notice, unless EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments before August 7, 2014.

If EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs before August 7, 2014, EPA will withdraw the relevant sections of this direct final rule before its effective date. EPA will then issue a proposed SNUR for the chemical substance(s) on which adverse or critical comments were received, providing a 30-day period for public comment.

This rule establishes SNURs for a number of chemical substances. Any person who submits adverse or critical comments, or notice of intent to submit adverse or critical comments, must identify the chemical substance and the new use to which it applies. EPA will not withdraw a SNUR for a chemical substance not identified in the comment.

VII. Applicability of the Significant New Use Designation

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for chemical substances for which an NOC has not been submitted, EPA concludes that the designated significant new uses are not ongoing.

When chemical substances identified in this rule are added to the TSCA Inventory, EPA recognizes that, before the rule is effective, other persons might engage in a use that has been identified as a significant new use. However, TSCA section 5(e) consent orders have been issued for 3 of the 13 chemical substances, and the PMN submitters are prohibited by the TSCA section 5(e) consent orders from undertaking activities which would be designated as significant new uses. The identities of all 13 of the chemical substances subject to this rule have been claimed as confidential and EPA has received no post-PMN *bona fide* submissions (per §§ 720.25 and 721.11). Based on this, the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this rule are ongoing.

Therefore, EPA designates July 8, 2014 as the cutoff date for determining whether the new use is ongoing. Persons who begin commercial manufacture or processing of the chemical substances for a significant new use identified as of that date would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and wait until the notice review period, including any extensions, expires. If such a person met the conditions of advance compliance under § 721.45(h), the person would be considered exempt from the requirements of the SNUR. Consult the **Federal Register** document of April 24, 1990 for a more detailed discussion of the cutoff date for ongoing uses.

VIII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data before submission of a SNUN. The two exceptions are:

1. Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)).

2. Development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)).

In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. In cases where EPA issued a TSCA section 5(e) consent order that requires or recommends certain testing, Unit IV. lists those tests. Unit IV. also lists recommended testing for non-TSCA section 5(e) SNURs. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.'' The Organisation for Economic Co-operation and Development (OECD) test guidelines are available from the OECD Bookshop at *http://www.oecdbookshop.org* or SourceOECD at *http://www.sourceoecd.org.*

In the TSCA section 5(e) consent orders for several of the chemical substances regulated under this rule, EPA has established production volume limits in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the chemical substances. These limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these chemical substances. Under recent TSCA section 5(e) consent orders, each PMN submitter is required to submit each study before reaching the specified production limit. Listings of the tests specified in the TSCA section 5(e) consent orders are included in Unit IV. The SNURs contain the same production volume limits as the TSCA section 5(e) consent orders. Exceeding these production limits is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of non-exempt commercial manufacture or processing.

The recommended tests specified in Unit IV. may not be the only means of addressing the potential risks of the chemical substance. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

IX. Procedural Determinations

By this rule, EPA is establishing certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI, at 40 CFR 721.1725(b)(1).

Under these procedures a manufacturer or processor may request EPA to determine whether a proposed use would be a significant new use under the rule. The manufacturer or processor must show that it has a *bona fide* intent to manufacture or process the chemical substance and must identify the specific use for which it intends to manufacture or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, i.e., the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

X. SNUN Submissions

According to § 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and § 721.25. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2014–0277.

XII. Statutory and Executive Order Reviews

A. Executive Order 12866

This rule establishes SNURs for several new chemical substances that were the subject of PMNs, or TSCA section 5(e) consent orders. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act (PRA)

According to PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

On February 18, 2012, EPA certified pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.

2. The SNUR submitted by any small entity would not cost significantly more than $8,300.

A copy of that certification is available in the docket for this rule.

This rule is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit XI. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than $8,300.

Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this rule. As such, EPA has determined that this rule does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132

This action will not have a substantial direct effect on 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, entitled ''Federalism'' (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This rule does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This rule does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this rule.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

XIII. Congressional Review Act

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

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: June 27, 2014.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.,* 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.,* 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345(d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.,* 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add the following sections in numerical order under the undesignated center heading ''Significant New Uses of Chemical Substances'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
Significant New Uses of Chemical Substances	
721.10755	2070–0012
721.10756	2070–0012
721.10757	2070–0012
721.10758	2070–0012
721.10759	2070–0012
721.10760	2070–0012
721.10761	2070–0012
721.10762	2070–0012
721.10763	2070–0012

PART 721—AMENDED

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. Add § 721.10755 to subpart E to read as follows:

§ 721.10755 Single-walled carbon nanotubes (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as single-walled carbon nanotubes (PMN P–10–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the PMN substance after it has been completely reacted (cured); embedded or incorporated into a

polymer matrix that has been reacted (cured); or embedded in a permanent solid polymer form that is not intended to undergo further processing except for mechanical processing.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(ii) (clothing that covers other exposed areas of the arms, legs, and torso), (a)(3), (a)(4) (National Institute for Occupational Safety and Health (NIOSH)-certified air-purifying, tight-fitting full-face respirator equipped with N100 cartridges), (a)(6)(i), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (a significant new use is any use other than as a component for a conductive coating using the PMN substance in a dispersion or ink, and additive in resins/thermoplastics/elastomers for mechanical reinforcement.) and (q).

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1), except for water releases determined by monitoring the concentration of the PMN substance in waste water effluent according to a monitoring procedure approved for such purpose by EPA and when the concentration of the PMN substance does not exceed 1 part per billion (ppb). EPA will review and act on written requests to approve monitoring procedures within 90 days after such requests are received. EPA will inform submitters of the disposition of such requests in writing, and will explain the reasons therefore when they are denied.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (d), (e), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraphs (a)(2)(ii) and (a)(2)(iii) of this section.

■ 5. Add § 721.10756 to subpart E to read as follows:

§ 721.10756 Multi-walled carbon nanotubes (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as multi-walled carbon nanotubes (PMN P-11-339) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the PMN substance after it has been completely reacted (cured); embedded or incorporated into a polymer matrix that has been reacted (cured); or embedded in a permanent solid polymer form that is not intended to undergo further processing except for mechanical processing.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(ii) (clothing that covers other exposed areas of the arms, legs, and torso), (a)(3), (a)(4) (National Institute for Occupational Safety and Health (NIOSH)-certified air-purifying, tight-fitting full-face respirator equipped with N100, P100, or R100 cartridges), (a)(6)(i), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (a significant new use is any use other than as an additive in resins, thermoplastics, and elastomers for mechanical reinforcement and enhanced electrical performance, as a coating on metallic foils for battery applications, or in the manufacture of fabric composites.) and (q).

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1), except for water releases determined by monitoring the concentration of the PMN substance in waste water effluent according to a monitoring procedure approved for such purpose by EPA and when the concentration of the PMN substance does not exceed 1 part per billion (ppb). EPA will review and act on written requests to approve monitoring procedures within 90 days after such requests are received. EPA will inform submitters of the disposition of such requests in writing, and will explain the reasons therefore when they are denied.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (d), (e), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraphs (a)(2)(ii) and (a)(2)(iii) of this section.

■ 6. Add § 721.10757 to subpart E to read as follows:

§ 721.10757 Fatty acids, diesters with dihydroxy bicyclic diether (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified generically as fatty acids, diesters with dihydroxy bicyclic diether (PMNs P-12-100 and P-12-150) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. A significant new use is any use other than as a polymer modifier or a seal swell additive for industrial applications.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 7. Add § 721.10758 to subpart E to read as follows:

§ 721.10758 Thermolized wasted plastic (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as thermolized wasted plastic (PMN P-12-125) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the PMN substance after

it has been completely fractionated, distilled, or chemically reacted resulting in the manufacture of one or more new chemical substances subject to PMN review or other chemical substances listed on the TSCA Inventory.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e)(concentration set at 0.1 percent), (f), (g)(1)(i) to (g)(1)(ix), (g)(2)(i) to (g)(2)(v), (g)(3)(i), (g)(3)(ii), and (g)(5).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (a significant new use is any use other than as allowed by the TSCA section 5(e) consent order which includes analysis and reporting and limitations of maximum levels of polychlorinated dibenzo-*p*-dioxin and polychlorinated dibenzofuran impurities and monitoring the pH of the aqueous effluent stream from the manufacturing process as outlined in the Consent Order.)

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (f), (g), (h), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

■ 8. Add § 721.10759 to subpart E to read as follows:

§ 721.10759 Polyphosphoric acids, esters with substituted amines, compounds with alkyl pyridines (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyphosphoric acids, esters with substituted amines, compounds with alkyl pyridines (PMN P-13-369) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. A significant new use is any use of the PMN substance other than as a solids conglomeration additive for down-hole treatment of oil and gas wells to prevent the undesirable production of solids.

(ii) *Disposal.* Requirements as specified in § 721.85(a)(1).

(iii) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=8) (for marine discharges, a dilution factor of 65 should be applied).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (i), (j), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 9. Add § 721.10760 to subpart E to read as follows:

§ 721.10760 Zinc carboxylate salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as zinc carboxylate salt (PMN P-13-854) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=3).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 10. Add § 721.10761 to subpart E to read as follows:

§ 721.10761 Fatty acid amide (generic).

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substances identified generically as fatty acid amide (PMNs P-14-12, P-14-13, P-14-15, P-14-16) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. A significant new use is any use of the PMN substance other than as an emulsifier for use in asphalt applications.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (i) are applicable to manufacturers and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 11. Add § 721.10762 to subpart E to read as follows:

§ 721.10762 1,1′-methylenebis[isocyanatobenzene], polymer with polycarboxylic acids in alkane polyols (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as 1,1′-methylenebis[isocyanatobenzene], polymer with polycarboxylic acids in alkane polyols (PMN P-14-60) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4), (a)(6)(i) through (a)(6)(iv), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified power air-purifying respirator with a hood or helmet and with appropriate gas/vapor (acid gas, organic vapor, or substance specific) cartridges in combination with HEPA filters;

(B) NIOSH-certified continuous flow supplied-air respirator equipped with a loose fitting facepiece, hood, or helmet; and

(C) NIOSH-certified negative pressure (demand) supplied-air respirator with a full facepiece.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (d), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 12. Add § 721.10763 to subpart E to read as follows:

§ 721.10763 Alkanaminium, [substituted carbomonocycle [(alkylamino)carbomonocycle]alkylene]-substituted carbomonocycle, carboxylate salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkanaminium, [substituted carbomonocycle [(alkylamino)carbomonocycle]alkylene]-substituted carbomonocycle, carboxylate salt (PMN P-14-143) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2014–15874 Filed 7–7–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 131231999–4319–01]

RIN 0648–XD351

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2014 Commercial Accountability Measure and Closure for Deep-Water Complex in the South Atlantic Region

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the commercial deep-water complex in the exclusive economic zone (EEZ) of the South Atlantic. Commercial landings for the deep-water complex, as estimated by the Science and Research Director, are projected to reach the commercial annual catch limit (ACL) on July 10, 2014. Therefore, NMFS is closing the commercial sector for the deep-water complex in the South Atlantic EEZ on July 10, 2014, and it will remain closed until the start of the next fishing season, January 1, 2015. This closure is necessary to protect the deep-water complex resource.

DATES: This rule is effective 12:01 a.m., local time, July 10, 2014, until 12:01 a.m., local time, January 1, 2015.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727–824–5305, email: *Catherine.Hayslip@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes the deep-water complex and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The deep-water complex in the South Atlantic includes yellowedge grouper, silk snapper, misty grouper, queen snapper, sand tilefish, black snapper, and blackfin snapper. The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Given new stock assessment results that indicated the blueline tilefish stock is overfished and undergoing overfishing in the South Atlantic, NMFS published an emergency rule (79 FR 21636, April 17, 2014) to remove blueline tilefish from the deep-water complex and establish separate commercial and recreational ACLs and AMs for blueline tilefish and for the deep-water complex in the EEZ of the South Atlantic. That emergency rule implemented an updated commercial ACL for the deep-water complex in the South Atlantic of 60,371 lb (27,384 kg), round weight. The emergency rule is effective April 17, 2014, through October 14, 2014, unless superseded by subsequent rulemaking. NMFS may extend the rule's effectiveness for an additional 186 days pursuant to the Magnuson-Stevens Act.

Under 50 CFR 622.193(z)(1), NMFS is required to close the commercial sector for the deep-water complex when the commercial ACL is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial ACL for the South Atlantic deep-water complex will have been reached by July 10, 2014. Accordingly, the commercial sector for the South Atlantic deep-water complex is closed effective 12:01 a.m., local time, July 10, 2014, until 12:01 a.m., local time, January 1, 2015.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having any deep-water complex species onboard must have landed and bartered, traded, or sold such species prior to 12:01 a.m., local time, July 10, 2014. During the closure, all sale or purchase of the deep-water complex species is prohibited and harvest or possession of the deep-water complex species in or from the South Atlantic EEZ is limited to the bag and possession limits specified in 50 CFR 622.187(b)(2) and 622.187(c)(1), respectively. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters. The prohibition on sale or purchase does not apply to the sale or purchase of the deep-water complex species that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, July 10, 2014, and were held in cold storage by a dealer or processor.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of the deep-water complex and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act, the FMP, and other applicable laws.

This action is taken under 50 CFR 622.193(z)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best available scientific information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the

commercial sector for the deep-water complex constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure.

Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the deep-water complex since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: July 2, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–15907 Filed 7–2–14; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120815345–3525–02]

RIN 0648–XD350

Snapper-Grouper Fishery of the South Atlantic; 2014 Commercial Accountability Measure and Closure for the South Atlantic Lesser Amberjack, Almaco Jack, and Banded Rudderfish Complex

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the commercial sector for the lesser amberjack, almaco jack, and banded rudderfish complex in the South Atlantic for the 2014 fishing year through this temporary rule. Commercial landings for the lesser amberjack, almaco jack, and banded rudderfish complex, as estimated by the Science and Research Director (SRD), are projected to reach their combined commercial annual catch limit (ACL) on July 15, 2014. Therefore, NMFS closes the commercial sector for this complex on July 15, 2014, through the remainder of the fishing year in the exclusive economic zone (EEZ) of the South Atlantic. This closure is necessary to protect the lesser amberjack, almaco jack, and banded rudderfish resources.

DATES: This rule is effective 12:01 a.m., local time, July 15, 2014, until 12:01 a.m., local time, January 1, 2015.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727–824–5305, email: *Catherine.Hayslip@noaa.gov*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic, which includes the lesser amberjack, almaco jack, and banded rudderfish complex, is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The combined commercial ACL for the lesser amberjack, almaco jack, and banded rudderfish complex is 189,422 lb (85,920 kg), round weight. Under 50 CFR 622.193(l)(1), NMFS is required to close the commercial sector for the lesser amberjack, almaco jack, and banded rudderfish complex when the commercial ACL has been reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial sector for this complex is projected to reach the ACL on July 15, 2014. Therefore, this temporary rule implements an AM to close the commercial sector for the lesser amberjack, almaco jack, and banded rudderfish complex in the South Atlantic, effective 12:01 a.m., local time, July 15, 2014.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having lesser amberjack, almaco jack, or banded rudderfish onboard must have landed and bartered, traded, or sold such species prior to 12:01 a.m., local time, July 15, 2014. During the closure, the bag limit specified in 50 CFR 622.187(b)(8) and the possession limits specified in 50 CFR 622.187(c) apply to all harvest or possession of lesser amberjack, almaco jack, or banded rudderfish in or from the South Atlantic EEZ. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.*, in State or Federal waters. During the closure, the sale or purchase of lesser amberjack, almaco jack, or banded rudderfish taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of lesser amberjack, almaco jack, or banded rudderfish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, July 15, 2014, and were held in cold storage by a dealer or processor.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of the lesser amberjack, almaco jack, and banded rudderfish complex, a component of the South Atlantic snapper-grouper fishery, and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(l)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best available scientific information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the commercial sector for the lesser amberjack, almaco jack, and banded rudderfish complex constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure.

Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the lesser amberjack, almaco jack, and banded rudderfish complex because the capacity of the fishing fleet allows for

rapid harvest of the ACL. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: July 2, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–15929 Filed 7–7–14; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 130
Tuesday, July 8, 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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2014–F–0232]

Kemin Industries, Inc.; Filing of Food Additive Petition (Animal Use); Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of Petition; Correction.

SUMMARY: The Food and Drug Administration (FDA) published a document in the **Federal Register** of March 10, 2014 (79 FR 13263), providing notice of a petition filed by Kemin Industries, Inc., that proposed the food additive regulations be amended to provide for the safe use of chromium propionate as a source of chromium in broiler feed. That petition included an environmental assessment which was not noted in the March 10 notice of petition.

DATES: The notice of petition is corrected as of July 8, 2014.

FOR FURTHER INFORMATION CONTACT: Isabel W. Pocurull, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–453–6853.

SUPPLEMENTARY INFORMATION: In FR Doc. 2014–05066, appearing on page 13263 in the **Federal Register** of Monday, March 10, 2014, the following corrections are made:

1. On page 13263, in the second column, remove the **DATES** section and add in its place the following:

DATES: Submit either electronic or written comments on the petitioner's environmental assessment by August 7, 2014.

2. On page 13263, in the second column, remove the second paragraph of the **SUPPLEMENTARY INFORMATION** and add in its place two paragraphs as follows:

We are reviewing the potential environmental impact of this petition. To encourage public participation consistent with regulations issued under the National Environmental Policy Act (40 CFR 1501.4(b)), we are placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Division of Dockets Management (see **DATES** and **ADDRESSES**) for public review and comment.

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday. We will post comments we receive to the docket at *http://www.regulations.gov.* We will also place on public display, in the Division of Dockets Management and at *http://www.regulations.gov,* any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on our review, we find that an environmental impact statement is not required, and this petition results in a regulation, we will publish the notice of availability of our finding of no significant impact and the evidence supporting that finding with the regulation in the **Federal Register** in accordance with 21 CFR 25.51(b).

Dated: July 1, 2014.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2014–15761 Filed 7–7–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 10

RIN 1235–AA10

Establishing a Minimum Wage for Contractors

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Extension of comment period.

SUMMARY: This document extends the period for filing written comments until July 28, 2014 on the proposed rulemaking to implement the minimum wage protections of Executive Order 13658, Establishing a Minimum Wage for Contractors. The Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** on June 17, 2014. The Department of Labor (Department) is taking this action in order to provide interested parties additional time to submit comments.

DATES: The comment period for the proposed rule published June 17, 2014, at 79 FR 34568, is extended. The agency must receive comments on or before July 28, 2014.

ADDRESSES: You may submit comments, identified by Regulatory Information Number (RIN) 1235–AA10, by either one of the following methods:

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

Written comments: through mail addressed to Mary Ziegler, Director, Division of Regulations, Legislation and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue NW., Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name (Wage and Hour Division) and Regulatory Information Number identified above for this rulemaking (1235–AA10). All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Consequently, prior to including any individual's personal information such as Social Security Number, home address, telephone number, email addresses and medical data in a comment, the Department urges commenters to carefully consider that their submissions are a matter of public record and will be publicly accessible on the Internet. It is the commenter's responsibility to safeguard his or her information. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via the Federal eRulemaking Portal at *http://*

www.regulations.gov or to submit them by mail early. For additional information on submitting comments and the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

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

FOR FURTHER INFORMATION CONTACT: Mary Ziegler, Director, Division of Regulations, Legislation and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3510, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of the NPRM may be obtained in alternative formats (large print, braille, audio tape, or disc) upon request by calling (202) 693–0023. TTY/TDD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

Questions of interpretation or enforcement of regulations issued by this agency or referenced in this document may be directed to the nearest Wage and Hour Division District Office. Locate the nearest office by calling the Wage and Hour Division's toll-free help line at (866) 4US–WAGE ((866) 487–9243) between 8 a.m. and 5 p.m. in your local time zone, or log onto the Wage and Hour Division's Web site for a nationwide listing of Wage and Hour District and Area Offices at *http://www.dol.gov/whd/america2.htm.*

SUPPLEMENTARY INFORMATION:

I. Electronic Access and Filing Comments

Public Participation: The NPRM is available through the **Federal Register** and the *http://www.regulations.gov* Web site. You may also access the NPRM through the Department's Web site at *http://www.dol.gov/federalregister.* To comment electronically on federal rulemakings, go to the Federal eRulemaking Portal at *http://www.regulations.gov,* which will allow you to find, review, and submit comments on federal documents that are published in the **Federal Register** and open for comment. Please identify all comments submitted in electronic form by the RIN Docket Number (1235–AA10). Because of delays in receiving mail in the Washington, DC area, in order to ensure timely receipt prior to the close of the comment period, commenters should transmit their comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* or submit them by mail early. Please submit one copy of your comments by only one method.

II. Request for Comment

The Department is proposing regulations to implement Executive Order 13658, Establishing a Minimum Wage for Contractors. The Executive Order seeks to increase efficiency and cost savings in the work performed by parties that contract with the Federal Government by raising the hourly minimum wage paid by those contractors to workers performing work on covered federal contracts to: (i) $10.10 per hour, beginning January 1, 2015; and (ii) beginning January 1, 2016, and annually thereafter, an amount determined by the Secretary of Labor. The NPRM incorporates existing definitions, procedures, remedies, and enforcement processes under the Fair Labor Standards Act, the Service Contract Act, and the Davis-Bacon Act.

On February 12, 2014, President Obama signed Executive Order 13658, which directed the Department to issue regulations to implement the requirements of the Executive Order by October 1, 2014. On June 12, 2014, the Department posted on its Web site an overview of the Executive Order and the NPRM comment process. The Department published the NPRM in the **Federal Register** on June 17, 2014 (79 FR 34568), complete with background information, economic impact analysis and proposed regulatory text. The NPRM also requested that interested parties from the public submit comments on the NPRM on or before July 17, 2014.

The Department has received requests to extend the period for filing public comments from government and business organizations. Because of the interest that has been expressed in this matter, the Department has decided to provide an extension of the period for submitting public comment until July 28, 2014.

Dated: June 30, 2014.

David Weil,

Administrator, Wage and Hour Division.

[FR Doc. 2014–15767 Filed 7–7–14; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0376]

RIN 1625–AA00

Safety Zone; James River; Newport News, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone on the navigable waters of the James River in the vicinity of the James River Reserve Fleet and Hog Island, Virginia for multiple periods of one hour in length each on all weekdays from August 6 until August 15, 2014. This safety zone is intended to restrict vessel movement in the specified area during the United States Navy's demonstrations involving unmanned and remote-operated crafts. This action is necessary to provide for the safety of life and property on the surrounding navigable waters during the events due to the high speed maneuvering of the vessels and the experimental nature of the control technology.

DATES: Comments and related material must be received by the Coast Guard on or before July 23, 2014.

ADDRESSES: Submit comments online at *http://www.regulations.gov* (follow Web site directions) or by fax to 202–493–2251.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Gregory Knoll, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone (757) 668–5580, email *HamptonRoadsWaterway@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Public Participation and Comments

Information and comments that you send us may influence our final action on these proposals. Mark comments with docket number USCG–2014–0376 and provide a reason for each comment. If you include personal contact

information, it will help us if we need to follow up on your comments, but it may be searchable by others online (see the Privacy Act notice at 73 FR 3316, Jan. 17, 2008).

Documents mentioned in this notice, and all public comments, can be viewed at *http://www.regulations.gov* by following the Web site's directions.

We are not planning to hold a public meeting, but if you think one would be helpful, please contact us (see **FOR FURTHER INFORMATION CONTACT**) as soon as possible.

B. Regulatory History and Information

The United States Navy is conducting a demonstration in the James River in the vicinity of the James River Reserve Fleet and Hog Island. This is not expected to be an annually recurring event, although the Navy and other entities of the federal government have conducted other experiments and exercises requiring safety zones in the past.

C. Basis and Purpose

The legal basis of this rule is found in 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; and Department of Homeland Security Delegation No. 0170.1. The purpose of this rule is to promote public and maritime safety during the Navy's demonstrations involving unmanned and remote-operated crafts.

D. Discussion of the Proposed Rule

The Captain of the Port of Hampton Roads proposes to establish a safety zone within the waters of the James River, from James River Channel Lighted Buoy 11 (LLNR 11595), upstream to James River Channel Lighted Buoy 44 (LLNR 11987), bank to bank, in the vicinity of the James River Reserve Fleet and Hog Island, Virginia. This proposed safety zone will be enforced from August 6, 2014 through August 8, 2014 and August 11, 2014 through August 15, 2014 during the hours of 9:30 a.m. to 10:30 a.m., 11:30 a.m. to 12:30 p.m. and 2 p.m. to 3 p.m. each day. Access to the safety zone will be restricted during the specified dates and times.

Except for vessels authorized by the Captain of the Port or his designated representative, no person or vessel may enter or remain in the safety zone during the time frame listed. The Captain of the Port will give notice of the enforcement of the safety zone by all appropriate means to provide the widest dissemination of notice among the affected segments of the public. This will include publication in the Local Notice to Mariners and Marine Information Broadcasts.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and 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 primary impact of these regulations will be on vessels wishing to transit the affected waterways during the safety zone on the James River in the vicinity of Newport News, VA. Although these regulations prevent traffic from transiting a portion of the James River during these experiments, that restriction is limited in duration, affects only a limited area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area.

2. Impact on Small Entities

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

This proposed rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in specified waters of the James River during the outlined timeframe.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) The safety zone will only be in place for a limited duration, and (ii) before the enforcement period, maritime advisories will be issued allowing mariners to adjust their plans accordingly.

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.

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 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 INTFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires

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

8. Taking of Private Property

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

10. Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may 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 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 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 determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of a safety zone. This proposed rule is categorically excluded from further review under paragraph 34–g of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. 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 proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05–0376 to read as follows:

165.T05–0376 Safety Zone, James River; Virginia Beach, VA.

(a) *Definitions.* For the purposes of this section, Captain of the Port means the Commander, Sector Hampton Roads. *Representative* means any Coast Guard commissioned, warrant or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) *Location.* The following area is a safety zone: Specified waters of the Captain of the Port Sector Hampton Roads zone, as defined in 33 CFR 3.25–10: The James River between James River Channel Lighted Buoy 11 and James River Channel Lighted Buoy 44 from bank to bank.

(c) *Regulations.*(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Contact on scene contracting vessels via VHF channel 13 and 16 for passage instructions.

(ii) If on scene proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia at telephone number (757) 668–5555.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65 Mhz) and channel 16 (156.8 Mhz).

(d) *Enforcement period.* This section will be enforced from 9:30 a.m. to 10:30 a.m., 11:30 a.m. to 12:30 p.m. and 2 p.m. to 3 p.m. each day from August 6, 2014 through August 8, 2014 and from August 11, 2014 through August 15, 2014.

Dated: June 25, 2014.

Christopher S. Keane,

Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. 2014–15933 Filed 7–7–14; 8:45 am]

BILLING CODE 9110–04–P

Notices

Federal Register
Vol. 79, No. 130
Tuesday, July 8, 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

Office of the Chief Economist; Global Climate Change, Food Security, and the U.S. Food System

AGENCY: Office of the Chief Economist, U.S. Department of Agriculture.

ACTION: Request for nominations of expert peer reviewers.

SUMMARY: The U.S. Department of Agriculture (USDA) invites the public to nominate scientific experts to be considered as peer reviewers for the external peer review of the draft document entitled, ''Global Climate Change, Food Security, and the U.S. Food System.'' The draft document was prepared by USDA and a team of multi-institutional experts to support the National Climate Assessment. The draft document is a technical analysis of the issues, and policy considerations are outside its scope.

DATES: Responses to this notice should be submitted by 11:59 p.m. Eastern Time on August 7, 2014.

ADDRESSES: Any interested person or organization may nominate scientific experts to be considered as a peer reviewer. Self-nominations will be accepted. Nominations may be submitted electronically or by overnight/priority mail service. Nominations may not be submitted via the U.S. Postal Service. Nominations must include all nominee information outlined in Section II of the **SUPPLEMENTARY INFORMATION** section of this document.

- Email: *ccpo@oce.usda.gov*, Subject Line: Peer-Review Nomination.
- Overnight/Priority/Courier: U.S. Department of Agriculture, Climate Change Program Office, 1400 Independence Avenue SW., Room #4407, Washington, DC 20250.
- Mail: Nominations cannot be accepted via the U.S. Postal Service.

Instructions: Please see **SUPPLEMENTARY INFORMATION II** below for more information and necessary materials.

FOR FURTHER INFORMATION CONTACT: Questions concerning nomination receipt should be directed to Margaret Walsh of the Climate Change Program Office via Email: *ccpo@oce.usda.gov* or by telephone 202–720–9978.

SUPPLEMENTARY INFORMATION:

I. Information on the Draft Documents for Global Climate Change, Food Security, and the U.S. Food System

This report will be published as a USDA technical document. Publication is anticipated in the Fall of 2015. Connections between weather, climate, and food security have long been recognized. This report evaluates the possible changes to each element of the food system and food security as a result of changes in climate based on information in the peer-reviewed scientific and economic literature. Temperature and precipitation patterns, as well as changes in weed, pest, and disease prevalence are already occurring under a changing climate. These effects are expected to result in transformations in ecosystem functioning and in the economic viability of agriculture in many regions of the world, as well as in the refrigeration requirements of food products, transportation patterns, and other effects. The U.S. is currently a major food importer and exporter, and provides a safety net for many food insecure nations. Global changes both in climate and in food security are therefore likely to influence the U.S. food system through altered production decisions, the goods available to consumers, and their prices.

The *Global Climate Change, Food Security, and the U.S. Food System* report will examine how a changing climate may affect global food security today, in 25 years, and in 100 years. The report, to be published by USDA as a technical input to the National Climate Assessment, will provide a review of current literature and will report on analyses that illuminate the interactions between climate and food security. Food security is a social and economic concept, and its relationship with agriculturally relevant weather dynamics, and ultimately climate change, is complex. The report will explore these connections, discuss the implications of a changing climate for food security and food systems globally, and present implications for U.S. producers and consumers.

II. How To Submit Nominations for Peer Reviewers

Expertise Sought: USDA is seeking candidates who are nationally and/or internationally recognized scientific experts to serve as external peer reviewers. Nominees should possess and demonstrate background knowledge and experience in one or more of the following areas: Food security; food systems; agricultural production; economic access to food; food utilization; stability of food availability, access, or utilization; climate change; food production; agricultural employment; food storage; food transportation; food processing, food packaging, food retailing, food consumption and food disposal. Reviewers may not be authors or technical contributors to the draft report. Qualified experts representing a range of educational institutions, international institutions, non-governmental/non-profit organizations, private industry, independent scientific institutions, and the Federal service are desired for the final review panel. No travel will be required, but nominees must be available between September 18, 2014 and November 7, 2014 to comprehensively review the 250 (estimated)-page draft report. A form will be provided to reviewers for comments and proposed edits.

Selection Criteria: Selection criteria for individuals nominated to serve as external peer reviewers of the draft documents include the following: (1) Demonstrated expertise through relevant peer reviewed publications, (2) professional accomplishments and recognition by professional societies, (3) demonstrated ability to work constructively and effectively toward scientific consensus, and (4) willingness to commit adequate time for a thorough review of the draft document commencing in September, 2014.

Required Nominee Information: To receive full consideration, the following information should be provided in the nomination materials: (1) Contact information for the person making the nomination (self-nominations are acceptable); (2) contact information for the nominee; (3) the disciplinary and specific areas of expertise of the nominee; (4) the nominee's curriculum

vita; and (5) a biographical sketch of the nominee indicating current position, educational background, past and current research activities, recent relevant service, and other comments on the relevance of the nominee's expertise to this peer review topic. Compensation is not available, in order to ensure an unbiased review process.

Selection Process: An interagency panel will select from the available nominees according to the selection criteria presented above. An independent search for candidates to assemble a balanced group representing the expertise needed to fully evaluate the draft document may also occur. Up to eight reviewers will be selected who best provide expertise spanning the multiple areas listed above and, to the extent feasible, best provide a balance of perspectives.

Persons with disabilities who require alternate means for communication of program information (Braille, large print, audio tape, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TDD).

Joseph W. Glauber,

Chief Economist.

[FR Doc. 2014–15872 Filed 7–7–14; 8:45 am]

BILLING CODE 3410–18–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0053]

Notice of Request for Extension of Approval of an Information Collection; Pork and Poultry Products From Mexico Transiting the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the regulations for pork and poultry products from Mexico transiting the United States.

DATES: We will consider all comments that we receive on or before September 8, 2014.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0053.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS-2014-0053, 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-2014-0053* 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: For information on pork and poultry products from Mexico transiting the United States, contact Dr. Lynette Williams, Senior Staff Veterinarian, National Import Export Services, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737; (301) 851–3300. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Pork and Poultry Products From Mexico Transiting the United States.

OMB Control Number: 0579–0145.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) is authorized, among other things, to prohibit or restrict the importation and interstate movement of animals, animal products, and other articles to prevent the introduction into and dissemination within the United States of animal diseases and pests. To fulfill this mission, APHIS regulates the importation of animals and animal products into the United States. The regulations are contained in title 9, chapter 1, subchapter D, parts 91 through 99, of the Code of Federal Regulations (CFR).

The regulations in 9 CFR 94.15 allow pork and pork products and poultry carcasses, parts, and products (except eggs and egg products) that are not eligible for entry into the United States to transit the United States from specified States in Mexico, via land border ports, for export to another country.

The regulations set out conditions for the transit movements that protect against the introduction of classical swine fever or Newcastle disease into the United States. These conditions involve the use of information collection activities, including the completion of a USDA, APHIS, Veterinary Services Application for Permit to Import or Transport Controlled Material or Organisms or Vectors (Veterinary Services Form 16–3), the placement of serially numbered seals on product containers, and the forwarding of a pre-arrival notification to U.S. port personnel.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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;

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.84 hours per response.

Respondents: U.S. importers of pork and poultry products from Mexico to the United States and the Federal animal health authorities in Mexico.

Estimated annual number of respondents: 34.

Estimated annual number of responses per respondent: 1.471.

Estimated annual number of responses: 50.

Estimated total annual burden on respondents: 42 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.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 1st day of July 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–15863 Filed 7–7–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0021]

Notice of Availability of Pest Risk Analyses for the Importation of Chipilin Leaves and Edible Flowers of Chufle, Izote, and Pacaya From Guatemala Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared pest risk analyses that evaluate the risks associated with importation of chipilin leaves and edible flowers of chufle, izote, and pacaya from Guatemala into the continental United States. Based on these analyses, we have determined that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the movement of chipilin leaves and edible flowers of chufle, izote, and pacaya from Guatemala. We are making these documents available to the public for review and comment.

DATES: We will consider all comments that we receive on or before September 8, 2014.

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

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0021.*

• *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0021, 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-2014-0021* 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: Ms. Claudia Ferguson, Senior Regulatory Policy Coordinator, Regulatory Coordination and Compliance, Regulations, Permits and Manuals, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2352.

SUPPLEMENTARY INFORMATION: Under the regulations in ''Subpart–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–68, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts 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.

Section 319.56–4 contains a performance-based process for approving the importation of certain fruits and vegetables that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the phytosanitary measures listed in paragraph (b) of that section.

APHIS received a request from the national plant protection organization (NPPO) of Guatemala to allow the importation of chipilin leaves (*Crotalaria longirostrata*) and edible flowers of chufle (*Calathea macrosepala*), izote (*Yucca guatemalensis*), and pacaya (*Chamaedorea tepejilote*) into the continental United States.

As part of our evaluation of Guatemala's request, we have prepared pest risk assessments (PRAs) to identify pests of quarantine significance that could follow the pathway of importation into the continental United States from Guatemala and, based on the PRAs, risk management documents (RMDs) to identify phytosanitary measures that could be applied to the commodities to mitigate the pest risk. (The PRAs evaluating the pest risks for chipilin leaves, chufle, and pacaya were originally drafted for a market access request from El Salvador; however, these PRAs also address the risks associated with importing these commodities from Guatemala.) We have concluded that chipilin leaves and edible flowers of chufle, izote, and pacaya can be safely imported from Guatemala to the continental United States using one or more of the five designated phytosanitary measures listed in § 319.56–4(b). These measures are:

• The commodities must be imported as commercial consignments only;

• Each consignment must be accompanied by a phytosanitary certificate issued by the NPPO of Guatemala; and

• Each consignment is subject to inspection upon arrival at the port of entry to the United States.

Therefore, in accordance with § 319.56–4(c), we are announcing the availability of our PRAs and RMDs for public review and comment. The documents may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for a link to Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the PRAs and RMDs by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding the import status of chipilin leaves and edible flowers of chufle, izote, and pacaya from Guatemala in a subsequent notice. If the overall conclusions of our analyses and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will authorize the importation of chipilin leaves and edible flowers of chufle, izote, and pacaya from Guatemala into the continental United States subject to the requirements specified in the RMDs.

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.

Done in Washington, DC, this 1st day of July 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–15866 Filed 7–7–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2014–0006]

Codex Alimentarius Commission: Meeting of the Codex Committee on Processed Fruits and Vegetables

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, United States

Department of Agriculture (USDA), and the Agricultural Marketing Service (AMS), are sponsoring a public meeting on August 12, 2014. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States positions to be discussed at the 27th Session of the Codex Committee on Processed Fruits and Vegetables (CCPFV) of the Codex Alimentarius Commission (Codex), taking place in Philadelphia, Pennsylvania from September 8–12, 2014. The Under Secretary for Food Safety and the Agricultural Marketing Service recognize the importance of providing interested parties the opportunity to obtain background information on the 27th Session of CCPFV and to address items on the agenda.

DATES: The public meeting is scheduled for Tuesday, August 12, 2014, from 1:00–4:00 p.m.

ADDRESSES: The public meeting will take place at The United States Department of Agriculture (USDA), Jamie L. Whitten Building, 1400 Independence Avenue SW., Room 107–A, Washington, DC 20250. Documents related to the 27th session of CCPFV will be accessible via Internet at the following address: *http://www.codexalimentarius.org/meetings-reports/en/.*

Dorian LaFond, U.S. Delegate to the 27th session of CCPFV, invites U.S. interested parties to submit their comments electronically to the following email address: *dorian.lafond@usda.gov.*

Call In Number:

If you wish to participate in the public meeting for the 27th session of CCPFV by conference call, Please use the call in number and participant code listed below:

Call in Number: 1–888–844–9904

The participant code will be posted on the following Web page: *http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/us-codex-alimentarius/public-meetings.*

For Further Information About The 27th Session of CCPFV Contact: Dorian LaFond, Agricultural Marketing Service, Fruits and Vegetables Division, Stop 0235-Room 2086, South Building, 1400 Independence Ave. SW., Washington, DC 20250–0235; Phone: (202) 690–4944, Fax: (202) 720–0016 Email: *dorian.lafond@usda.gov.*

For Further Information About The Public Meeting Contact: Doreen Chen-Moulec, U.S. Codex Office, 1400 Independence Avenue SW., Room 4865, Washington, DC 20250; Phone: (202) 205–7760, Fax: (202) 720–3157, Email: *Doreen.Chen-Moulec@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius (Codex) was established in 1963 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in the food trade.

The CCPFV is responsible for: elaborating worldwide standards and related texts for all types of processed fruits and vegetables including but not limited to canned, dried and frozen products as well as fruit and vegetable juices and nectars.

The Committee is hosted by the United States.

Issues To Be Discussed at the Public Meeting

The following items on the Agenda for the 27th session of CCPFV will be discussed during the public meeting:

- Draft Standard for Certain Canned Fruits
- Proposed Draft Annexes on Specific Canned Fruits
- Draft Standard for Certain Quick Frozen Vegetables
- Proposed Draft Annexes on Specific Quick Frozen Vegetables
- Proposed Draft Standard for Ginseng Products
- Methods of Analysis for Canned Fruits and Quick Frozen Vegetables
- Food additive provisions in Certain Standards for Processed Fruits and Vegetables
- Discussion Paper on the Standardization of Dry and Dried Produce
- Status of work on the revision of Codex Standards for Processed Fruits and Vegetables

Each issue listed will be fully described in documents distributed, or to be distributed, by the Secretariat prior to the Meeting. Members of the public may access or request copies of these documents (see **ADDRESSES**).

Public Meeting

At the August 12, 2014 public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate for the 27th session of CCPFV, Dorian LaFond (see **ADDRESSES**). Written comments should state that they relate to activities of the 27th session of CCPFV.

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register.*

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/wps/portal/fsis/programs-and-services/email-subscription-service.* Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

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To file a written complaint of discrimination, write USDA, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410 or call (202) 720–5964 (voice and TTY). USDA is an equal opportunity provider and employer.

Done at Washington, DC, on July 2, 2014.

Mary Frances Lowe,

U.S. Manager for Codex Alimentarius.

[FR Doc. 2014–15912 Filed 7–7–14; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2014–0011]

National Advisory Committee on Meat and Poultry Inspection; Nominations for Membership

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice soliciting nominations for membership—extension of time for submission.

SUMMARY: On May 15, 2014, the U.S. Department of Agriculture (USDA) published a notice soliciting nominations for membership on the National Advisory Committee on Meat and Poultry Inspection (NACMPI). Nominations were to have been submitted by June 16, 2014. That deadline is now reopened until July 23, 2014.

DATES: Nominations and required material (See How to Apply) are due July 23, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Jane Johnson, Program Specialist, Office of Outreach, Employee Education and Training, Food Safety and Inspection Service (FSIS); Telephone (202) 690–1277; Fax (202) 690–6519; Email *jane.johnson@fsis.usda.gov*.

SUPPLEMENTARY INFORMATION: On May 15, 2014, USDA published a notice in the **Federal Register** that solicited nominations for membership on NACMPI, a body consisting of not more than 20 members, each expected to serve a 2-year term (79 FR 27857). FSIS posted a copy of the notice on its Web site at: *http://www.fsis.usda.gov/wps/wcm/connect/5fdcaf03-fb17-4614-bc26-b9992f33b602/2014-0011.pdf?MOD=AJPERES.*

How To Apply

To receive consideration for service on the NACMPI, a nominee must submit a resume and USDA Advisory Committee Membership Background Information form AD–755. Self-nominations are welcome. The resume or curriculum vitae must be limited to five one-sided pages and should include nominee's educational background and expertise. For submissions received that are more than five one-sided pages in length, only the first five pages will be reviewed. USDA Advisory Committee Membership Background Information form AD–755 is available online at: *http://fsis.usda.gov/forms/index.asp.* Nomination packages should be accompanied by a resume and AD–755 form and can be sent by mail to: Thomas Vilsack, Secretary, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250, Attn: National Advisory Committee on Meat and Poultry Inspection.

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/federal-register.*

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/subscribe.* Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

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To file a written complaint of discrimination, write USDA, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410 or call (202) 720–5964 (voice and TTY). USDA is an equal opportunity provider and employer.

Done at Washington, DC on: July 2, 2014.

Alfred V. Almanza,

Administrator.

[FR Doc. 2014–15909 Filed 7–7–14; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety Inspection Service

[Docket No. FSIS–2014–0017]

National Advisory Committee on Microbiological Criteria for Foods

AGENCY: Food Safety and Inspection Service.

ACTION: Notice Soliciting Nominations for Membership on the National Advisory Committee on Microbiological Criteria for Foods.

SUMMARY: The U.S. Department of Agriculture (USDA) is soliciting nominations for membership on the National Advisory Committee on Microbiological Criteria for Foods (NACMCF). There are 7 vacancies. Advisory Committee members serve a two-year term, renewable for two consecutive terms.

USDA is seeking NACMCF members with scientific expertise in the fields of epidemiology, food technology, microbiology (food, clinical, and predictive), toxicology, risk assessment, infectious disease, biostatistics, and other related sciences. USDA is seeking nominations for NACMCF from persons in academia, industry, State governments, and the Federal Government, as well as all other interested persons with the required experience. Please note that federally registered lobbyists cannot be considered for USDA advisory committee membership.

USDA is also seeking nominations for one individual affiliated with a consumer group to serve on the NACMCF. This member will serve as a representative member to provide a consumer viewpoint. This member will not be required to have a scientific background and will not be subject to conflict of interest review.

Members can serve on only one USDA advisory committee at a time. All nominees will undergo a USDA background check.

With the exception of the consumer representative member, any member who is not a Federal government employee will be appointed to serve as a non-compensated special government employee (SGE). SGEs will be subject to appropriate conflict of interest statutes and standards of ethical conduct.

Nominations for membership on the NACMCF must be addressed to the Secretary of USDA and accompanied by a cover letter announcing the nomination, a resume or curriculum vitae, and a completed USDA Advisory Committee Membership Background Information form AD–755 available online at: *http://www.ocio.usda.gov/forms/doc/AD-755.pdf.* A nomination may be a self-nomination or a nomination on behalf of someone else. The resume or curriculum vitae must be limited to five one-sided pages and should include educational background, expertise, and a list of select publications, if available. For submissions received that are more than five one-sided pages in length, only the first five pages will be reviewed.

DATES: All materials must be received by August 7, 2014.

ADDRESSES: Nomination packages can be sent by mail to: Tom Vilsack, Secretary, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250, Attn: National Advisory Committee on Microbiological Criteria for Foods.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Thomas-Sharp, Advisory Committee Specialist, by telephone at 202–690–6620 or by email *karen.thomas-sharp@fsis.usda.gov*.

The Food Safety and Inspection Service (FSIS) invites interested persons to submit comments on this notice. Comments may be submitted by either of the following methods: Federal eRulemaking Portal: This Web site (*http://www.regulations.gov*) provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Follow the online instructions at that site for submitting comments. Mail, including CD–ROMS and hand or courier delivered items: Send to Docket Clerk, USDA, FSIS Docket Room, Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700 between 8:30 a.m. and 4:30 p.m., Monday through Friday.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2014–0017. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov*.

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E. Street SW., Room 8–164, Washington, DC 20250–3700 between 8:30 a.m. and 4:30 p.m., Monday through Friday. All comments submitted in response to this notice, as well as background information used by FSIS in developing this document, will be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The NACMCF was established in March 1988, in response to a recommendation in a 1985 report of the National Academy of Sciences Committee on Food Protection, Subcommittee on Microbiological Criteria, ''An Evaluation of the Role of Microbiological Criteria for Foods.'' The current charter for the NACMCF and other information about the Committee are available to the public for viewing on the FSIS Web site at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/data-collection-and-reports/nacmcf.*

The Committee provides scientific advice and recommendations to the Secretary of Agriculture and the Secretary of Health and Human Services concerning the development of microbiological criteria by which the safety and wholesomeness of food can be assessed. For example, the Committee assists in the development of criteria for microorganisms that indicate whether food has been processed using good manufacturing practices.

Appointments to the Committee will be made by the Secretary of Agriculture after consultation with the Secretary of Health and Human Services to ensure that recommendations made by the Committee take into account the needs of the diverse groups served by the Department.

Given the complexity of issues, the full Committee expects to meet at least once a year by teleconference or in-person, and the meetings will be announced in the **Federal Register**. The subcommittees will meet as deemed necessary by the chairperson through working group meetings in an open public forum. Subcommittees also may meet through teleconference or by computer-based conferencing (Webinars). Subcommittees may invite technical experts to present information for consideration by the subcommittee. The subcommittee meetings will not be announced in the **Federal Register**. FSIS will announce the agenda and subcommittee working group meetings through the Constituent Update, available online at *http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/newsletters/constituent-updates.*

NACMCF holds subcommittee meetings in order to accomplish the work of NACMCF; all subcommittee work is reviewed and approved during a public meeting of the full Committee, as announced in the **Federal Register**. All data and records available to the full Committee are expected to be available to the public when the full Committee reviews and approves the work of the subcommittee.

Advisory Committee members are expected to attend all in-person meetings during the two-year term for the smooth functioning of this advisory committee. However, on rare occasions attendance through teleconferencing may be necessary.

Members must be prepared to work outside of scheduled Committee and subcommittee meetings and may be required to assist in document preparation. Committee members serve on a voluntary basis; however, travel expenses and per diem reimbursement are available.

Regarding Nominees Who Are Selected

All SGE and Federal government employee nominees who are selected must complete the Office of Government Ethics (OGE) 450 Confidential Financial Disclosure Report before rendering any advice or prior to their first meeting. With the exception of the consumer representative committee member, all committee members will be reviewed pursuant to 18 U.S.C. 208 for conflicts of interest relating to specific NACMCF work charges, and financial disclosure updates will be required annually. Members subject to financial disclosure must report any changes in financial holdings requiring additional disclosure. OGE 450 forms are available on-line at: *http://www.oge.gov/Financial-Disclosure/Confidential-Financial-Disclosure-450/OGE-Form-450/.*

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/federal-register.*

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals,

and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/subscribe.* Options range from recall notices, to export information, to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

USDA Nondiscrimination Statement

USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, or audiotape.) should contact USDA's Target Center at 202–720–2600 (voice and TTY).

To file a written complaint of discrimination, write USDA, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410 or call 202–720–5964 (voice and TTY). USDA is an equal opportunity provider and employer.

Done at Washington, DC, on July 2, 2014.

Alfred V. Almanza,

Administrator.

[FR Doc. 2014–15906 Filed 7–7–14; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1941]

Expansion of Subzone 107A, Winnebago Industries, Inc., Lake Mills, Iowa

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for '' . . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of subzones for specific uses;

Whereas, the Iowa Foreign Trade Zone Corporation, grantee of Foreign-Trade Zone 107, has made application to the Board to expand Subzone 107A on behalf of Winnebago Industries, Inc. to include a site in Lake Mills, Iowa (FTZ Docket B–28–2014, docketed 3–24–2014);

Whereas, notice inviting public comment has been given in the **Federal Register** (79 FR 17500–17501, 3–28–2014) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's memorandum, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby approves the expansion of Subzone 107A on behalf of Winnebago Industries, Inc., as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Signed at Washington, DC, this 30th day of June 2014.

Paul Piquado,

Assistant Secretary of Commerce, for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2014–15947 Filed 7–7–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–48–2014]

Foreign-Trade Zone (FTZ) 277—Western Maricopa County, Arizona; Notification of Proposed Production Activity, Maxwell Technologies, Inc., (Electrode and Capacitor Manufacturing), Peoria, Arizona

Greater Maricopa Foreign-Trade Zone, Inc., grantee of FTZ 277, submitted a notification of proposed production activity to the FTZ Board on behalf of Maxwell Technologies, Inc. (Maxwell), located in Peoria, Arizona. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 27, 2014.

A separate application for usage-driven designation at the Maxwell facility was submitted and will be processed under Section 400.38 of the Board's regulations. The facility is used for the manufacturing of electrodes and capacitors. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Maxwell from customs duty payments on the foreign status components used in export production. On its domestic sales, Maxwell would be able to choose the duty rates during customs entry procedures that apply to electrodes and capacitors (duty rate free) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: Aluminum foil and carbon powder (duty rate ranges from 4.8% to 5.3%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 18, 2014.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: July 1, 2014.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2014–15921 Filed 7–7–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1942]

Reorganization of Foreign-Trade Zone 197 Under Alternative Site Framework, Doña Ana County, New Mexico

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15

CFR 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Board of County Commissioners of Doña Ana County, New Mexico, grantee of Foreign-Trade Zone 197, submitted an application to the Board (FTZ Docket B–06–2014, docketed 01/28/2014) for authority to reorganize under the ASF with a service area of Doña Ana County, New Mexico, in and adjacent to the Santa Teresa U.S. Customs and Border Protection port of entry, and FTZ 197's existing Sites 1, 2 and 3 and renumbered Sites 4 and 5 would be categorized as magnet sites;

Whereas, notice inviting public comment was given in the **Federal Register** (79 FR 5374, 01/31/2014) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 197 under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, and to a five-year ASF sunset provision for magnet sites that would terminate authority for Sites 1, 2, 3 and 5 if not activated by June 30, 2019.

Signed at Washington, DC, this 30th day of June 2014.

Paul Piquado,

Assistant Secretary of Commerce, for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2014–15926 Filed 7–7–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Renewing Order Temporarily Denying Export Privileges

In the matter of:

3K Aviation Consulting & Logistics, a/k/a 3K Havacilik Ve Danismanlik SAN. TIC. LTD. ST., Biniciler Apt. Savas Cad. No. 18/5, Sirinyali Mah. 07160, Antalya, Turkey and Sonmez Apt. No. 4/5 1523 Sokak Sirinyali Mah. 07160 Antalya, Turkey

Huseyin Engin Borluca, Biniciler Apt. Savas Cad. No. 18/5, Sirinyali Mah. 07160, Antalya, Turkey and Sonmez Apt. No. 4/5 1523 Sokak, Sirinyali Mah. 07160, Antalya, Turkey

Pouya Airline a/k/a Pouya Air Mehrebad Airport, Tehran, Iran

Evans Meridians Ltd., Drake Chambers, 1st Floor, Yamraj Building, P.O. Box 3321, Road Town, Tortola, British Virgin Islands,

Respondents.

Pursuant to Section 766.24 of the Export Administration Regulations, 15 CFR Parts 730–774 (2014) (''EAR'' or the ''Regulations''), I hereby grant the request of the Office of Export Enforcement (''OEE'') to renew the January 3, 2014 Order Temporarily Denying the Export Privileges of 3K Aviation Consulting & Logistics, also known as 3K Havacilik Ve Danismanlik SAN. TIC. LTD. ST. (''3K Aviation''); Huseyin Engin Borluca (''Borluca''), 3K's Aviation founder and director; Pouya Airline, also known as Pouya Air; and Evans Meridians Ltd. I find that renewal of the Temporary Denial Order (''TDO'') is necessary in the public interest to prevent an imminent violation of the EAR.

I. Procedural History and Background

On January 3, 2014, I signed a TDO denying for 180 days the export privileges of 3K Aviation, Borluca, Pouya Airline, and Adaero International Trade, LLC and its managing director, Recep Sadettin Ilgin.[1] The TDO was issued *ex parte* pursuant to Section 766.24(a), and went into effect upon issuance on January 3, 2014. Copies of the TDO were sent to the respondents named in the January 3, 2014 order in accordance with Sections 766.5 and 766.24(d) of the Regulations, and on January 10, 2014, the TDO was published in the **Federal Register**. 79 FR 1,823 (Jan. 10, 2014).

On January 30, 2014, I issued an Order modifying the TDO to add Evans Meridians Ltd. (''Evans Meridians'') as an additional respondent.[2] In its modification request, OEE presented evidence demonstrating that Evans Meridians was involved with the transaction described in the TDO. Prior to issuance of the TDO on January 3, 2014, OEE did not have evidence of Evans Meridians' relationship to the items or role in the transaction.

In support of the original TDO and modification, OEE presented evidence that in December 2013, two U.S.-origin General Electric CF6 aircraft engines[3] bearing manufacturer's serial numbers (''MSNs'') 695244 and 705112, respectively, had been exported to 3K Aviation, which is located in Turkey, and that 3K Aviation was preparing to re-export the engines to Iran without the U.S. Government authorization required by Section 746.7 of the EAR. OEE had further information that Pouya Airline, an Iranian cargo airline, was scheduled to transport both engines from Turkey to Iran on January 7, 2014.

As mentioned above, OEE obtained evidence following issuance of the TDO of Evans Meridians' involvement in the attempted export or reexport of the items to Iran. OEE presented evidence as part of its request to modify the TDO that Evans Meridians appeared on documents as the purchaser and had acted as the owner of the items in connection with their transfer to 3K Aviation en route to Iran. OEE also provided evidence showing that, in violation of the TDO, Evans Meridians made and 3K Aviation accepted payment of approximately $100,000 for customs storage fees for the engines on or about January 21, 2014, that is, 18 days after the TDO issued on January 3, 2014, and 11 days after publication of the TDO on January 10, 2014. The most recent evidence available shows the two aircraft engines remain in the possession and/or control of 3K Aviation in Turkey.

The current TDO dated January 3, 2014, will expire on July 1, 2014, unless renewed on or before that date. On June 10, 2014, OEE submitted a written request for renewal of the TDO as to 3K Aviation, Borluca, Pouya Airline, and Evans Meridians. Notice of the renewal request was provided in accordance with Sections 766.5 and 766.24(d) of the Regulations. No opposition to any aspect of the requested renewal has been received.

II. TDO Renewal

A. Legal Standard

Pursuant to Section 766.24(b) of the Regulations, BIS may issue or renew an order temporarily denying a Respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an ''imminent violation'' of the Regulations. 15 CFR 766.24(b)(1). ''A violation may be 'imminent' either in time or degree of likelihood.'' 15 CFR 766.24(b)(3). BIS may show ''either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.'' *Id.* As to the likelihood of future violations, BIS may show that ''the violation under investigation or

[1] OEE did not seek renewal of the TDO as to Adaero International Trade, LLC, or its managing director, Recep Sadettin Ilgin.

[2] The January 30, 2014 Modification Order was sent in accordance with Sections 766.5 and 766.24(d) of the Regulations to the respondents named in that order and, on February 6, 2014, was published in the **Federal Register**. 79 FR 7169 (Feb. 6, 2014).

[3] The engines are items subject to the Regulations, classified under Export Control Classification Number 9A991.d, and controlled for anti-terrorism reasons.

charges is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent [.]'' *Id.* A ''lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.'' *Id.*

B. Request for Renewal

OEE's request for renewal is based upon the facts underlying the issuance of the initial TDO and modification and the evidence developed over the course of this investigation, including the evidence summarized in Section I., *supra.* The two aircraft engines remain in the possession and/or control of 3K Aviation in Turkey. In addition to the evidence discussed or summarized above, OEE's investigation also has revealed that 3K Aviation has more recently been instructed by a party, whose identity it will not disclose, to prepare the engines (MSNs 695244 and 705112) for shipment from Turkey. This evidence further supports OEE's reasonable belief of a continued risk that further attempts likely will be made to reexport the items from Turkey without U.S. Government authorization, in violation of the TDO and the Regulations.

C. Findings

I find that the evidence presented by OEE demonstrates that a violation of the Regulations is imminent in both time and degree of likelihood. Renewal of the TDO is needed to give notice to persons and companies in the United States and abroad that they should cease dealing with the Respondents in export and re-export transactions involving items subject to the EAR or other activities prohibited by the TDO. Doing so is consistent with the public interest to preclude future violations of the EAR.

It is therefore ordered:

First, that 3K AVIATION CONSULTING & LOGISTICS, a/k/a 3K HAVACILIK VE DANISMANLIK SAN. TIC. LTD. ST., Biniciler Apt. Savas Cad. No. 18/5, Sirinyali Mah. 07160, Antalya, Turkey, and Sonmez Apt. No. 4/5 1523 Sokak, Sirinyali Mah. 07160, Antalya, Turkey; HUSEYIN ENGIN BORLUCA, Biniciler Apt. Savas Cad. No. 18/5, Sirinyali Mah. 07160, Antalya, Turkey, and Sonmez Apt. No. 4/5 1523 Sokak, Sirinyali Mah. 07160, Antalya, Turkey; POUYA AIRLINE, a/k/a POUYA AIR, Mehrebad Airport, Tehran, Iran; and EVANS MERIDIANS LTD., Drake Chambers, 1st Floor, Yamraj Building, P.O. Box 3321, Road Town, Tortola, British Virgin Islands; and when acting for or on their behalf, any successors or assigns, agents, or employees (each a ''Denied Person'' and collectively the ''Denied Persons'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Export Administration Regulations (''EAR''), or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of a Denied Person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to a Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

In accordance with the provisions of Section 766.24(e) of the EAR, the Respondents may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. The Respondents may oppose such a request to renew this Order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on the Respondents and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

Dated: July 1, 2014.

David W. Mills,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2014–15875 Filed 7–7–14; 8:45 am]

BILLING CODE XXXX–XX–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–013]

Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of carbon and

certain alloy steel wire rod (steel wire rod) from the People's Republic of China (PRC). The period of investigation is January 1, 2013, through December 31, 2013. Interested parties are invited to comment on this preliminary determination.

DATES: *Effective Date:* July 8, 2014.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Reza Karamloo, Office II, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4007 and (202) 482–4470, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The scope of this investigation covers certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately circular cross section, less than 19.00 mm in actual solid cross-sectional diameter. Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; or (e) concrete reinforcing bars and rods. Also excluded are free cutting steel (also known as free machining steel) products (i.e., products that contain by weight one or more of the following elements: 0.1 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium). All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3093; 7213.91.4500, 7213.91.6000, 7213.99.0030, 7227.20.0030, 7227.20.0080, 7227.90.6010, 7227.90.6020, 7227.90.6030, and 7227.90.6035 of the HTSUS. Products entered under subheadings 7213.99.0090 and 7227.90.6090 of the HTSUS also may be included in this scope if they meet the physical description of subject merchandise above. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Methodology

The Department is conducting this countervailing duty (CVD) investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our preliminary conclusions, including our reliance, in part, on adverse facts available (AFA), *see* the Preliminary Decision Memorandum.[1] The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov,* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determination in this investigation with the final determination in the companion antidumping (AD) investigation of steel wire rod from the PRC. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than November 12, 2014, unless postponed.

Critical Circumstances

In accordance with section 703(e)(1) of the Act, we preliminarily find that critical circumstances exist with respect to certain imports of steel wire rod from the PRC. A discussion of our determination can be found in the Preliminary Decision Memorandum.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we determine separate subsidy rates for the individually-investigated producers/exporters of the subject merchandise, Benxi Beiying Iron & Steel Group Import & Export Corp., Benxi Beiying Iron & Steel (Group) Co., Ltd. and 13 affiliates (collectively Benxi Steel);[2] and Hebei Iron & Steel Co Ltd Tangshan Branch (Hebei Iron & Steel). We also calculated an all-others rate. In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an ''all-others'' rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as mandatory respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all-others rate should exclude zero and *de minimis* rates calculated for the exporters and producers individually investigated as well as rates based entirely on facts otherwise available. Where the rates for the investigated companies are all zero or *de minimis,* or based entirely on facts otherwise available, section 705(c)(5)(A)(ii) of the Act instructs the Department to establish an all-others rate using ''any reasonable method.'' For Hebei Iron & Steel, which did not participate in this investigation, we determine a rate based solely on AFA, in accordance with sections 776(a) and (b) of the Act.[3] Therefore, the only rate in this investigation that is not *de minimis* or based entirely on facts otherwise available is the rate calculated for Benxi Steel. Consequently, the rate calculated for Benxi Steel is also assigned as the ''all-others'' rate. The overall preliminary subsidy rates are summarized in the table below:

[1] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding ''Countervailing Duty Investigation of Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China: Decision Memorandum for the Preliminary Determination,'' dated concurrently with this notice (Preliminary Decision Memorandum). A list of topics discussed in the Preliminary Decision Memorandum can be found as an appendix to this notice.

[2] These 13 affiliates are: Benxi Steel Group Corporation; Beitai Iron & Steel (Group) Co., Ltd.; Benxi Northern Steel Rolling Co., Ltd.; Benxi Beifang Gaosu Steel Wire Rod Co., Ltd.; Benxi Beitai Gaosu Steel Wire Rod Co., Ltd.; Benxi Northern Steel Co., Ltd.; Benxi Beifang Second Rolling Co., Ltd.; Benxi Beitai Ductile Iron Pipes Co., Ltd.; Benxi Iron and Steel (Group) Metallurgy Co., Ltd.; Benxi Iron and Steel (Group) Real Estate Development Co., Ltd.; Benxi Iron & Steel (Group) Co., Ltd.; Bei Tai Iron and Steel Group Imp. and Exp. (Dalian) Co., Ltd.; and Bengang Steel Plate Co., Ltd.

[3] *See* the Preliminary Determination Memorandum at ''Use of Facts Otherwise Available and Adverse Inferences,'' for a full description of our methodology.

Company	Subsidy rate (percent)
Benxi Steel[4]	10.30
Hebei Iron & Steel	81.36
All Others	10.30

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of steel wire rod from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit for such entries of merchandise in the amounts indicated above. Moreover, because we preliminarily find critical circumstances exist with respect to all exporters of the subject merchandise except Benxi Steel, in accordance with section 703(e)(2)(A) of the Act, we are directing CBP to apply the suspension of liquidation to any unliquidated entries of the subject merchandise from exporters other than Benxi Steel entered, or withdrawn from warehouse for consumption, on or after the date 90 days prior to the date of publication of this notice in the **Federal Register**.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by the respondent Benxi Steel prior to making our final determination.

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with this preliminary determination within five days of its public announcement.[5] Interested parties may submit case and rebuttal briefs, as well as request a hearing.[6] For a schedule of the deadlines for filing case briefs, rebuttal briefs, and hearing requests, *see* the Preliminary Decision Memorandum.

International Trade Commission Notification

In accordance with section 703(f) of the Act, we will notify the International Trade Commission (ITC) of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: June 30, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope Comments
IV. Scope of the Investigation
V. Alignment
VI. Respondent Selection
VII. Injury Test
VIII. Application of the Countervailing Duty Law to Imports from the PRC
IX. Subsidies Valuation
X. Benchmarks and Discount Rates
XI. Use of Facts Otherwise Available and Adverse Inferences
XII. Critical Circumstances
XIII. Analysis of Programs
XIV. ITC Notification
XV. Disclosure and Public Comment
XVI. Verification
XVII. Conclusion

[FR Doc. 2014–15949 Filed 7–7–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Corporation for Travel Promotion (dba Brand USA)

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an opportunity for travel and tourism industry leaders to apply for membership on the Board of Directors of the Corporation for Travel Promotion.

SUMMARY: The Department of Commerce is currently seeking applications from travel and tourism leaders from specific industries for membership on the Board of Directors (Board) of the Corporation for Travel Promotion (dba Brand USA). The purpose of the Board is to guide the Corporation for Travel Promotion on matters relating to the promotion of the United States and communication of travel facilitation issues, among other tasks.

DATES: All applications must be received by the National Travel and Tourism Office by close of business on August 8, 2014.

ADDRESSES: Electronic applications may be sent to: *CTPBoard@trade.gov.* Written applications can be submitted to Isabel Hill, Director, National Travel and Tourism Office, U.S. Department of Commerce, Mail Stop 10003, 1401 Constitution Avenue NW., Washington, DC 20230. Telephone: 202.482.0140. Email: *Isabel.Hill@trade.gov*.

FOR FURTHER INFORMATION CONTACT: Julie Heizer, Deputy Director, Industry Relations, National Travel and Tourism Office, Mail Stop 10003, 1401 Constitution Avenue NW., Washington, DC 20230. Telephone: 202.482.4904. Email: *julie.heizer@trade.gov*.

SUPPLEMENTARY INFORMATION:

Background: The Travel Promotion Act of 2009 (TPA) was signed into law by President Obama on March 4, 2010. The TPA established the Corporation for Travel Promotion (the Corporation), as a non-profit corporation charged with the development and execution of a plan to (A) provide useful information to those interested in traveling to the United States; (B) identify and address perceptions regarding U.S. entry policies; (C) maximize economic and diplomatic benefits of travel to the United States through the use of various promotional tools; (D) ensure that international travel benefits all States and the District of Columbia, and (E) identify opportunities to promote tourism to rural and urban areas equally, including areas not traditionally visited by international travelers.

The Corporation is governed by a board of directors, consisting of 11 members with knowledge of international travel promotion and marketing, broadly representing various regions of the United States. The TPA directs the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State) to appoint the board of directors for the Corporation.

At this time, the Department will be selecting three individuals with the appropriate expertise and experience from specific sectors of the travel and tourism industry to serve on the Board as follows:

(A) 1 shall have appropriate expertise and experience in small business or retail or in associations representing that sector;

[4] The companies comprising Benxi Steel are named above.

[5] *See* 19 CFR 351.224(b).

[6] *See* 19 CFR 351.309(c)–(d), 19 CFR 351.310(c).

(B) 1 shall have appropriate expertise and experience in travel distribution services; and

(C) 1 shall have appropriate expertise and experience as an official in a state tourism office.

To be eligible for Board membership, one must have international travel and tourism marketing experience and must also be a U.S. citizen. In addition, individuals cannot be federally registered lobbyists or registered as a foreign agent under the Foreign Agents Registration Act of 1938, as amended.

Those selected for the Board must be able to meet the time and effort commitments of the Board. Priority may be given to individuals with experience as a Chief Executive Officer or President (or comparable level of responsibility) of an organization or entity in the travel and tourism sector in the United States.

Board members serve at the discretion of the Secretary of Commerce (who may remove any member of the Board for good cause). The terms of office of each member of the Board appointed by the Secretary shall be 3 years. Board members can serve a maximum of two consecutive full three-year terms. Board members are not considered Federal government employees by virtue of their service as a member of the Board and will receive no compensation from the Federal government for their participation in Board activities. Members participating in Board meetings and events may be paid actual travel expenses and per diem when away from their usual places of residence.

To be considered for membership, please provide the following:

1. Name, title, and personal resume of the individual requesting consideration, including address and phone number; and

2. A brief statement of why the person should be considered for membership on the Board. This statement should also address the individual's relevant international travel and tourism marketing experience and indicate clearly the sector or sectors enumerated above in which the individual has the requisite expertise and experience. Individuals who have the requisite expertise and experience in more than one sector can be appointed for only one of those sectors. Appointments of members to the Board will be made by the Secretary of Commerce.

Dated: July 2, 2014.

Isabel M. Hill,

Director, National Travel and Tourism Office.

[FR Doc. 2014–15908 Filed 7–7–14; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Conference on Weights and Measures 99th Annual Meeting

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The 99th Annual Meeting of the National Conference on Weights and Measures (NCWM) will be held in Detroit, Michigan, from Sunday, July 13, 2014, to Thursday, July 17, 2014. This notice contains information about significant items on the NCWM Committee agendas, but does not include all agenda items. As a result, the items are not consecutively numbered.

DATES: The meeting will be held from Sunday, July 13, 2014, to Thursday, July 17, 2014. Meeting hours are from 8:00 a.m. to 5:00 p.m. (ET) daily.

ADDRESSES: This meeting will be held at the Westin Book Cadillac Detroit located at 1114 Washington Boulevard, Detroit, MI 48226

FOR FURTHER INFORMATION CONTACT: Ms. Carol Hockert, Chief, NIST, Office of Weights and Measures, 100 Bureau Drive, Stop 2600, Gaithersburg, MD 20899–2600. You may also contact Ms. Hockert at (301) 975–5507 or by email at *carol.hockert@nist.gov*. The meeting is open to the public, but a paid registration is required. Please see NCWM Publication 16 ''Committee Reports for the 99th Annual Meeting'' (*www.ncwm.net*) to view the meeting agendas, registration forms, and hotel information.

SUPPLEMENTARY INFORMATION: Publication of this notice on the NCWM's behalf is undertaken as a public service; NIST does not endorse, approve, or recommend any of the proposals or other information contained in this notice or in the publications of the NCWM.

The NCWM is an organization of weights and measures officials of the states, counties, and cities of the United States, federal agencies, and representatives from the private sector. These meetings bring together government officials and representatives of business, industry, trade associations, and consumer organizations on subjects related to the field of weights and measures technology, administration, and enforcement. NIST participates to encourage cooperation between federal agencies and the states in the development of legal metrology requirements. NIST also promotes uniformity among the states in laws, regulations, methods, and testing equipment that comprise the regulatory control of commercial weighing and measuring devices, packaged goods, and other trade and commerce issues.

The following are brief descriptions of some of the significant agenda items that will be considered along with other issues at the NCWM Annual Meeting. Comments will be taken on these and other issues during several public comment sessions. At this stage, the items are proposals. This meeting also includes work sessions in which the Committees may also accept comments and discuss the recommendations up for adoption at the 2014 Annual Meeting. The Committees may withdraw or carryover items that need additional development.

Some of the items listed below provide notice of projects under development by groups working to develop specifications, tolerances, and other requirements for devices used in the retail sales of engine fuels and the establishment of approximate gallon and liter equivalents to diesel fuel that would be used in marketing both compressed and liquefied natural gas. Also included is a notice about efforts to clarify a method of sale for pressurized containers that utilize bag-on-valve technology. These notices are intended to make interested parties aware of these projects and additional information on each item may be given at the Annual Meeting. The notices are also presented to invite the participation of manufacturers, experts, consumers, users, and others who may be interested in these efforts.

The Specifications and Tolerances Committee (S&T Committee) will consider proposed amendments to NIST Handbook 44, ''Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices'' (HB44). Those items address weighing and measuring devices used in commercial applications, that is, devices that are used to buy from or sell to the public or used for determining the quantity of product sold among businesses. Issues on the agenda of the NCWM Laws and Regulations Committee (L&R Committee) relate to a proposal to amend the ''Uniform Method of Sale of Commodities Regulation'' and other uniform regulations in NIST Handbook 130 ''Uniform Laws and Regulations in the area of Legal Metrology and Engine Fuel Quality'' (HB130).

NCWM Specifications and Tolerances Committee

The following items are proposals to amend NIST Handbook 44:

General Code

Item 310–2 G.S.5.6. Recorded Representations

A variety of commercial weighing and measuring devices are required to provide paper receipts for consumers at the end of a transaction. These receipts provide important information for consumers (e.g., seller identity, date, product identity, and amount delivered, along with the unit price and total price of the transaction). Sometimes receipts include details of transaction that are often not readily apparent to consumers at the time of the transaction (e.g., such as when a point of sale system in a grocery store deducts for the tare weight on a package of apples). These documents help consumers understand a transaction and reconcile the transaction with billing invoices or credit card bills in the future. Detailed receipts are especially important in transactions where the customer is often not present, such as when a delivery of heating fuel is made when the consumer is not at home. Receipts describing transaction details help prevent fraud and provide valuable protections for buyers and sellers alike. This item is a proposal to revise the General Code requirement to allow sellers to offer consumers the choice of receiving receipts via digital communications such as email or online account access.

Scales

Item 320–2 User Requirement—UR.2.4. Foundations, Supports, and Clearance

The S&T Committee is recommending an amendment to this User Requirement to allow an in-motion railroad scale to use continuous rails extending throughout the approach and weighing areas. Currently use of continuous rails is not permitted under paragraph HB44–UR.2.4. that reads ''clearance shall be provided around all live parts to the extent that no contacts may result when the load-receiving element is empty, nor throughout the weighing range of the scale.'' This proposal was made in response to a request from a scale manufacturer that offers a scale that determines the weight of railcars moving over continuous rails. This railroad scale design is used in other countries where it has received approval from legal metrology officials under regulations that differ from the requirements in HB44.

Mass Flow Meters

Item 337–2 Appendix D—Definitions: Diesel Liter Equivalent (DLE) and Diesel Gallon

Equivalent (DGE) for Compressed Natural Gas and Liquefied Natural Gas; Definition of Gasoline Gallon Equivalent (GGE) and Gasoline Liter Equivalent (GLE) for Compressed Natural Gas; S.1.2. Compressed Natural Gas and Liquefied Natural Gas Dispensers; S.1.3.1.1. Compressed Natural Gas Used as an Engine Fuel; S.1.3.1.2. Liquefied Natural Gas Used as an Engine Fuel; S.5.2. Marking of Diesel and Gasoline Volume Equivalent Conversion Factor; Compressed Natural Gas, S.5.3. Marking of Diesel Volume Equivalent Conversion Factor; Liquefied Natural Gas, UR.3.1.1. Marking of Equivalent Conversion Factor for Compressed Natural Gas, UR.3.1.2. Marking of Equivalent Conversion Factor for Liquefied Natural Gas, and UR.3.8. Return of Product to Storage, Retail Compressed Natural Gas and Liquefied Natural Gas.

In 1994, in response to a request from a coalition of natural gas providers and subsequent fuel study, the NCWM adopted conversion factors for use in converting a delivery of Compressed Natural Gas (CNG) vehicle fuel to an equivalent liter or gallon of gasoline. At that time those equivalents were based on averaged regional CNG energy values and the approximate lower heating value for a gallon of gasoline (indolene). The equivalent values were recommended by the CNG industry to promote greater use of CNG as a vehicle fuel. The ''Gasoline Liter/Gallon Equivalents'' were developed as a means to facilitate value comparisons between gasoline and CNG and to permit fuel economy comparisons. In a number of instances since the adoption of these ''equivalents,'' some state weights and measures officials and several CNG providers have expressed the concern that the energy equivalent values adopted in 1994 do not provide an accurate estimate of the energy content of natural gas. Another concern with the 1994 ''equivalents'' is that the specified values have not been reevaluated to ensure that they correlate with the energy content of today's gasoline and gasoline-oxygenated blends or other alternative fuels such as E85. Consequently, many weights and measures officials are reluctant to consider adding more energy ''equivalency'' values for additional fuels unless some mechanism is established to ensure that all of these energy equivalency values are routinely updated to reflect the current energy content (i.e., Joules/BTUs) of gasoline and diesel fuels and various blends of these products with alternative fuels. The need for such a mechanism is important considering the many blends of fuels that are currently in the marketplace and others that are anticipated to enter the fuel arena in the future (e.g., 15% or higher ethanol blends with gasoline and biodiesel blends greater than 5%). The proposals would establish new equivalents identified as the ''diesel liter equivalent (DLE)'' and a ''diesel gallon equivalent (DGE)'' for both CNG and Liquefied Natural Gas (LNG) that correspond to specific mass values for these units when they are used in retail vehicle refueling applications. The proponents of these proposals indicate that the purpose of these units is to educate consumers to the fact that a DLE or DGE of ''compressed'' or ''liquefied'' natural gas would contain approximately the same amount of energy as a liter or gallon of diesel fuel. Many sellers of these products believe that adoption and use of the DLE or DGE in retail fuel sales would make it easier for consumers to make price, value, and fuel economy comparisons between an energy based ''equivalent'' liter or gallon of compressed natural gas and diesel fuel. See also Items 337–3, and 337–5 on the Specifications and Tolerances Committee Agenda and Items 232–3 and Item 237–2 on the Laws and Regulations Committee Agenda regarding proposed methods of sale for the DLE and DGE.

The Clean Vehicle Education Foundation (CVEF) submitted proposals in 2012 and 2013 for rule changes to allow compressed natural gas (CNG) and liquefied natural gas (LNG) to be sold as a retail engine fuel in liter or gallon equivalent units. The NCWM established the Natural Gas Steering Committee (NGSC) in July 2013 to address concerns over the proliferation of equivalent units and resolve other technical issues involved with the proposed changes to HB44 and HB130.

At the January 2014 NCWM Interim Meeting, the Chairman of the NGSC advised the S&T and L&R Committees that the NGSC planned to consolidate the proposals to modify HB44 and HB130 and that the NGSC supported recognition of the new diesel energy equivalent units for both compressed and liquefied natural gas. The NGSC completed its work in March 2014 and its recommendations are included in NCWM Publication 16 as voting items for adoption at the July 2014 NCWM Annual Meeting.

NCWM Laws and Regulations Committee (L & R Committee)

The following item is a proposal to amend NIST Handbook 130:

NIST Handbook 130—Uniform Regulation for the Method of Sale of Commodities

Item 231–2 Section 10.3. Aerosols and Similar Pressurized Containers

This item includes a proposal to clarify that a current method of sale applies to aerosol containers, and containers that utilize Bag-on-Valve (BOV) technology and other self-pressurized packages that have their net content declarations presented in terms of fluid volume. Currently, under the Uniform Packaging and Labeling Regulation (UPLR) adopted by many states and under regulations issued by both the Food and Drug Administration and the Federal Trade Commission, products sold in aerosol or similar pressurized containers must be offered for sale by net weight. BOV packaging, which has been in the marketplace for many years, is used to sell the same products sold in aerosol containers (e.g., sunscreen, wound wash, shaving cream, and car-care products). Because BOV containers (with their net contents declared in fluid volume) are used to sell the same type of products dispensed from aerosol containers (with their net contents declared by weight), consumers are unable to make value comparisons between similar products. The L&R Committee proposal will allow the companies which currently label containers by volume in conflict with the existing method of sale at least three years (the deadline for compliance is January 1, 2018) to bring their labeling into compliance.

Dated: June 26, 2014.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2014–15798 Filed 7–7–14; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD323

Fisheries of the South Atlantic; Southeast Data, Assessment and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 41 Data Workshop for South Atlantic red snapper (*Lutjanus campechanus*) and gray triggerfish (*Balistes capriscus*).

SUMMARY: The SEDAR 41 assessments of the South Atlantic stocks of red snapper and gray triggerfish will consist of: A Data Workshop; an Assessment Workshop; and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 41 Data Workshop will be held on August 4, 2014, from 1 p.m. until 6 p.m.; August 5–7, 2014, from 8 a.m. until 6 p.m.; and August 8, 2014, from 8 a.m. until 1 p.m.

The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from, or completed prior to the time established by this notice. The Assessment Workshop and Review Workshop dates and times will publish in a subsequent issue in the **Federal Register**. See **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The SEDAR 41 Data Workshop will be held at the Charleston Marriott, 170 Lockwood Boulevard, Charleston, SC 29403; telephone: (843) 732–3000.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julia Byrd, SEDAR Coordinator, phone: (843) 571–4366; email: *julia.byrd@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three step process including: (1) Data Workshop; (2) Assessment Process utilizing workshops and webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, the Atlantic and Gulf States Marine Fisheries Commissions and NOAA Fisheries Southeast Regional Office and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

An assessment data set and associated documentation will be developed during the Data Workshop. Participants will evaluate all available data and select appropriate sources for providing information on life history characteristics, catch statistics, discard estimates, length and age composition, and fishery independent and fishery dependent measures of stock abundance, as specified in the Terms of Reference for the workshop.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SEDAR office (see **ADDRESSES**) at least 10 business days prior to the meetings.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: July 2, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–15850 Filed 7–7–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD141

Takes of Marine Mammals Incidental To Specified Activities; Marine Geophysical Survey in the Northwest Atlantic Ocean Offshore New Jersey, July to August 2014

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) implementing regulations, we hereby give notice that we have issued an Incidental Harassment Authorization (Authorization) to Lamont-Doherty Earth Observatory (Observatory), a component of Columbia University, in collaboration with the National Science Foundation (Foundation), to take marine mammals, by harassment, incidental to conducting a marine geophysical (seismic) survey in the northwest Atlantic Ocean off the New Jersey coast July through August, 2014.

DATES: Effective July 1, 2014, through August 17, 2014.

ADDRESSES: A copy of the final Authorization and application are available by writing 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, by telephoning the contacts listed here, or by visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

The Foundation has prepared an Environmental Assessment (EA) and in accordance with the National Environmental Policy Act (NEPA) and the regulations published by the Council on Environmental Quality (CEQ). The EA titled, ''Environmental Assessment of a Marine Geophysical Survey by the R/V *Marcus G. Langseth* in the Atlantic Ocean off New Jersey, June–July 2014,'' was prepared by LGL, Ltd. environmental research associates, on behalf of the Foundation and the Observatory. We have also prepared an EA titled, ''Issuance of an Incidental Harassment Authorization to Lamont Doherty Earth Observatory to Take Marine Mammals by Harassment Incidental to a Marine Geophysical Survey in the Northwest Atlantic Ocean, June–August, 2014,'' and FONSI in accordance with NEPA and NOAA Administrative Order 216–6. To obtain an electronic copy of these documents, write to the previously mentioned address, telephone the contact listed here (see **FOR FURTHER INFORMATION CONTACT**), or download the files at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

NMFS also issued a Biological Opinion under section 7 of the Endangered Species Act (ESA) to evaluate the effects of the survey and Authorization on marine species listed as threatened and endangered. The Biological Opinion is available online at: *http://www.nmfs.noaa.gov/pr/consultations/opinions.htm.*

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, NMFS, Office of Protected Resources, NMFS (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specific geographic region if, after NMFS provides a notice of a proposed authorization to the public for review and comment: (1) NMFS makes certain findings; and (2) the taking is limited to harassment.

Through the authority delegated by the Secretary, NMFS (hereinafter we) shall grant an Authorization for the incidental taking of small numbers of marine mammals if we find that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). The Authorization must also prescribe, where applicable, the permissible methods of taking by harassment pursuant to such activity; other means of effecting the least practicable adverse impact on the species or stock and its habitat, and on the availability of such species or stock for taking for subsistence uses (where applicable); the measures that we determine are necessary to ensure no unmitigable adverse impact on the availability for the species or stock for taking for subsistence purposes (where applicable); and requirements pertaining to the mitigation, monitoring and reporting of such taking. We have 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 17, 2013, we received an application from the Observatory requesting an Authorization for the take of marine mammals, incidental to conducting a seismic survey in the northwest Atlantic Ocean from June through July, 2014. We determined the application complete and adequate on February 3, 2014 and published a notice of proposed Authorization on March 17, 2014 (79 FR 14779). The notice afforded the public a 30-day comment period on our proposed MMPA Authorization. In response to a request by several environmental organizations and others, we extended the comment period for an additional 30 days. (79 FR 19580, April 9, 2014).

The Observatory, with research funding from the Foundation, plans to conduct a high-energy, 3-dimensional (3–D) seismic survey using the R/V *Marcus G. Langseth* (*Langseth*) in the northwest Atlantic Ocean approximately 25 to 85 kilometers (km) (15.5 to 52.8 miles (mi)) off the New Jersey coast for approximately 30 days during the period between July 1, 2014 through August 17, 2014. The proposed activity will generate increased underwater sound during the operation of the seismic airgun arrays. Thus, we anticipate that take, by Level B harassment only, of 27 species of marine mammals could result from the specified activity.

Description of the Specified Activity

Overview

The Observatory plans to use one source vessel, the *Langseth,* two pairs of seismic airgun subarrays configured with four or eight airguns as the energy source and four hydrophone streamers

to conduct the conventional seismic survey. In addition to the airgun operations, the Observatory intends to operate a multibeam echosounder, a sub-bottom profiler, and acoustic Doppler current profiler continuously throughout the survey. However, they would not operate the multibeam echosounder, sub-bottom profiler, and acoustic Doppler current profiler during transits to and from the survey area.

The purpose of the research seismic survey is to collect and analyze data on the arrangement of sediments deposited during times of changing global sea level from roughly 60 million years ago to present. The 3–D survey would investigate features such as river valleys cut into coastal plain sediments now buried under a kilometer of younger sediment and flooded by today's ocean.

Dates and Duration

The Observatory proposes to conduct the research seismic survey from the period of end of June through July 2014. The study (e.g., equipment testing, startup, line changes, repeat coverage of any areas, and equipment recovery) would include approximately 720 hours of airgun operations (i.e., 30 days over 24 hours). Some minor deviation from the Observatory's requested dates is possible, depending on logistics, weather conditions, and the need to repeat some lines if data quality is substandard. Thus, this Authorization will be effective from July 1, 2014 through August 17, 2014.

Specified Geographic Area

The Observatory proposes to conduct the seismic survey in the Atlantic Ocean, approximately 25 to 85 km (15.5 to 52.8 mi) off the coast of New Jersey between approximately 39.3–39.7° N and approximately 73.2–73.8° W (see Figure 1). Water depths in the survey area are approximately 30 to 75 m (98.4 to 246 feet (ft)). They would conduct the proposed survey outside of New Jersey state waters and within the U.S. Exclusive Economic Zone.

Detailed Description of Activities

Transit Activities

During the effective dates of the Authorization, the *Langseth* would depart from New York and would transit for approximately eight hours to the survey area. Setup, deployment, and streamer ballasting would occur over approximately three days. At the conclusion of the 30-day survey, the *Langseth* would take approximately one day to retrieve gear and would return to New Jersey.

Vessel Specifications

We outlined the vessel's specifications in the notice of proposed Authorization (79 FR 14779, March 17, 2014). This description is not repeated here as the vessel's specifications have not changed between the proposed Authorization and our final Authorization.

Data Acquisition Activities

We outlined the details regarding the Observatory's data acquisition activities using the airguns, multibeam echosounder, sub-bottom profiler, and acoustic Doppler current profiler in the notice of proposed Authorization (79 FR 14779, March 17, 2014). After the close of the public comment period, the Observatory informed us that they would not operate the multibeam echosounder, sub-bottom profiler, and acoustic Doppler current profiler during transits to and from the survey area.

Other than this modification, there has been no change to the Observatory's data acquisition activities as described in the proposed Authorization. For a more detailed description of the authorized action, including vessel and acoustic source specifications, metrics, characteristics of airgun pulses, predicted sound levels of airguns, etc., we refer the reader to the notice of proposed Authorization (79 FR 14779, March 17, 2014) and associated documents referenced above this section.

Comments and Responses

We published a notice of receipt of the Observatory's application and proposed Authorization in the **Federal Register** on March 17, 2014 (79 FR 14779). During the 60-day public comment period, we received comments from two private citizens and the following organizations: The Marine Mammal Commission (Commission); Clean Ocean Action, Oceana, The Ocean Foundation, Center for Biological Diversity, Hands Across the Sand, Save Barnegat Bay, Clean Water Action, CWA Local 1075, and Paddleout.org—collectively known as COA *et al.;* U.S. Senator Cory A. Booker; New Jersey Beach Buggy Association; Marine Trades Association of New Jersey; Marcus Langseth Science Oversight Committee (MLSOC); and the State of New Jersey Department of Environmental Protection (NJDEP).

In addition, the following organizations submitted a request for a 60-day extension to the public comment period and a public hearing prior to the conclusion of the public comment period. They are: Clean Ocean Action; Oceana, The Ocean Foundation, Natural Resources Defense Council, Center for Biological Diversity, Alaska Inter-Tribal Council, International Game Fish Association, Cetacean Society International, Whale and Dolphin Action League, Surfrider Foundation, League of Women Voters of New Jersey, American Littoral Society, Hands Across the Sand, New Jersey Sierra Club, Fisherman's Dock Cooperative, Natural Resources Protective Association, Surfer's Environmental Alliance, WATERSPIRIT, SandyHook SeaLife Foundation, Lenape Nation PA, CWA Local 1075, Paddleout.org, reEarth, Clean Water Action, Association of NJ Environmental Commissions, Asbury Park Fishing Club, Save Barnegat Bay, and concerned citizens.

These comments are online at: *http://www.nmfs.noaa.gov/pr/pdfs/permits/nsfldeo_comments2014.pdf.*

We address any comments specific to the Observatory's application that address the statutory and regulatory requirements or findings that we must make in order to issue an Authorization. Following is a summary of the public comments and our responses.

Effects Analyses

Comment 1: The Commission expressed concerns regarding the Observatory's use of a ray trace-based model to estimate exclusion and buffer zones and the numbers of takes for NSF-funded geophysical research. They stated that the model is not conservative because it assumes spherical spreading, a constant sound speed, and no bottom interactions instead of incorporating site-specific environmental characteristics (e.g., sound speed profiles, refraction, bathymetry/water depth, sediment properties/bottom loss, or absorption coefficients).

Response: We acknowledge the Commission's concerns about the Observatory's current modeling approach for estimating exclusion and buffer zones and also acknowledge that the Observatory did not incorporate site-specific sound speed profiles, bathymetry, and sediment characteristics of the research area within the current approach to estimate those zones for this Authorization. However, as described below, empirical data collected at two different sites and compared against model predictions indicate that other facets of the model (besides the site-specific factors cited above) do result in a conservative estimate of exposures in the cases tested.

The Observatory's application (LGL, 2013) and Appendix A in the

Foundation's EA (NSF, 2014) describe the approach to establishing mitigation exclusion and buffer zones. In summary, the Observatory acquired field measurements for several array configurations at shallow- and deep-water depths during acoustic verification studies conducted in the northern Gulf of Mexico in 2003 (Tolstoy *et al.,* 2004) and in 2007 and 2008 (Tolstoy *et al.,* 2009). Based on the empirical data from those studies, the Observatory developed a sound propagation modeling approach that conservatively predicts received sound levels as a function of distance from a particular airgun array configuration in deep water. In 2010, the Observatory assessed the accuracy of their modeling approach by comparing the sound levels of the field measurements in the Gulf of Mexico study to their model predictions (Diebold *et al.,* 2010). They reported that the observed sound levels from the field measurements fell almost entirely below the predicted mitigation radii curve for deep water (Diebold *et al.,* 2010). Based on this information, the Observatory has shown that their model can reliably estimate mitigation radii in deep water. We acknowledge that the Observatory based their modeling approach on the environmental variability present in the Gulf of Mexico, but the model has limited ability to capture the variability resulting from site-specific factors present in the marine environment offshore New Jersey. In light of these limitations, we have recommended a more conservative approach to mitigation specifically tailored to this survey and we describe it later in this section.

We note that the Observatory used a similar process to develop mitigation radii (i.e., exclusion and buffer zones) for a shallow-water seismic survey in the northeast Pacific Ocean offshore Washington in 2012. The Observatory conducted the shallow-water survey using an airgun configuration that was approximately 78 or 89 percent larger than the total discharge volumes proposed for this shallow-water survey (i.e., 6,600 cubic inches (in^3) compared to 700 in^3 or 1,400 in^3) and recorded the received sound levels on the shelf and slope off Washington using the *Langseth's* 8-km hydrophone streamer. Crone *et al.* (2013) analyzed those received sound levels from the 2012 survey and reported that the actual distances for the exclusion and buffer zones were two to three times smaller than what the Observatory's modeling approach predicted. While the results confirm bathymetry's role in sound propagation, Crone *et al.* (2013) were able to confirm that the empirical measurements from the Gulf of Mexico calibration survey (the same measurements used to inform the Observatory's modeling approach for this survey in shallow water) overestimated the size of the exclusion and buffer zones for the shallow-water 2012 survey off Washington and were thus precautionary, in that particular case, for effecting the least practicable impact marine mammals. The Observatory presented these preliminary results in a poster session at the American Geophysical Union fall meeting in December 2013 (Crone *et al.,* 2013; available at: *http://berna.ldeo.columbia.edu/agu2013/agu2013.pdf*) and they anticipate publishing their final analyses in a peer-reviewed journal publication later this year.

At present, the Observatory cannot adjust their modeling methodology to add the environmental and site-specific parameters as requested by the Commission. We are working with the Foundation to address the issue of requiring site-specific information to further inform the analysis and development of mitigation measures in coastal areas for future surveys with the Observatory and the Foundation, and the Foundation has been exploring different approaches in collaboration with the Observatory and other academic institutions with whom they collaborate. We will continue to work with the Observatory, the Foundation, and the Commission on verifying the accuracy of their modeling approach. When available, we will review and consider the final results from the Observatory's expected publication (Crone *et al.,* in prep.) and how they reflect on the Observatory's model.

For this survey, the Observatory developed the exclusion and buffer zones based on the conservative deep-water calibration results and empirically-derived shallow water exclusion zones from Diebold *et al.* (2010). The Observatory's current modeling approach represents the best available information to reach our determinations for the Authorization. As described above, the comparisons of the Observatory's model results and the field data collected in the Gulf of Mexico and Washington illustrate a degree of conservativeness built into the Observatory's model for deep water, which would be expected to offset some of the limited ability of the model to capture the variability resulting from site-specific factors, especially in shallow water. However, in support of effecting the least practicable adverse impact, NMFS explored and included a requirement in this Authorization for the use of an enlarged exclusion zone specifically for this survey, which is expected to further offset the limitations of the model and afford additional protection to marine mammals from potential injury. In our analysis of whether to require additional mitigation, NMFS considers both the expected reduction in impacts to marine mammals that measure(s) are expected to effect, as well as the practicability of the measure for applicant implementation, and in the case of this particular survey, the balance of these factors supported the enlargement of the exclusion zone. For this survey, NMFS will require the Observatory to enlarge the radius of 180-dB and 190-dB exclusion zones for all airgun array configurations by a factor of 50 percent, which results in more than doubling the area within the exclusion zone.

Comment 2: The Commission notes that the Foundation and the U.S. Geological Survey (USGS) previously modeled sound propagation under various environmental conditions in their PEIS. They further state that the Observatory and the Foundation (in cooperation with Pacific Gas and Electric Company) used a similar modeling approach in the recent incidental harassment authorization application and associated environmental assessment for a geophysical survey of Diablo Canyon in California (77 FR 58256, September 19, 2012). The Commission states that these examples indicate that these agencies and other organizations are able to implement the recommended modeling approach, if required by NMFS. The Commission recommends that we should hold the Observatory, the Foundation, and other related agencies to the same standard. The Commission also recommends that we require the Observatory to re-estimate the proposed zones and take estimates using site-specific parameters (including at least sound speed profiles, bathymetry, and sediment characteristics) for the proposed Authorization. They also recommend that we require the same for all future incidental harassment authorization requests submitted by the Observatory, the Foundation, and other related entities.

Response: There are many different modeling products and services commercially available that applicants could potentially use in developing their take estimates and analyses for MMPA authorizations. These different models range widely in cost, complexity, and the number of specific factors that can be considered in any

particular modeling run. NMFS does not, and does not believe that it is appropriate to, prescribe the use of any particular modeling package. Rather, each applicant's approach is evaluated independently in the context of their activity. In cases where simpler models are used and there is concern that a model might not capture the variability across a parameter(s) that is not represented in the model, conservative choices are often made at certain decision points in the model to help ensure that modeled estimates are buffered in a manner that would not result in the agency underestimating the number of takes or extent of effects. In this case, results have shown that the Observatory's model reliably and conservatively estimates mitigation radii in deep water. First, the observed sound levels from the field measurements fell almost entirely below the Observatory's estimated mitigation radii for deep water (Diebold *et al.,* 2010). These conservative mitigation radii are the foundation for the Observatory's shallow water radii used in this survey. Second, the Observatory's analysis of measured shallow water radii during the 2012 survey show that the Observatory's modeled radii for the Washington survey overestimated the measured 160-dB radii by approximately 10 km (6.2 mi) and overestimated the measured 180-dB radii by approximately 500 m (1,640 ft) (Crone *et al.,* 2013). Based on Crone *et al.*'s (2013) preliminary findings, we find that the Observatory's shallow-water radii based on the Gulf of Mexico calibration study were larger (i.e., more conservative) for that particular study. Based on these empirical data, which illustrate the model's conservative exposure estimates across two sites, NMFS finds that the Observatory's model effectively estimates sound exposures. However, as described in the response above, for this survey we have increased the 180-dB and 190-db exclusion zone radii for this survey by a factor of 50 percent (equivalent to approximately a 3-dB difference in received level at the zone edge) to be additionally precautionary.

Comment 3: The Commission questioned the Observatory's use of a new correction factor (or a scaling approach) to generate exclusion zones for shallow-water for this proposed survey. They noted that for previous applications, the Observatory applied correction factors (based on the ratio of modeled deep-water radii to modeled shallow water radii reported in Tolstoy *et al.* (2009)) to derive exclusion zones for shallow-water. The Commission was unsure why the Observatory would assume that calculating a ratio of modeled zones in deep water would be appropriate to equate to empirical zones in shallow water, stating that the two quantities were not comparable.

Response: The Observatory has improved its methodology for deriving shallow-water mitigation zones based on the approach described in Comment 1. To clarify, the Observatory did not model shallow water exclusion zones proposed for this study, but used a scaling approach based upon the conservative deep-water model to derive appropriate scaling factors for shallow water zones. To clarify part of the Commission's comment in short, the Observatory did not equate the zones in deep water to the zones in shallow water (which would not be appropriate, as these could vary greatly compared to one another based on the environment). Rather, they used the ratio of the size of safety zones of a large airgun in deep water compared to this airgun array in deep water to determine the size of the safety zone for this airgun in shallow water, given the known zone for the same large airgun in shallow water. We believe that this is a rational method for best using the available information to estimate the safety zones.

Following is a brief summary of the Observatory's process used to predict the mitigation exclusion zones (shown in Table A1 of the Foundation's EA) for the survey.

1. For an 18-gun, 3,300-in^3 array towed at a depth of 6 m (19.6 ft), the model predicted that the 160-, 180-, and 190-dB isopleths would result in radii (i.e., exclusion zones) of 4,500, 450, and 142 m (2.8, 0.3, and 0.1 mi) respectively, in deep water (Figure A3 in Appendix A of the Foundation's EA). The empirical data for the airgun configurations indicated that, for deep water, the Observatory's modeling approach overestimated the received sound levels of field measurements at a given distance (Diebold, *et al.,* 2010).

2. Using the direct-arrival modeling approach, the Observatory modeled the exclusion zones for the proposed suite of array configurations for this study in deep water (Figures A4–A8 in Appendix A of the Foundation's EA).

3. The Gulf of Mexico calibration study did not obtain measurements for the smaller array (i.e., 700 in^3 or 1,400 in^3) proposed for use in this survey. To account for this difference, the Observatory developed a scaling factor to extrapolate shallow-water exclusion zones for the proposed study (NSF, 2014).

4. The Observatory calculated the ratios (i.e., scaling factors) between the model's deep-water exclusion zones for the 18-gun, 3,300-in^3 array, and the model's deep-water exclusion zones for the study's various airgun configurations. This is an appropriate comparison of the sound exposure level outputs between two different types of airgun configurations in deep water.

5. To calculate the exclusion zones for the study's various array configurations in shallow water, the Observatory multiplied the scaling factors by the empirically-derived shallow water exclusion zones reported for an 18-gun, 3,300-in^3 array in the Gulf of Mexico (Diebold, *et al.,* 2010).

Comment 4: The Commission stated that the Observatory's latest modeling approach for predicting the mitigation exclusion zones would reduce the size of the applicable zones used in previous surveys and disagrees with the Observatory's derivation of scaling factors based on the modeled results in deep water.

Response: See our response to Comment 3. The Observatory's new approach compares the sound exposure level (SEL) outputs between two different types of airgun configurations in deep water. This approach is more rigorous than the Observatory's previous approach and allows them to derive scaling relationships between the arrays and extrapolate empirical measurements or model outputs to different array sizes and tow depths. For example, if an Airgun Source A produces sound energy that is three times greater than Airgun Source B in deep water, it is reasonable to infer that the shallow-water mitigation zones for Airgun Source A would be three times larger than the shallow-water mitigation zones for Airgun Source B. The Observatory believes that their new approach of deriving scaling factors is a more rigorous approach to extrapolate existing empirical measurements for shallow water. Because their model does not incorporate environmental parameters, this is the best available information to extrapolate the in situ shallow water measurements to array sizes and array tow depths without field verification studies (Crone *et al.,* 2013; Crone *et. al.,* in press; Barton and Diebold, 2006). Also, as noted above and specific to this survey, we have enlarged the exclusion zone.

Comment 5: The Commission requests that the Observatory test and verify the use of their model under the specific environmental conditions they would encounter with each survey because the environmental conditions in waters of the continental shelf off New Jersey indicate a surface duct at 50 m (164 ft), in-water refraction, and bathymetry and sediment characteristics that reflect

sound (NSF 2011 PEIS, Appendix B, Figure B7). They note that the Observatory did not include these site-specific parameters in their modeling approach.

Response: The Observatory's modeling approach consists of a free-field model that does not have the capability to incorporate fine-resolution environmental variation. The Foundation's 2011 Programmatic Environmental Impact Statement/ Overseas Environmental Impact Statement for Marine Seismic Research Funded by the National Science Foundation or Conducted by the U.S. Geological Survey (PEIS) (June, 2011) presented several representative survey locations (i.e., detailed analysis areas or DAAs) for sound propagation modeling that incorporated these fine-scale environmental parameters. They modeled a DAA offshore from New Jersey over the Hudson canyon covering an area with depths varying from less than 328 ft (100 m) to greater than 4,920 ft (1,500 m). Although the PEIS included modeling for the northwest Atlantic DAA, the Foundation's model was for a different energy source and survey parameters (e.g. survey water depths and source tow depth) than what the Observatory proposed for the current survey. Thus, the Foundation prepared a site-specific EA to account for the different energy source and airgun configurations for the survey and used the Observatory's model which does not consider other attenuation mechanisms such as low-frequency cutoff and absorption.

With respect to the 50-m (164 ft) surface duct identified in the Foundation's PEIS, the Observatory identified the potential surface duct feature in its modeling effort, but concluded the feature was not applicable for this survey because the activities would occur in waters less than 50 m (164 ft). For the reasons described below, NMFS concurs with the Foundation's assessment that the presence of such a surface duct would have little effect on the exposure estimates for this survey.

In light of this information, we considered that the water column in the survey area is a mixed layer with no surface duct. Although the existence of a surface duct could enhance sound propagation due to acoustic energy trapped within this narrow channel, the condition for such propagation is highly dependent on frequency (or wavelength) of the propagating sound. The acoustic waves moving through the sound channel are typically those with shorter wavelength (i.e., higher frequency) in relation to the depth of the channel or water column.

An equation by Jensen *et al.,* (2011) shows that the relationship between the propagating wave and medium thickness of the duct: $F_0 \cong 1500/0.008\ D^{3/2}$, where F_0 is the minimum frequency (or cutoff frequency) in Hz of the acoustic wave being able to effectively propagate through the duct or water column, and D is the thickness in meters of the surface duct. As the equation indicates, the surface duct ceases to trap energy when the wavelength of the sound becomes too large or frequency becomes too low.

In the case of Observatory's activity, the majority of the source energy is within the first two lobes below 333 Hz, with only a fraction of acoustic energy that lies within the remaining third and fourth lobes (330–667 Hz). Based on the above equation, thickness of the duct required for effective propagation of the sound wave first two lobes would be 68.6 m (225 ft). Although acoustic energy within the third and fourth lobes would be trapped in the surface duct and propagated to greater distances, they represent only a fraction of the total acoustic energy for this survey.

Comment 6: The Commission discussed the outcomes of a March 2013 meeting with the Observatory and the Foundation where Observatory staff indicated the possibility of comparing their model to the hydrophone field measurements collected during previous surveys in environmental conditions other than those in the Gulf of Mexico (i.e., deep and intermediate waters in cold water environments that may have surface ducting conditions, shallow-water environments, etc.). The Commission understands that the Observatory is analyzing hydrophone data with field measurements from waters off Washington to compare to the estimated exclusion and buffer zones, but questioned why they did not use that method for the current proposed authorization. The Commission recommended in a June 24, 2013 letter that the Observatory should make those comparisons prior to the submittal of applications for geophysical surveys conducted in 2014.

Response: We refer the Commission to our responses to Comments 1 and 3 discussing their approach to developing mitigation zones and their analyses of hydrophone data collected for the 2012 Washington survey. Results indicated that the Observatory's shallow-water radii based on the Gulf of Mexico calibration study are larger (i.e., more conservative) compared to the smaller empirical distances measured by Crone *et al.* (2013) for the Washington survey area.

We are currently working with the Foundation to address the issue of including site-specific parameters to account for environmental variation in coastal areas for future surveys. Work is ongoing in exploring approaches for including this information in future surveys conducted in coastal areas and we will consult with the Commission on these activities before the next survey.

Comment 7: The Commission acknowledges that the Observatory calculated take for marine mammals by multiplying the total ensonified area of 2,502 km^2 (which includes a 25 percent contingency) by the applicable densities for marine mammals in the survey area. However, they state that the Observatory should determine the total ensonified area within a given day and then multiply that factor by the number of survey days (30) and the applicable densities because the survey consists of 4,900 km of tracklines (spaced 150 m [490 ft] apart) in an area of 12 by 50 km (7.4 by 31 miles). They contend that the Observatory's current method underestimates the number of marine mammals potentially taken and recommend that we require the Observatory to estimate the numbers of marine mammals potentially taken based on the total ensonified area in any given day, multiplied by 30 days, and the applicable densities.

Response: The Observatory modeled the number of different individuals that could be exposed to airgun sounds with received levels greater than or equal to 160 dB re: 1 µPa on one or more occasions by multiplying the total marine area that would be within the 160-dB radius around the operating seismic source on at least one occasion (2,502 km^2 which includes a 25 percent contingency factor to account for repeated tracklines), along with the expected density of animals in the area. The Observatory acknowledged in their application that this approach does not allow for turnover in the mammal populations in the area during the course of the survey as the actual number of individuals exposed may be underestimated because it does not account for new animals entering or passing through the ensonification area (NSF, 2014), however, the Observatory suggested that the 25 percent contingency factor would cover any potential underestimate of individuals.

The Observatory also considered the likelihood of re-exposure during the survey in the Foundation's EA by estimating the ratio of the ensonified area including overlap (76,645.61 km^2) and the ensonified area excluding

overlap (2001.91 km^2). The area including overlap is 38.3 times greater than the area excluding overlap and 30.6 times greater than the area excluding overlap including the 25 percent contingency (i.e., 2,502.4 km^2). Thus, a marine mammal that stayed within the survey area during the entire survey could potentially experience re-exposure up to 38 times. However, it is unlikely that a particular animal would remain in the area during the entire survey (Bain and Williams, 2006; MacLeod *et al.,* 2006; McCauley *et al.,* 2000; McDonald *et al.,* 1995).

The Observatory references a 25 percent contingency factor added onto its take estimates, however, this buffer is also intended to cover marine mammal takes that could potentially result from the operational adjustments, such as the need to rerun survey lines (though in practice, the Observatory has rarely, if ever, utilized this contingency). However, NMFS finds it more appropriate to incorporate a mechanism to explicitly account for the potential of positive immigration of marine mammals into the survey area that the Commission references, and therefore we have included a generalized species-related turnover estimate for the reported densities to account for the potential of new animals entering or passing through the ensonified area. Use of a turnover factor recognizes some of the limitations of the Observatory using a static density estimate for this survey. Thus we are using a generalized turnover estimate of 1.25 (Wood *et al.,* 2012) as a correction factor for the marine mammal densities presented in Table 4. In some cases, a larger turnover rate might be appropriate for migratory species, however, the likelihood of encountering these species is very low for this area and conservative choices have already been made in the estimate of take for mysticetes and sperm whales.

The method recommended by the Commission is a way to help understand the instances of exposure above the Level B threshold, however, that method would far overestimate the number of individual marine mammals exposed above the threshold, as turnover within the project are does not nearly approach 100 percent per day. The new 1.25 turnover rate will help better estimate the number of animals exposed, and the method described earlier in this response helps indicate the likely maximum number of instances per individual (though in many instances there will be fewer exposures).

Comment 8: The New Jersey Beach Buggy Association (NJBBA) states that ''Even though surveys have been made off the coasts of Australia (the Northern Carnarvon Bain, Australian Northwest Shelf) and the Gulf of Mexico, no references have been given or found concerning the before and after observations on mammals, fish, and plant life that cannot avoid the repercussions from the impact of the sound waves.''

Response: We disagree with the commenter's assertion that no references exist concerning before and after observations on marine life in the vicinity of seismic surveys. We refer the commenter to the Observatory's application, the Foundation's EA, and the notice of the proposed Authorization (79 FR 14779, March 17, 2014) which collectively provided information on the anticipated effects of airgun sounds on marine mammals, fish, and invertebrates.

Comment 9: The NJBBA commented on the 2006 Sperm Whale Seismic Study in the Gulf of Mexico stating that one of the report's recommendations called for a delay of the actual seismic testing for a number of years to allow for further data acquisition under controlled conditions of its effect on mammals, fish, and plant life.

Response: We considered the results of the Jochens *et al.* (2008) study in our notice of the proposed Authorization (79 FR 14779, March 17, 2014) and the Foundation considered the same information in their 2011 PEIS. We note that sections 1.4 and 1.5 of the Jochens *et al.* (2008) report summarize six major conclusions and recommendations, none of which call for delays in seismic testing to allow for further data acquisition under controlled conditions. On the contrary, they recommend the extension of controlled exposure experiment work on marine mammals (Jochens *et al.,* 2008; Recommendation 3, page 15).

Comment 10: NJBBA noted that a recent review presented information on the impacts of seismic airgun surveys on fish, marine mammals, and invertebrates (Wielgart, 2014). They expressed concerns on the survey's impact on the ecological system including bivalves, economic impacts, and the future loss of fisheries.

Response: We considered the information provided in Wielgart (2014) in making our final determinations. The review, titled ''A Review of the Impacts of Seismic Airgun Surveys on Marine Life'' presents a synopsis of impacts on marine mammals, marine turtles, fish, and invertebrates that we considered in the Observatory's application, the Foundation's EA, and our notice of the proposed Authorization (79 FR 14779, March 17, 2014). The Foundation's draft EA at *http://www.nsf.gov/geo/oce/envcomp/mountain-draftea-201317dec.pdf* also assessed the survey's impacts on commercial and recreational fisheries.

Comment 11: The Marine Trades Association of New Jersey requested the cancellation of the survey citing potential negative impacts to the recreational fishing communities and other industries. Noting concerns for migrating fish stocks and the local fishing industry, they requested that we require the Observatory to conduct the survey at an alternate time, specifically, January and February to minimize impacts to the marine industry, coastal fish, and marine mammals. Similarly, COA *et al.* also requested that the Observatory not conduct the survey during the summer months and that we consider alternate survey times to avoid times of peak marine mammal activity.

Finally, the NJDEP also submitted comments expressing concern for not only to marine mammals' food source, but also for the potential impacts to New Jersey's marine mammal boat tour operators and the recreational and commercial fishing industry.

Response: Section 101(a)(5)(D) of the MMPA and its implementing regulations establish a framework for us to determine whether and how we can authorize take incidental to the activities described in the Observatory's application. We do not have the authority to cancel the Observatory's research seismic activities under Section 101(a)(5)(D) of the MMPA, as that authority lies with the Foundation. However, we may add or modify mitigation to ensure the least practicable adverse impacts on marine mammals, and we have done so here.

Regarding the survey's impacts on commercial and recreational fishing, we refer you to the Foundation's (sponsor of the research seismic survey) EA for this survey (Sections III and IV) which includes consideration of the effects of sound on marine invertebrates, fish, and fisheries and the effects of the survey on the recreational and commercial fishing sectors in New Jersey. The Foundation also completed an ESA Section 7 consultation to address the effects of the research seismic survey on ESA-listed fish species and designated critical habitat within the proposed area as well as a consultation under the Magnuson-Stevens Fishery Conservation and Management Act for essential fish habitat. Finally, the Foundation will address the survey's impacts to the marine mammal boat tour industry in their final EA.

We considered, as one potential MMPA measure, that the Observatory modify its survey schedule to January/February. However, this could result in an increase in the number of takes of North Atlantic right whales due to their increased presence off New Jersey in the fall and winter. Whitt *et al.* (2013) concluded that right whales were not present in large numbers off New Jersey during the summer months (Jun 22–Sep 27) which corresponds to the effective dates of the seismic survey (Jun 30–Aug 17). In contrast, peak acoustic detections for North Atlantic right whales occurred in the winter (Dec 18–Apr 9) and in the spring (Apr 10–Jun 21) (Whitt, *et al.,* 2013).

We also considered the effects of the survey on marine mammal prey (i.e., fish and invertebrates), as a component of marine mammal habitat, in the notice of the proposed Authorization. Studies have shown both decreases and increases in fisheries catch rates and behavioral changes in captive marine fish and squid during exposure to seismic sound (Lokkeborg *et al.,* 2012; Fewtrell and McCauley, 2012). We acknowledge that disturbance of prey species has the potential to adversely affect marine mammals while foraging. However, given the limited spatio-temporal scale of the survey, the survey would ensonify only a small fraction of available habitat at any one time because the vessel is continually moving during data acquisition. We would expect prey species to return to their pre-exposure behavior once seismic firing ceased (Lokkeborg et al., 2012; Fewtrell and McCauley, 2012). Although there is a potential for injury to fish or marine life in close proximity to the vessel, we expect that prey responses would have temporary effects on a marine mammal's ability to forage in the immediate survey area. However, we don't expect that temporary reductions in feeding ability would reduce an individual animal's overall feeding success.

Laboratory studies have observed permanent damage to sensory epithelia for captive fish exposed at close range to a sound source (McCauley *et al.,* 2003) and abnormalities in larval scallops after exposure to low frequency noise in tanks (de Soto et al., 2013); however, wild fish are likely to move away from a seismic source (Fewtrell and McCauley, 2012). Finally, other studies provide examples of no fish mortality upon exposure to seismic sources (e.g., Popper *et al.,* 2005; Boeger *et al.,* 2006).

In summary, in examining impacts to fish as prey species for marine mammals, we expect fish to exhibit a range of behaviors including no reaction or habituation (Pena *et al.,* 2013) to startle responses and/or avoidance (Fewtrell and McCauley, 2012). We expect that the seismic survey would have no more than a temporary and minimal adverse effect on any fish or invertebrate species that serve as prey species for marine mammals, and therefore consider the potential impacts to marine mammal habitat minimal as well.

Comment 12: Both the NJDEP and COA *et al.* expressed concerns related to the survey's impact on the local (coastal) bottlenose dolphin population. They include: cumulative adverse impacts of the survey in light of the ongoing Unusual Mortality Event (UME); potential increases in marine mammal strandings due to the use of the multibeam echosounder; the survey's temporal overlap with the bottlenose dolphin calving period; and the potential heightened sensitivity of bottlenose dolphin calves to anthropogenic noise.

Response: In 2013, NMFS declared a UME for elevated bottlenose dolphin strandings along the Atlantic coast (New York through Florida). From July 1, 2013–June 8, 2014, there have been 1,325 strandings from New York to Florida. Of those strandings, 140 dolphins have stranded in New Jersey, which is significantly higher than the average annual bottlenose dolphin stranding rate of 10 strandings (based on 2007–2012 data). In New Jersey, 46 of 50 stranded bottlenose dolphins sampled tested positive for morbillivirus (92 percent) and one grey seal was suspect positive for canine distemper virus (a closely related species).

We expect that the survey's activities would result, at worst, in a temporary modification in behavior, temporary changes in animal distribution, and/or low-level physiological effects (Level B harassment) of bottlenose dolphins. We expect these impacts to be minor because we do not anticipate measurable changes to the population or impacts to rookeries, mating grounds, and other areas of similar significance.

The Authorization outlines reporting measures and response protocols with the Northeast Regional Stranding Coordinator intended to minimize the impacts of, and enhance the analysis of, any potential stranding in the survey area. The Observatory's activities are approximately 20 km (12 mi) away from the habitat in which the coastal bottlenose dolphins the commenter expressed concern are expected to occur (Toth *et al.,* 2011; 2012), which means that the area is not expected to be ensonified above 160 dB and that take of calves of this stock is not anticipated. Additionally, airgun pulses are outside of the range of frequencies in which dolphin hearing is most sensitive, and Schlundt *et al.*'s (2013) study suggests that the low-frequency content of air gun impulses may have fewer predicted impacts on bottlenose dolphins. Last, we do not have specific information related to how the acoustic stressors may or may not exacerbate the effects of the ongoing UME with bottlenose dolphins. However, based on the fact that the acoustic effects are expected to be limited to behavioral harassment, and the survey is constantly moving (predominantly far offshore and well away from coastal species and the associated calving areas), we do not anticipate any focused adverse effects to animals involved in the UME.

Regarding COA *et al.'s* concerns about increased strandings, we note that the Observatory has not experienced a stranding event associated with previous activities conducted in the same general vicinity. The Foundation's EA (NSF, 2014) acknowledges that scientists have conducted numerous 2–D seismic surveys in the general vicinity of the proposed survey from 1979 to 2002. The previous surveys used different airgun array configurations (e.g., a 6-airgun, 1,350-in^3 array in 1990; a single, 45-in^3 GI Gun in 1996 and 1998; and two 45-in^3 GI Guns in 2002). The researchers did not observe any seismic sound-related marine mammal related injuries or mortality, or impacts to fish during these past seismic surveys in the proposed survey area (NSF, 2014; G. Mountain, Pers. Comm.). In the past decade of seismic surveys conducted carried out by the *Langseth,* protected species observers and other crew members have neither observed nor reported any seismic-related marine mammal injuries or mortalities.

We have considered the potential for behavioral responses such as stranding and indirect injury or mortality from the Observatory's use of the multibeam echosounder. In 2013, an International Scientific Review Panel (ISRP) investigated a 2008 mass stranding of approximately 100 melon-headed whales in a Madagascar lagoon system (Southall *et al.,* 2013) associated with the use of a high-frequency mapping system. The report indicated that the use of a 12-kHz multibeam echosounder was the most plausible and likely initial behavioral trigger of the mass stranding event. This was the first time that a relatively high-frequency mapping sonar system had been associated with a stranding event. However, the report also notes that there were several site- and situation-specific secondary factors

that may have contributed to the avoidance responses that lead to the eventual entrapment and mortality of the whales within the Loza Lagoon system (e.g., the survey vessel transiting in a north-south direction on the shelf break parallel to the shore may have trapped the animals between the sound source and the shore driving them towards the Loza Lagoon). They concluded that for odontocete cetaceans that hear well in the 10–50 kHz range, where ambient noise is typically quite low, high-power active sonars operating in this range may be more easily audible and have potential effects over larger areas than low frequency systems that have more typically been considered in terms of anthropogenic noise impacts (Southall, *et al.,* 2013). However, the risk may be very low given the extensive use of these systems worldwide on a daily basis and the lack of direct evidence of such responses previously reported (Southall, *et al.,* 2013).

Given that the Observatory proposes to conduct the survey offshore and the *Langseth* is not conducting the survey parallel to any coastline, we do not anticipate that the use of the source during the seismic survey would entrap marine mammals between the vessel's sound sources and the New Jersey coastline. In addition, the Authorization outlines reporting measures and response protocols intended to minimize the impacts of, and enhance the analysis of, any potential stranding in the survey area.

With respect to COA *et al.'s* concerns about the survey's temporal overlap with the bottlenose dolphin calving period, we note that the Observatory's study area is approximately 20 km (12 mi) away from the identified habitats for coastal bottlenose dolphins and their calves in Toth *et al.* (2011, 2012) thereby reducing further the likelihood of causing an effect on this species or stock.

In response to COA *et al.'s* concerns that dolphin calves may be limited in their ability to flee the ensonified area due to their dependence on their mothers and small size, we considered several studies which note that seismic operators and protected species observers regularly see dolphins and other small toothed whales near operating airgun arrays, but in general there is a tendency for most delphinids to show some avoidance of operating seismic vessels (e.g., Moulton and Miller, 2005; Holst *et al.,* 2006; Stone and Tasker, 2006; Weir, 2008; Richardson *et al.,* 2009; Barkaszi *et al.,* 2009; Moulton and Holst, 2010). Also, 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 (e.g., Moulton and Miller, 2005). Nonetheless, small toothed whales more often tend to head away, or to maintain a somewhat greater distance from the vessel, when a large array of airguns is operating than when it is silent (e.g., Stone and Tasker, 2006; Weir, 2008, Barry *et al.,* 2010; Moulton and Holst, 2010). We note that in most cases, the avoidance radii for delphinids appear to be small, on the order of one km or less, and some individuals show no apparent avoidance. In considering the potential heightened sensitivity of neonate dolphins to noise, Schlundt *et al.* (2013) suggest that the potential for airguns to cause hearing loss in dolphins is lower than previously predicted, perhaps as a result of the low-frequency content of air gun impulses compared to the high-frequency hearing ability of dolphins.

We do not expect marine mammals to experience any repeated exposures at very close distances to the sound source because the Observatory would implement the required shutdown and power down mitigation measures to ensure that marine mammals do not approach the applicable exclusion zones for Level A harassment. In addition, we anticipate that the required ramp-up procedures at the start of the survey or anytime after a shutdown of the entire array would ''warn'' marine mammals in the vicinity of the airguns, and provide the time for them to leave the area and thus avoid any potential injury or impairment of their hearing abilities.

Comment 13: COA *et al.* states that we did not present species information for North Atlantic right whales in our analyses, including the Whitt *et al.* (2013) peer-reviewed study demonstrating North Atlantic right whale presence off the New Jersey coast year-round, particularly in the spring and summer months.

Response: NMFS disagrees. Table 1 in our notice of proposed authorization (79 FR 14784, March 17, 2014) specifically states that we base the year-round seasonal presence of North Atlantic right whales on the Whitt *et al.* (2013) paper. Whitt *et al.* (2013) conducted acoustic and visual surveys for North Atlantic right whales off the coast of New Jersey from January 2008 to December 2009 and observed one sighting of a cow-calf pair in May 2008, but no other sightings of cow-calf pairs throughout the remainder of the study. We considered this information (also presented on page 15 of NSF's draft EA) and concluded that it was appropriate to increase the Observatory's original request for incidental take related to North Atlantic right whales from zero to three (3) to be conservative in estimating potential take for cow/calf pairs. This adjustment is based on sighting information from two sources (Palka, 2012 and Whitt *et al.,* 2013) which reported the presence of one North Atlantic right whale and one cow/calf pair in the area, respectively.

Monitoring and Reporting

Comment 14: The Commission has indicated that monitoring and reporting requirements should provide a reasonably accurate assessment of the types of taking and the numbers of animals taken by the proposed activity. They state that ''. . . the assessments should account for animals at the surface but not detected and for animals present but underwater and not available for sighting, which are accounted for by g(0) and f(0) values.'' They further state that ''those adjustments are essential for making accurate estimates of the numbers of marine mammals taken during surveys.'' The Commission recommends that we consult with the funding agency (i.e., the Foundation) and individual applicants (e.g., the Observatory and other related entities) to develop, validate, and implement a monitoring program that provides a scientifically sound, reasonably accurate assessment of the types of marine mammal takes and the actual numbers of marine mammals taken, accounting for applicable g(0) and f(0) values. The Commission recommends that we consult with them prior to finalizing the recommendations.

Response: NMFS' implementing regulations require that applicants include monitoring that will result in ''an increased knowledge of the species, the level of taking or impacts on populations of marine mammals that are expected to be present while conducting activities . . .'' This increased knowledge of the level of taking could be qualitative or relative in nature, or it could be more directly quantitative. Scientists use g(0) and f(0) values in systematic marine mammal surveys to account for the undetected animals indicated above, however, these values are not simply established and the g(0) value varies across every observer based on their sighting acumen. While we want to be clear that we do not generally believe that post-activity take estimates using f(0) and g(0) are *required* to meet the monitoring requirement of the MMPA, in the context of the Foundation and Observatory's monitoring plan, we agree that developing and incorporating a way to better interpret the results of their monitoring (perhaps a simplified or generalized version of g(0) and f(0))

is a good idea. We are continuing to examine this issue with the Foundation to develop ways to improve their post-survey take estimates. We will consult with the Commission and NMFS scientists prior to finalizing these recommendations.

We note that current monitoring measures for past and current Authorizations for research seismic surveys require the collection of visual observation data by protected species observers prior to, during, and after airgun operations. This data collection may contribute to baseline data on marine mammals (presence/absence) and provide some generalized support for estimated take numbers (as well as providing data regarding behavioral responses to seismic operation that are observable at the surface). However, it is unlikely that the information gathered from these cruises alone would result in any statistically robust conclusions for any particular species because of the small number of animals typically observed.

MMPA Concerns

Comment 15: COA *et al.* state that NMFS must ensure that the Authorization complies with the MMPA and requests that NMFS deny the Authorization based on their opinion that the potential impacts to marine mammals are incompatible with the prohibitions of the MMPA and that the take would be more than negligible.

Response: We disagree with the commenters' assessment. The MMPA directs us to allow, upon request, the incidental taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity within a specific geographic region if we make certain findings. The legal requirements and underlying analysis for an Authorization per section 101(a)(5)(D) of the MMPA require us to determine that the taking by harassment of marine mammal species or stocks will have a negligible impact on affected species or stocks and will not have an unmitigable adverse impact on the availability of affected species or stocks for taking for subsistence uses. As mentioned in the notice for the proposed authorization (79 FR 14779, March 17, 2014), we expect that the Observatory's activities would result in take by Level B harassment in the form behavioral modifications during the period of the Observatory's active seismic operations. We also expect that the required mitigation and monitoring measures (described in the notice for the proposed Authorization (79 FR 14779, March 17, 2014), and included within the final Authorization) would reduce potential disturbance to marine mammals to the lowest level practicable. We do not anticipate that these behavioral effects would have significant impacts to individual fitness or the population and there are no relevant subsistence uses of marine mammals implicated by this action.

Based on the analysis of the likely effects of the specified activity on marine mammals and their habitat contained within this document, the Foundation's EA and our own EA, and taking into consideration the implementation of the mitigation and monitoring measures, we find that the Observatory's proposed activity would result in the take small numbers of marine mammals relative to the populations of the affected species or stocks, would have a negligible impact on the affected species or stocks, and would not result in an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence uses as no subsistence users would be affected by the proposed action.

Acoustic Thresholds

Comment 16: COA *et al.* state that the current NMFS 160-decibel (dB) re: 1 μPa threshold for Level B harassment does not reflect the best available science and is not sufficiently conservative.

Response: Our practice has been to apply the 160 dB re: 1 μPa received level threshold for underwater impulse sound levels to determine whether take by Level B harassment occurs. Specifically, we derived the 160 dB threshold data from mother-calf pairs of migrating gray whales (Malme *et al.,* 1983, 1984) and bowhead whales (Richardson *et al.,* 1985, 1986) responding to seismic airguns. We acknowledge there is more recent information bearing on behavioral reactions to seismic airguns, but those data only illustrate how complex and context-dependent the relationship is between the two, and do not, as a whole, invalidate the current threshold.

However, we discuss the science on this issue qualitatively in our analysis of potential effects to marine mammals (79 FR 14779, March 17, 2014). Accordingly, it is not a matter of merely replacing the existing threshold with a new one. NMFS is currently developing revised acoustic guidelines for assessing the effects of anthropogenic sound on marine mammals. Until NMFS finalizes these guidelines (a process that includes internal agency review, public notice and comment, and peer review), we will continue to rely on the existing criteria for Level A and Level B harassment shown in Table 4 of the notice for the proposed authorization (79 FR 14779, March 17, 2014).

As mentioned in the **Federal Register** notice for the proposed authorization (79 FR 14779, March 17, 2014), we expect that the onset for behavioral harassment is largely context dependent (e.g., behavioral state of the animals, distance from the sound source, etc.) when evaluating behavioral responses of marine mammals to acoustic sources. Although using a uniform sound pressure level of 160-dB re: 1 μPa for the onset of behavioral harassment for impulse noises may not capture all of the nuances of different marine mammal reactions to sound, it is an appropriate way to manage and regulate anthropogenic noise impacts on marine mammals until NMFS finalizes its acoustic guidelines.

Comment 17: COA *et al.* requested that we use a behavioral threshold below 160 dB for estimating take based on results reported in Clark and Gagnon (2006), MacLeod et al. (2006), Risch *et al.* (2012), McCauley *et al.* (1998), McDonald *et al.* (1995), Bain and Williams (2006), DeRuiter *et al.* (2013). They also cite comments submitted by Clark *et al.* (2012) on the Arctic Ocean Draft Environmental Impact Statement regarding NMFS' current acoustic thresholds.

Response: NMFS is constantly evaluating new science and how to best incorporate it into our decisions. This process involves careful consideration of new data and how it is best interpreted within the context of a given management framework. Each of these articles emphasizes the importance of context (e.g., behavioral state of the animals, distance from the sound source, etc.) in evaluating behavioral responses of marine mammals to acoustic sources.

These papers and the studies discussed in our notice of proposed authorization (79 FR 14779, March 17, 2014) note that there is variability in the behavioral responses of marine mammals to noise exposure. However, it is important to consider the context in predicting and observing the level and type of behavioral response to anthropogenic signals (Ellison *et al.,* 2012). There are many studies showing that marine mammals do not show behavioral responses when exposed to multiple pulses at received levels at or above 160 dB re: 1 μPa (e.g., Malme *et al.,* 1983; Malme *et al.,* 1984; Richardson *et al.,* 1986; Akamatsu *et al.,* 1993; Madsen and Mohl, 2000; Harris *et al.,* 2001; Miller *et al.,* 2005; and Wier, 2008). And other studies show that whales continue important behaviors in the presence of seismic pulses (e.g.,

Richardson *et al.,* 1986; McDonald *et al.,* 1995; Greene *et al.,* 1999a, 1999b; Nieukirk *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005, 2006; Dunn and Hernandez, 2009).

In a passive acoustic research program that mapped the soundscape in the North Atlantic Ocean, Clark and Gagnon (2006) reported that some fin whales (*Balaenoptera physalus*) stopped singing for an extended period starting soon after the onset of a seismic survey in the area. The study did not provide information on received levels or distance from the sound source. The authors could not determine whether or not the whales left the area ensonified by the survey, but the evidence suggests that most if not all singers remained in the area (Clark and Gagnon, 2006). Support for this statement comes from the fact that when the survey stopped temporarily, the whales resumed singing within a few hours and the number of singers increased with time (Clark and Gagnon, 2006). Also, they observed that one whale continued to sing while the seismic survey was actively operating (Figure 4; Clark and Gagnon, 2006).

The authors conclude that there is not enough scientific knowledge to adequately evaluate whether or not these effects on singing or mating behaviors are significant or would alter survivorship or reproductive success (Clark and Gagnon, 2006). Thus, to address COA *et al.*'s concerns related to the results of this study, it is important to note that the Observatory's study area is well away from any known breeding/calving grounds for low frequency cetaceans and approximately 20 km (12 mi) away from the identified habitats for coastal bottlenose dolphins and their calves in Toth *et al.* (2011, 2012) thereby reducing further the likelihood of causing an effect on marine mammals.

MacLeod *et al.* (2006) discussed the possible displacement of fin and sei whales related to distribution patterns of the species during a large-scale seismic survey offshore the west coast of Scotland in 1998. The authors hypothesized about the relationship between the whale's absence and the concurrent seismic activity, but could not rule out other contributing factors (Macleod, *et al.,* 2006; Parsons *et al.,* 2009). We would expect that marine mammals may briefly respond to underwater sound produced by the seismic survey by slightly changing their behavior or relocating a short distance. Based on the best available information, we expect short-term disturbance reactions that are confined to relatively small distances and durations (Thompson *et al.,* 1998; Thompson *et al.,* 2013), with no long-term effects on recruitment or survival.

Regarding the suggestion that blue whales ''significantly'' changed course during the conduct of a seismic survey offshore Oregon, we disagree. We considered the McDonald *et al.* (1995) paper in the notice for the proposed authorization (79 FR 14779, March 17, 2014). In brief, the study tracked three blue whales relative to a seismic survey with a 1,600 in^3 airgun array (slightly higher than the Observatory's 1,400 in^3 airgun array). The whale started its call sequence within 15 km (9.3 mi) from the source, then followed a pursuit track that decreased its distance to the vessel where it stopped calling at a range of 10 km (6.2 mi) (estimated received level at 143 dB re: 1 µPa (peak-to-peak) (McDonald *et al.,* 1995). After that point, the ship increased its distance from the whale which continued a new call sequence after approximately one hour (McDonald *et al.,* 1995) and 10 km (6.2 mi) from the ship. The authors suggested that the whale had taken a track paralleling the ship during the cessation phase but observed the whale moving diagonally away from the ship after approximately 30 minutes continuing to vocalize (McDonald *et al.,* 1995). The authors also suggest that the whale may have approached the ship intentionally or perhaps was unaffected by the airguns. They concluded that there was insufficient data to infer conclusions from their study related to blue whale responses (McDonald *et al.,* 1995).

Risch *et al.* (2012) documented reductions in humpback whale (*Megaptera novaeangliae*) vocalizations in the Stellwagen Bank National Marine Sanctuary concurrent with transmissions of the Ocean Acoustic Waveguide Remote Sensing (OAWRS) low-frequency fish sensor system at distances of 200 kilometers (km) from the source. The recorded OAWRS produced series of frequency modulated pulses and the signal received levels ranged from 88 to 110 dB re: 1 µPa (Risch *et al.,* 2012). The authors hypothesize that individuals did not leave the area but instead ceased singing and noted that the duration and frequency range of the OAWRS signals (a novel sound to the whales) were similar to those of natural humpback whale song components used during mating (Risch *et al.,* 2012). Thus, the novelty of the sound to humpback whales in the study area provided a compelling contextual probability for the observed effects (Risch *et al.,* 2012). However, the authors did not state or imply that these changes had long-term effects on individual animals or populations (Risch *et al.,* 2012), nor did they necessarily rise to the level of an MMPA take. Thus, to address COA *et al.'s* concerns related to the results of this study, we again note that the Observatory's study area is well away from any known breeding/calving grounds for low frequency cetaceans and approximately 20 km (12 mi) away from the identified habitats for bottlenose dolphins and their calves in Toth *et al.* (2011, 2012) thereby reducing further the likelihood of causing an effect on marine mammals.

We considered the McCauley *et al.* (1998) paper (along with McCauley *et al.,* 2000) in the notice of proposed authorization (79 FR 14779, March 17, 2014). Briefly, McCauley *et al.* (1998, 2000) studied the responses of migrating humpback whales off western Australia to a full-scale seismic survey with a 16-airgun array (2,678 in^3) and to playbacks using a single, 20-in^3 airgun. Both studies point to a contextual variability in the behavioral responses of marine mammals to sound exposure. The mean received level for initial avoidance of an approaching airgun was 140 dB re: 1 µPa for resting humpback whale pods containing females. In contrast, some individual humpback whales, mainly males, approached within distances of 100 to 400 m (328 to 1,312 ft), where sound levels were 179 dB re: 1 µPa (McCauley *et al.,* 2000). The authors hypothesized that the males gravitated towards the single operating airgun possibly due to its similarity to the sound produced by humpback whales breaching (McCauley *et al.,* 2000). Despite the evidence that some humpback whales exhibited localized avoidance reactions at received levels below 160 dB re: 1 µPa, the authors found no evidence of any gross changes in migration routes, such as inshore/offshore displacement during seismic operations (McCauley *et al.,* 1998, 2000).

With repeated exposure to sound, many marine mammals may habituate to the sound at least partially (Richardson & Wursig, 1997). Bain and Williams (2006) examined the effects of a large airgun array (maximum total discharge volume of 1,100 in^3) on six species in shallow waters off British Columbia and Washington: harbor seal, California sea lion (*Zalophus californianus*), Steller sea lion (*Eumetopias jubatus*), gray whale (*Eschrichtius robustus*), Dall's porpoise (*Phocoenoides dalli*), and the harbor porpoise. Harbor porpoises showed ''apparent avoidance response'' at received levels less than 145 dB re: 1 µPa at a distance of greater than 70 km (43 miles) from the seismic source (Bain

and Williams, 2006). However, the tendency for greater responsiveness by harbor porpoise is consistent with their relative responsiveness to boat traffic and some other acoustic sources (Richardson *et al.* 1995; Southall *et al.,* 2007). In contrast, the authors reported that gray whales seemed to tolerate exposures to sound up to approximately 170 dB re: 1 µPa (Bain and Williams, 2006) and Dall's porpoises (*Phocoenoides dalli*) occupied and tolerated areas receiving exposures of 170–180 dB re: 1 µPa (Bain and Williams, 2006; Parsons *et al.,* 2009). The authors observed several gray whales that moved away from the airguns toward deeper water where sound levels were higher due to propagation effects resulting in higher noise exposures (Bain and Williams, 2006). However, it is unclear whether their movements reflected a response to the sounds (Bain and Williams, 2006). Thus, the authors surmised that the gray whale data (i.e., voluntarily moving to areas where they are exposed to higher sound levels) are ambiguous at best because one expects the species to be the most sensitive to the low-frequency sound emanating from the airguns (Bain and Williams, 2006).

DeRuiter *et al.* (2013) recently observed that beaked whales (considered a particularly sensitive species to sound) exposed to playbacks (i.e., simulated) of U.S. tactical mid-frequency sonar from 89 to 127 dB re: 1 µPa at close distances responded notably by altering their dive patterns. In contrast, individuals showed no behavioral responses when exposed to similar received levels from *actual* U.S. tactical mid-frequency sonar operated at much further distances (DeRuiter *et al.,* 2013). As noted earlier, one must consider the importance of context (for example, the distance of a sound source from the animal) in predicting behavioral responses.

Regarding the public comments submitted by Clark *et al.* (2012) in reference to our use of the current acoustic exposure criteria; please refer to our earlier response to COA *et al.*

None of these studies on the effects of airgun noise on marine mammals point to any associated mortalities, strandings, or permanent abandonment of habitat by marine mammals. Bain and Williams (2006) specifically conclude that ''. . . although behavioral changes were observed, the precautions utilized in the SHIPS survey did not result in any detectable marine mammal mortalities during the survey, nor were any reported subsequently by the regional marine mammal stranding network . . .'' McCauley *et al.* (2000) concluded that any risk factors associated with their seismic survey ''. . . lasted for a comparatively short period and resulted in only small range displacement . . .'' Further, the total discharge volume of the airgun arrays cited in McCauley *et al.,* 1998, 2000; Bain and Williams, 2006 were generally over 40 percent larger than the 1,400 in^3 array configurations proposed for use during this survey (e.g., 2,768 in^3, McCauley *et al.,* 1998; 6,730 in^3, Bain and Williams, 2006). Thus, the Observatory's 160-dB threshold radius may not reach the threshold distances reported in these studies.

Currently NMFS is working on revising its noise exposure criteria based on the best and most recent scientific information. NMFS will use these criteria to develop methodologies to predict behavioral responses of marine mammals exposed to sound associated with seismic surveys (primary source is airguns). Although using a uniform sound pressure level of 160-dB re: 1 µPa for the onset of behavioral harassment for impulse noises may not capture all of the nuances of different marine mammal reactions to sound, it is an appropriate way to manage and regulate anthropogenic noise impacts on marine mammals until NMFS finalizes its acoustic guidelines.

Comment 18: COA *et al.* take issue with our conclusion that Level A take would not occur during the survey. Citing Lucke *et al.* (2009); Thompson *et al.* (1998); Kastak *et al.* (2008); Kujawa and Lieberman (2009); Wood *et al.* (2012); and Cox *et al.* (2006), the commenters assert that our preliminary determinations for Level A take and the likelihood of temporary and or permanent threshold shift do not consider the best available science.

Response: As explained in Table 3 in the notice of proposed authorization (79 FR 14779, March 17, 2014), the predicted distances at which sound levels could result in Level A harassment are relatively small (585 m; 1,919 ft for cetaceans and 157 m; 515 ft for pinnipeds). As an added measure, we are requiring the Observatory to enlarge the Level A harassment exclusion zones for cetaceans and pinnipeds to further ensure the least practicable effect on marine mammals. We expect that the required vessel-based visual monitoring of the exclusion zones is appropriate to implement mitigation measures to prevent Level A harassment.

First, the Observatory will be required to establish larger Level A exclusion zones corresponding to the 177 and 187 dB re: 1 µPa isopleths for cetaceans and pinnipeds respectively, to avoid Level A harassment. If the protected species observers observe marine mammals approaching the exclusion zone, the Observatory must shut down or power down seismic operations to ensure that the marine mammal does not approach the applicable exclusion radius. Second, if the Observatory detects a marine mammal outside the 177- or 187-dB exclusion zones, and the animal—based on its position and the relative motion—is likely to enter the exclusion zone, the Observatory may alter the vessel's speed and/or course—when practical and safe—in combination with powering down or shutting down the airguns, to minimize the effects of the seismic survey. The avoidance behaviors discussed in the notice of proposed authorization (79 FR 14779, March 17, 2014) supports our expectations that individuals will avoid exposure at higher levels. Also, it is unlikely that animals would encounter repeated exposures at very close distances to the sound source because the Observatory would implement the required shutdown and power down mitigation measures to ensure that marine mammals do not approach the applicable exclusion zones for Level A harassment.

Regarding the Lucke *et al.* (2009) study, the authors found a threshold shift (TS) of a harbor porpoise after exposing it to airgun noise (single pulse) with a received sound pressure level (SPL) at 200.2 dB (peak-to-peak) re: 1 µPa, which corresponds to a sound exposure level of 164.5 dB re: 1 µPa2 s after integrating exposure. We currently use the root-mean-square (rms) of received SPL at 180 dB and 190 dB re: 1 µPa as the threshold above which permanent threshold shift (PTS) could occur for cetaceans and pinnipeds, respectively. Because the airgun noise is a broadband impulse, one cannot directly extrapolate the equivalent of rms SPL from the reported peak-to-peak SPLs reported in Lucke *et al.* (2009). However, applying a conservative conversion factor of 16 dB for broadband signals from seismic surveys (Harris *et al.* 2001; McCauley *et al.* 2000) to correct for the difference between peak-to-peak levels reported in Lucke *et al.* (2009) and rms SPLs; the rms SPL for TTS would be approximately 184 dB re: 1 µPa, and the received levels associated with PTS (Level A harassment) would be higher. This is still above the current 180 dB rms re: 1 µPa threshold for injury. Yet, we recognize that the temporary threshold shift (TTS) of harbor porpoise is lower than other cetacean species empirically tested (Finneran *et al.* 2002;

Finneran and Schlundt, 2010; Kastelein *et al.,* 2012). We considered this information in the notice of proposed authorization (79 FR 14779, March 17, 2014).

The Thompson *et al.* (1998) telemetry study on harbor (*Phoca vitulina*) and grey seals (*Halichoerus grypus*) suggested that avoidance and other behavioral reactions by individual seals to small airgun sources may at times be strong, but short-lived. The researchers conducted 1-hour controlled exposure experiments exposing individual seals fitted with telemetry devices to small airguns with a reported source level of 215–224 dB re: 1 μPa (peak-to-peak) (Thompson *et al.,* 1998; Gordon *et al.,* 2003). The researchers measured dive behavior, swim speed heart rate and stomach temperature (indicator for feeding), but they did not measure hearing threshold shift in the animals. The researchers observed startle responses, decreases in heart rate, and temporary cessation of feeding. In six out of eight trials, harbor seals exhibited strong avoidance behaviors, and swam rapidly away from the source (Thompson *et al.,* 1998; Gordon *et al.,* 2003). One seal showed no detectable response to the airguns, approaching within 300 m (984 ft) of the source (Gordon *et al.,* 2003). However, they note that the behavioral responses were short-lived and the seals' behavior returned to normal after the trials (Thompson *et al.,* 1998; Gordon *et al.,* 2003). The study does not discuss temporary threshold shift or permanent threshold shift in harbor seals and the estimated rms SPL for this survey is approximately 200 dB re: 1 μPa, well above NMFS' current 180 dB rms re: 1 μPa threshold for injury for cetaceans and NMFS' current 190 dB rms re: 1 μPa threshold for injury for pinnipeds (accounting for the fact that the rms sound pressure level (in dB) is typically 16 dB less than the peak-to-peak level).

In a study on the effect of non-impulsive sound sources on marine mammal hearing, Kastak *et al.* (2008) exposed one harbor seal to an underwater 4.1 kHz pure tone fatiguing stimulus with a maximum received sound pressure of 184 dB re: 1 μPa for 60 seconds (Kastak *et al.,* 2008; Finneran and Branstetter, 2013). A second 60-second exposure resulted in an estimated threshold shift of greater than 50 dB at a test frequency of 5.8 kHz (Kastak *et al.,* 2008). The seal recovered at a rate of −10 dB per log(min). However, 2 months post-exposure, the researchers observed incomplete recovery from the initial threshold shift resulting in an apparent permanent threshold shift of 7 to 10 dB in the seal (Kastak *et al.,* 2008). We note that seismic sound is an impulsive source, and the context of the study is related to the effect of non-impulsive sounds on marine mammals.

We also considered two other Kastak *et al.* (1999, 2005) studies. Kastak *et al.* (1999) reported TTS of approximately 4–5 dB in three species of pinnipeds (harbor seal, California sea lion, and northern elephant seal) after underwater exposure for approximately 20 minutes to sound with frequencies ranging from 100–2,000 Hz at received levels 60–75 dB above hearing threshold. This approach allowed similar effective exposure conditions to each of the subjects, but resulted in variable absolute exposure values depending on subject and test frequency. Recovery to near baseline levels was reported within 24 hours of sound exposure. Kastak *et al.* (2005) followed up on their previous work, exposing the same test subjects to higher levels of sound for longer durations. The animals were exposed to octave-band sound for up to 50 minutes of net exposure. The study reported that the harbor seal experienced TTS of 6 dB after a 25-minute exposure to 2.5 kHz of octave-band sound at 152 dB (183 dB SEL). The California sea lion demonstrated onset of TTS after exposure to 174 dB (206 dB SEL).

We considered that PTS could occur at relatively lower levels, such as at levels that would normally cause TTS, if the animal experiences repeated exposures at very close distances to the sound source. However, an animal would need to stay very close to the sound source for an extended amount of time to incur a serious degree of PTS, which in this case, it would be highly unlikely due to the required mitigation measures in place to avoid Level A harassment and the expectation that a mobile marine mammal would generally avoid an area where received sound pulse levels exceed 160 dB re: 1 μPa (rms) (review in Richardson *et al.* 1995; Southall *et al.* 2007).

We also considered recent studies by Kujawa and Liberman (2009) and Lin *et al.* (2011). These studies found that despite completely reversible threshold shifts that leave cochlear sensory cells intact, large threshold shifts could cause synaptic level changes and delayed cochlear nerve degeneration in mice and guinea pigs, respectively. We note that the high level of TTS that led to the synaptic changes shown in these studies is in the range of the high degree of TTS that Southall *et al.* (2007) used to calculate PTS levels. It is not known whether smaller levels of TTS would lead to similar changes. NMFS, however, acknowledges the complexity of noise exposure on the nervous system, and will re-examine this issue as more data become available.

In contrast, a recent study on bottlenose dolphins (Schlundt *et al.,* 2013) measured hearing thresholds at multiple frequencies to determine the amount of TTS induced before and after exposure to a sequence of impulses produced by a seismic air gun. The airgun volume and operating pressure varied from 40–150 in^3 and 1000–2000 psi, respectively. After three years and 180 sessions, the authors observed no significant TTS at any test frequency, for any combinations of air gun volume, pressure, or proximity to the dolphin during behavioral tests (Schlundt *et al.,* 2013). Schlundt *et al.* (2013) suggest that the potential for airguns to cause hearing loss in dolphins is lower than previously predicted, perhaps as a result of the low-frequency content of airgun impulses compared to the high-frequency hearing ability of dolphins.

NEPA Concerns

Comment 19: COA *et al.* states that we should prepare an Environmental Impact Statement (EIS), not an EA, to adequately consider the potentially significant impacts of the proposed Authorization, including the cumulative impacts and consideration of a full range of alternatives.

Response: We prepared an EA to evaluate whether significant environmental impacts may result from the issuance of an Authorization to the Observatory for the take of marine mammals incidental to conducting their seismic survey in the northwest Atlantic Ocean. After completing the EA, we determined that there would not be significant impacts to the human environment related to our issuance of an Authorization and accordingly issued a Finding of No Significant Impact (FONSI). Therefore, this action does not require an EIS.

Comment 20: COA *et al.* states that our analysis of alternatives in the EA was incomplete because the Foundation's EA did not sufficiently evaluate the No Action alternative.

Response: The NEPA and the implementing CEQ regulations (40 CFR parts 1500–1508) require consideration of alternatives to proposed major federal actions and NAO 216–6 provides agency policy and guidance on the consideration of alternatives to our proposed action. An EA must consider all reasonable alternatives, including the No Action Alternative. This provides a baseline analysis against which we can compare the other alternatives.

Our EA titled, ''Issuance of an Incidental Harassment Authorization to

Lamont Doherty Earth Observatory to Take Marine Mammals by Harassment Incidental to a Marine Geophysical Survey in the Northwest Atlantic Ocean, June–August, 2014,'' addresses the potential environmental impacts of three choices available to us under section 101(a)(5)(D) of the MMPA, namely:

—Issue the Authorization to the Observatory for take, by Level B harassment, of marine mammals during the seismic survey, taking into account the prescribed means of take, mitigation measures, and monitoring requirements;

—Not issue an Authorization to the Observatory in which case, for the purposes of NEPA analysis only, we assume that the activities would proceed and cause incidental take without the mitigation and monitoring measures prescribed in the Authorization; or

—Issue the Authorization to the Observatory for take, by Level B harassment, of marine mammals during the seismic survey by incorporating additional required mitigation measures.

To warrant detailed evaluation as a reasonable alternative, an alternative must meet our purpose and need. In this case, an alternative meets the purpose and need if it satisfies the requirements under section 101(a)(5)(D) the MMPA. We evaluated each potential alternative against these criteria; identified two action alternatives along with the No Action Alternative; and carried these forward for evaluation in our EA.

General Comments

Comment 21: Two commenters expressed general opposition or general support for the survey.

Response: We acknowledge their comments and thank them for their interest.

Comment 22: COA *et al.* noted incorrect references to locations or project information that was incorrect.

Response: As published, the preamble to the notice of proposed Authorization on March 17, 2014 (79 FR 14779) contained minor, non-substantive errors related to locations, equipment, and species which may prove to be misleading but had no overall effect on our preliminary determinations. We have removed those inadvertent errors from this notice.

Description of Marine Mammals in the Area of the Specified Activity

We provided information on the occurrence of marine mammals with possible or confirmed occurrence in the survey area in the notice of proposed Authorization on March 17, 2014 (79 FR 14779). The marine mammals most likely to be harassed in the action include 6 mysticetes, 18 odontocetes, and 3 pinniped species under our jurisdiction. Table 1 in this notice provides information on those species' regulatory status under the MMPA and the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*); abundance; occurrence and seasonality in the activity area.

TABLE 1—MARINE MAMMALS MOST LIKELY TO BE HARASSED INCIDENTAL TO THE OBSERVATORY'S SURVEY

Species	Stock name	Regulatory status [1 2]	Abundance [3]	Occurrence and range	Season
North Atlantic right whale ...	Western Atlantic	MMPA—D ESA—EN	455	common coastal/shelf	year-round. [4]
Humpback whale	Gulf of Maine	MMPA—D ESA—EN	823	common coastal	spring–fall.
Common minke whale	Canadian East Coast	MMPA—D ESA—NL	20,741	rare coastal/shelf	spring–summer.
Sei whale	Nova Scotia	MMPA—D ESA—EN	357	uncommon shelf edge	spring.
Fin whale	Western North Atlantic	MMPA—D ESA—EN	3,522	common pelagic	year-round.
Blue whale	Western North Atlantic	MMPA—D ESA—EN	440	uncommon coastal/pelagic	occasional.
Sperm whale	Nova Scotia	MMPA—D ESA—EN	2,288	common pelagic	year-round.
Dwarf sperm whale	Western North Atlantic	MMPA—NC ESA—NL	1,783	uncommon shelf	year-round.
Pygmy sperm whale	Western North Atlantic	MMPA—NC ESA—NL	1,783	uncommon shelf	year-round.
Blainville's beaked whale ...	Western North Atlantic	MMPA—NC ESA—NL	7,092	uncommon shelf/pelagic	spring–summer.
Cuvier's beaked whale	Western North Atlantic	MMPA—NC ESA—NL	6,532	uncommon shelf/pelagic	spring–summer.
Gervais' beaked whale	Western North Atlantic	MMPA—NC ESA—NL	7,092	uncommon shelf/pelagic	spring–summer.
Sowerby's beaked whale	Western North Atlantic	MMPA—NC ESA—NL	7,092	uncommon shelf/pelagic	spring–summer.
True's beaked whale	Western North Atlantic	MMPA—NC ESA—NL	7,092	uncommon shelf/pelagic	spring–summer.
Northern bottlenose whale	Western North Atlantic	MMPA—NC ESA—NL	unknown	rare pelagic	unknown.
Bottlenose dolphin	Western North Atlantic Offshore.	MMPA—NC ESA—NL	77,532	common pelagic	spring–summer.
Bottlenose dolphin	Western North Atlantic Northern Migratory Coastal.	MMPA—D ESA—NL	11,548	common coastal	summer.
Atlantic spotted dolphin	Western North Atlantic	MMPA—NC ESA—NL	44,715	common coastal	summer–fall.
Striped dolphin	Western North Atlantic	MMPA—NC ESA—NL	54,807	uncommon shelf	summer.

TABLE 1—MARINE MAMMALS MOST LIKELY TO BE HARASSED INCIDENTAL TO THE OBSERVATORY'S SURVEY—Continued

Species	Stock name	Regulatory status [1] [2]	Abundance [3]	Occurrence and range	Season
Short-beaked common dolphin.	Western North Atlantic	MMPA—NC ESA—NL	173,486	common shelf/pelagic	summer–fall.
Atlantic white-sided-dolphin	Western North Atlantic	MMPA—NC ESA—NL	48,819	uncommon shelf/slope	summer–winter.
Risso's dolphin	Western North Atlantic	MMPA—NC ESA—NL	18,250	common shelf/slope	year-round.
Long-finned pilot whale	Western North Atlantic	MMPA—NC ESA—NL	26,535	uncommon shelf/pelagic	summer.
Short-finned pilot whale	Western North Atlantic	MMPA—NC ESA—NL	21,515	uncommon shelf/pelagic	summer.
Harbor porpoise	Gulf of Maine/Bay of Fundy	MMPA—NC ESA—NL	79,833	common coastal	year-round.
Gray seal	Western North Atlantic	MMPA—NC ESA—NL	331,000	common coastal	fall–spring.
Harbor seal	Western North Atlantic	MMPA—NC ESA—NL	70,142	common coastal	fall–spring.
Harp seal	Western North Atlantic	MMPA—NC ESA—NL	7,100,000	rare, pack ice	Jan–May.

[1] MMPA: D = Depleted, S = Strategic, NC = Not Classified.
[2] ESA: EN = Endangered, T = Threatened, DL = Delisted, NL = Not listed.
[3] 2013 NMFS Stock Assessment Report (Waring *et al.,* 2014).
[4] Seasonality based on Whitt *et al.,* 2013.

The Observatory presented species information in Table 2 of their application but excluded information on pinnipeds because they anticipated that these species would have a more northerly distribution during the summer and thus have a low likelihood of occurring in the survey area. Based on the best available information, we expect that certain pinniped species, however, have the potential to occur within the survey area and we have therefore included additional information for these species. For the Authorization, we considered authorizing take for pinnipeds based upon the best available density information (Read *et al.,* 2009; DoN, 2007) and other anecdotal sources (MMSC, 2014).

We refer the public to the Observatory's application, the Foundation's EA (see **ADDRESSES**), our EA, and the 2013 NMFS Marine Mammal Stock Assessment Report available online at: *http://www.nmfs.noaa.gov/pr/sars/species.htm* for further information on the biology and local distribution of these species.

Potential Effects of the Specified Activities on Marine Mammals

We provided a summary and discussion of the ways that the types of stressors associated with the specified activity (e.g., seismic airgun operations, vessel movement, and entanglement) impact marine mammals (via observations or scientific studies) in the notice of proposed Authorization on March 17, 2014 (79 FR 14779).

The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative discussion of the number of marine mammals anticipated to be taken by this activity. The ''Negligible Impact Analysis'' section will include a discussion of how this specific activity will impact marine mammals. The Negligible Impact analysis considers the anticipated level of take and the effectiveness of mitigation measures 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.

Operating active acoustic sources, such as airgun arrays, has the potential for adverse effects on marine mammals. The majority of anticipated impacts would be from the use of acoustic sources. The effects of sounds from airgun pulses might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, and temporary or permanent hearing impairment or non-auditory effects (Richardson *et al.,* 1995). However, for reasons discussed in the proposed Authorization, it is very unlikely that there would be any cases of temporary or permanent hearing impairment resulting from the Observatory's activities. As outlined in previous NMFS documents, the effects of noise on marine mammals are highly variable, often depending on species and contextual factors (based on Richardson *et al.,* 1995).

In the ''Potential Effects of the Specified Activity on Marine Mammals'' section of the notice of proposed Authorization on March 17, 2014 (79 FR 14779), we included a qualitative discussion of the different ways that the Observatory's seismic survey may potentially affect marine mammals. Marine mammals may behaviorally react to sound when exposed to anthropogenic noise. 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 noise sources are located; and/or flight responses (e.g., pinnipeds flushing into water from haulouts or rookeries).

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. For the airgun sound generated from the Observatory's seismic survey, sound will consist of low frequency (under 500 Hz) pulses with extremely short durations (less than one second). Masking from airguns is more likely in low-frequency marine mammals like mysticetes. There is little concern that masking would occur near the sound source due to the brief duration of these pulses and relative silence between air gun shots (approximately 5 to 6 seconds). Masking is less likely for mid- to high-frequency cetaceans and pinnipeds.

Hearing impairment (either temporary or permanent) is also unlikely. Given the higher level of sound necessary to cause permanent threshold shift as compared with temporary threshold shift, it is considerably less likely that permanent threshold shift would occur during the seismic survey. Cetaceans generally avoid the immediate area around operating seismic vessels, as do some other marine mammals. Some pinnipeds show avoidance reactions to airguns.

The *Langseth* will operate at a relatively slow speed (typically 4.6 knots (8.5 km/h; 5.3 mph)) when conducting the survey. Protected species observers would implement mitigation measures to ensure the least practicable adverse effect to marine mammals. Therefore, NMFS neither anticipates nor will we authorize takes of marine mammals from ship strikes.

We refer the reader to the Observatory's application, our EA, and the Foundation's EA for additional information on the behavioral reactions (or lack thereof) by all types of marine mammals to seismic vessels. We have reviewed these data along with new information submitted during the public comment period and determined them to be the best available information for the purposes of the Authorization.

Anticipated Effects on Marine Mammal Habitat

We included a detailed discussion of the potential effects of this action on marine mammal habitat, including physiological and behavioral effects on marine mammal prey items (e.g., fish and invertebrates) in the notice of proposed Authorization on March 17, 2014 (79 FR 14779) and in our EA. While we anticipate that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, the impact to habitat is temporary and reversible. Further, we also considered these impacts to marine mammals in detail in the notice of proposed Authorization as behavioral modification. The main impact associated with the activity would be temporarily elevated noise levels and the associated direct effects on marine mammals.

Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must prescribe, where applicable, the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse 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).

The Observatory has reviewed the following source documents and has incorporated a suite of proposed mitigation measures into their project description.

(1) Protocols used during previous Foundation and Observatory-funded seismic research cruises as approved by us and detailed in the Foundation's 2011 PEIS and 2013 EA;

(2) Previous incidental harassment authorization applications and authorizations that we have approved and authorized; and

(3) Recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman, (2007).

To reduce the potential for disturbance from acoustic stimuli associated with the activities, the Observatory, and/or its designees have proposed to implement the following mitigation measures for marine mammals:

(1) Vessel-based visual mitigation monitoring;

(2) Proposed exclusion zones;

(3) Power down procedures;

(4) Shutdown procedures;

(5) Ramp-up procedures; and

(6) Speed and course alterations.

Vessel-Based Visual Mitigation Monitoring

The Observatory would position observers aboard the seismic source vessel to watch for marine mammals near the vessel during daytime airgun operations and during any start-ups at night. Observers would also watch for marine mammals near the seismic vessel for at least 30 minutes prior to the start of airgun operations after an extended shutdown (i.e., greater than approximately eight minutes for this proposed cruise). When feasible, the observers would conduct observations during daytime periods when the seismic system is not operating for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods. Based on the observations, the *Langseth* would power down or shutdown the airguns when marine mammals are observed within or about to enter a designated 177-dB or 187-dB exclusion zone.

During seismic operations, at least four protected species observers would be aboard the *Langseth.* The Observatory would appoint the observers with our concurrence and they would conduct observations during ongoing daytime operations and nighttime ramp-ups of the airgun array. During the majority of seismic operations, two observers would be on duty from the observation tower to monitor marine mammals near the seismic vessel. Using two observers would increase the effectiveness of detecting animals near the source vessel. However, during mealtimes and bathroom breaks, it is sometimes difficult to have two observers on effort, but at least one observer would be on watch during bathroom breaks and mealtimes. Observers would be on duty in shifts of no longer than four hours in duration.

Two observers on the *Langseth* would also be on visual watch during all nighttime ramp-ups of the seismic airguns. A third observer would monitor the passive acoustic monitoring equipment 24 hours a day to detect vocalizing marine mammals present in the action area. In summary, a typical daytime cruise would have scheduled two observers (visual) on duty from the observation tower, and an observer (acoustic) on the passive acoustic monitoring system. Before the start of the seismic survey, the Observatory would instruct the vessel's crew to assist in detecting marine mammals and implementing mitigation requirements.

The *Langseth* is a suitable platform for marine mammal observations. When stationed on the observation platform, the eye level would be approximately 21.5 m (70.5 ft) above sea level, and the observer would have a good view around the entire vessel. During daytime, the observers would scan the area around the vessel systematically with reticle binoculars (e.g., 7 x 50 Fujinon), Big-eye binoculars (25 x 150), and with the naked eye. During darkness, night vision devices would be

available (ITT F500 Series Generation 3 binocular-image intensifier or equivalent), when required. Laser range-finding binoculars (Leica LRF 1200 laser rangefinder or equivalent) would be available to assist with distance estimation. They are useful in training observers to estimate distances visually, but are generally not useful in measuring distances to animals directly. The user measures distances to animals with the reticles in the binoculars.

When the observers see marine mammals within or about to enter the designated exclusion zone, the *Langseth* would immediately power down or shutdown the airguns. The observer(s) would continue to maintain watch to determine when the animal(s) are outside the exclusion zone by visual confirmation. Airgun operations would not resume until the observer has confirmed that the animal has left the zone, or if not observed after 15 minutes for species with shorter dive durations (small odontocetes and pinnipeds) or 30 minutes for species with longer dive durations (mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, killer, and beaked whales).

Exclusion Zones: The Observatory would use safety radii to designate exclusion zones and to estimate take for marine mammals. Table 2 shows the distances at which a marine mammal could potentially receive sound levels (160-, 177-, or 187-dB) from the airgun subarrays and a single airgun.

TABLE 2—DISTANCES TO WHICH SOUND LEVELS GREATER THAN OR EQUAL TO 160, 177, AND 187 dB RE: 1 μPa COULD BE RECEIVED DURING THE PROPOSED SURVEY OFFSHORE NEW JERSEY IN THE NORTH ATLANTIC OCEAN, JULY THROUGH AUGUST, 2014

Source and volume (in^3)	Tow depth (m)	Water depth (m)	Predicted RMS distances (m)		
			187 dB	177 dB	160 dB
Single Bolt airgun (40 in^3)	6	<100	31	109	995
4-Airgun subarray (700 in^3)	4.5	<100	151	561	5,240
4-Airgun subarray (700 in^3)	6	<100	175	651	6,100
8-Airgun subarray (1,400 in^3)	4.5	<100	190	709	6,670
8-Airgun subarray (1,400 in^3)	6	<100	234	886	8,150

The 180- or 190-dB level shutdown criteria are applicable to cetaceans and pinnipeds as specified by NMFS (2000). To be conservative, we are requiring the Observatory to establish the exclusion zones based upon the 187-dB and 177-dB isopleths which are approximately 3-dB lower than NMFS' existing shutdown criteria.

If the protected species visual observer detects marine mammal(s) within or about to enter the appropriate exclusion zone, the *Langseth* crew would immediately power down the airgun array, or perform a shutdown if necessary (see Shut-down Procedures).

Power Down Procedures—A power down involves decreasing the number of airguns in use such that the radius of the 177 or 187-dB zone is smaller to the extent that marine mammals are no longer within or about to enter the exclusion zone. A power down of the airgun array can also occur when the vessel is moving from one seismic line to another. During a power down for mitigation, the *Langseth* would operate one airgun (40 in^3). The continued operation of one airgun would alert marine mammals to the presence of the seismic vessel in the area. A shutdown occurs when the *Langseth* suspends all airgun activity.

If the observer detects a marine mammal outside the exclusion zone and the animal is likely to enter the zone, the crew would power down the airguns to reduce the size of the 177- or 187-dB exclusion zone before the animal enters that zone. Likewise, if a mammal is already within the zone after detection, the crew would power-down the airguns immediately. During a power down of the airgun array, the crew would operate a single 40-in^3 airgun which has a smaller exclusion zone. If the observer detects a marine mammal within or near the smaller exclusion zone around the airgun (Table 2), the crew would shut down the single airgun (see next section).

Resuming Airgun Operations After a Power Down—Following a power-down, the *Langseth* crew would not resume full airgun activity until the marine mammal has cleared the 177- or 187-dB exclusion zone (see Table 2). The observers would consider the animal to have cleared the exclusion zone if:

- The observer has visually observed the animal leave the exclusion zone; or
- An observer has not sighted the animal within the exclusion zone for 15 minutes for species with shorter dive durations (i.e., small odontocetes or pinnipeds), or 30 minutes for species with longer dive durations (i.e., mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales); or

The *Langseth* crew would resume operating the airguns at full power after 15 minutes of sighting any species with short dive durations (i.e., small odontocetes or pinnipeds). Likewise, the crew would resume airgun operations at full power after 30 minutes of sighting any species with longer dive durations (i.e., mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales).

We estimate that the *Langseth* would transit outside the original 177- or 187-dB exclusion zone after an 8-minute wait period. This period is based on the average speed of the *Langseth* while operating the airguns (8.5 km/h; 5.3 mph). Because the vessel has transited away from the vicinity of the original sighting during the 8-minute period, implementing ramp-up procedures for the full array after an extended power down (i.e., transiting for an additional 35 minutes from the location of initial sighting) would not meaningfully increase the effectiveness of observing marine mammals approaching or entering the exclusion zone for the full source level and would not further minimize the potential for take. The *Langseth's* observers are continually monitoring the exclusion zone for the full source level while the mitigation airgun is firing. On average, observers can observe to the horizon (10 km; 6.2 mi) from the height of the *Langseth's* observation deck and should be able to say with a reasonable degree of confidence whether a marine mammal would be encountered within this distance before resuming airgun operations at full power.

Shutdown Procedures—The *Langseth* crew would shutdown the operating airgun(s) if they see a marine mammal

within or approaching the exclusion zone for the single airgun. The crew would implement a shutdown:

(1) If an animal enters the exclusion zone of the single airgun after the crew has initiated a power down; or

(2) If an observer sees the animal is initially within the exclusion zone of the single airgun when more than one airgun (typically the full airgun array) is operating.

Considering the conservation status for North Atlantic right whales, the *Langseth* crew would shutdown the airgun(s) immediately in the unlikely event that observers detect this species, regardless of the distance from the vessel. The *Langseth* would only begin ramp-up if observers have not seen the North Atlantic right whale for 30 minutes.

Resuming Airgun Operations After a Shutdown—Following a shutdown in excess of eight minutes, the *Langseth* crew would initiate a ramp-up with the smallest airgun in the array (40-in^3). The crew would turn on additional airguns in a sequence such that the source level of the array would increase in steps not exceeding 6 dB per five-minute period over a total duration of approximately 30 minutes. During ramp-up, the observers would monitor the exclusion zone, and if he/she sees a marine mammal, the *Langseth* crew would implement a power down or shutdown as though the full airgun array were operational.

During periods of active seismic operations, there are occasions when the *Langseth* crew would need to temporarily shut down the airguns due to equipment failure or for maintenance. In this case, if the airguns are inactive longer than eight minutes, the crew would follow ramp-up procedures for a shutdown described earlier and the observers would monitor the full exclusion zone and would implement a power down or shutdown if necessary.

If the full exclusion zone is not visible to the observer for at least 30 minutes prior to the start of operations in either daylight or nighttime, the *Langseth* crew would not commence ramp-up unless at least one airgun (40-in^3 or similar) has been operating during the interruption of seismic survey operations. Given these provisions, it is likely that the vessel's crew would not ramp up the airgun array from a complete shutdown at night or in thick fog, because the outer part of the zone for that array would not be visible during those conditions.

If one airgun has operated during a power down period, ramp-up to full power would be permissible at night or in poor visibility, on the assumption that marine mammals would be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away. The vessel's crew would not initiate a ramp-up of the airguns if an observer sees the marine mammal within or near the applicable exclusion zones during the day or close to the vessel at night.

Ramp-up Procedures—Ramp-up of an airgun array provides a gradual increase in sound levels, and involves a step-wise increase in the number and total volume of airguns firing until the full volume of the airgun array is achieved. The purpose of a ramp-up is to ''warn'' marine mammals in the vicinity of the airguns, and to provide the time for them to leave the area and thus avoid any potential injury or impairment of their hearing abilities. The Observatory would follow a ramp-up procedure when the airgun array begins operating after an 8 minute period without airgun operations or when shut down has exceeded that period. The Observatory has used similar waiting periods (approximately eight to 10 minutes) during previous seismic surveys.

Ramp-up would begin with the smallest airgun in the array (40 in^3). The crew would add airguns in a sequence such that the source level of the array would increase in steps not exceeding six dB per five minute period over a total duration of approximately 30 to 35 minutes. During ramp-up, the observers would monitor the exclusion zone, and if marine mammals are sighted, the Observatory would implement a power-down or shut-down as though the full airgun array were operational.

If the complete exclusion zone has not been visible for at least 30 minutes prior to the start of operations in either daylight or nighttime, the Observatory would not commence the ramp-up unless at least one airgun (40 in^3 or similar) has been operating during the interruption of seismic survey operations. Given these provisions, it is likely that the crew would not ramp up the airgun array from a complete shut-down at night or in thick fog, because the outer part of the exclusion zone for that array would not be visible during those conditions. If one airgun has operated during a power-down period, ramp-up to full power would be permissible at night or in poor visibility, on the assumption that marine mammals would be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away. The Observatory would not initiate a ramp-up of the airguns if an observer sights a marine mammal within or near the applicable exclusion zones.

Speed and Course Alterations

If during seismic data collection, the Observatory detects marine mammals outside the exclusion zone and, based on the animal's position and direction of travel, is likely to enter the exclusion zone, the *Langseth* would change speed and/or direction if this does not compromise operational safety. Due to the limited maneuverability of the primary survey vessel, altering speed and/or course can result in an extended period of time to realign onto the transect. However, if the animal(s) appear likely to enter the exclusion zone, the *Langseth* would undertake further mitigation actions, including a power down or shut down of the airguns.

Mitigation Conclusions

We have carefully evaluated the Observatory's proposed mitigation measures in the context of ensuring that we prescribe 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 measure is 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 us 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 here:

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 airgun operations that we expect 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 airgun operations that we expect 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 airgun operations that we expect to result in the take of marine mammals (this goal may contribute to a, 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 the evaluation of the Observatory's proposed measures, as well as other measures considered, we have determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring

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 Authorizations 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 we expect to be present in the proposed action area.

The Observatory submitted a marine mammal monitoring plan in section XIII of the Authorization application. This description is not repeated here as we have not changed the monitoring plan between the proposed Authorization and our final Authorization.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and during other times and locations, in order to generate more data to contribute to the analyses mentioned later;

2. An increase in our understanding of how many marine mammals would be affected by seismic airguns and other active acoustic sources and the likelihood of associating those exposures with specific adverse effects, such as behavioral harassment, temporary or permanent threshold shift;

3. An increase in our understanding of how marine mammals respond to stimuli that we expect to result in take and how those anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

a. Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (i.e., we need to be able to accurately predict received level, distance from source, and other pertinent information);

b. Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (i.e., we need to be able to accurately predict received level, distance from source, and other pertinent information);

c. Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

4. An increased knowledge of the affected species; and

5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

Monitoring Measures

The Observatory proposes to sponsor marine mammal monitoring during the present project to supplement the mitigation measures that require real-time monitoring, and to satisfy the monitoring requirements of the Authorization. We have not changed the monitoring plan between the proposed Authorization and our final Authorization. The Observatory planned the monitoring work as a self-contained project independent of any other related monitoring projects that may occur in the same regions at the same time. Further, the Observatory is prepared to discuss coordination of its monitoring program with any other related work that might be conducted by other groups working insofar as it is practical for the Observatory.

Vessel-Based Passive Acoustic Monitoring

Passive acoustic monitoring would complement the visual mitigation monitoring program, when practicable. Visual monitoring typically is not effective during periods of poor visibility or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Passive acoustical monitoring can improve detection, identification, and localization of cetaceans when used in conjunction with visual observations. The passive acoustic monitoring would serve to alert visual observers (if on duty) when vocalizing cetaceans are detected. It is only useful when marine mammals call, but it can be effective either by day or by night, and does not depend on good visibility. The acoustic observer would monitor the system in real time so that he/she can advise the visual observers if they acoustic detect cetaceans.

The passive acoustic monitoring system consists of hardware (i.e., hydrophones) and software. The ''wet end'' of the system consists of a towed hydrophone array connected to the vessel by a tow cable. The tow cable is 250 m (820.2 ft) long and the hydrophones are fitted in the last 10 m (32.8 ft) of cable. A depth gauge, attached to the free end of the cable, which is typically towed at depths less than 20 m (65.6 ft). The *Langseth* crew would deploy the array from a winch located on the back deck. A deck cable would connect the tow cable to the electronics unit in the main computer lab where the acoustic station, signal conditioning, and processing system would be located. The Pamguard software amplifies, digitizes, and then processes the acoustic signals received by the hydrophones. The system can detect marine mammal vocalizations at frequencies up to 250 kHz.

One acoustic observer, an expert bioacoustician with primary responsibility for the passive acoustic monitoring system would be aboard the *Langseth* in addition to the four visual observers. The acoustic observer would monitor the towed hydrophones 24 hours per day during airgun operations and during most periods when the *Langseth* is underway while the airguns are not operating. However, passive acoustic monitoring may not be possible if damage occurs to both the primary and back-up hydrophone arrays during operations. The primary passive acoustic monitoring streamer on the *Langseth* is a digital hydrophone streamer. Should the digital streamer fail, back-up systems should include an analog spare streamer and a hull-mounted hydrophone.

One acoustic observer would monitor the acoustic detection system by listening to the signals from two

channels via headphones and/or speakers and watching the real-time spectrographic display for frequency ranges produced by cetaceans. The observer monitoring the acoustical data would be on shift for one to six hours at a time. The other observers would rotate as an acoustic observer, although the expert acoustician would be on passive acoustic monitoring duty more frequently.

When the acoustic observer detects a vocalization while visual observations are in progress, the acoustic observer on duty would contact the visual observer immediately, to alert him/her to the presence of cetaceans (if they have not already been seen), so that the vessel's crew can initiate a power down or shutdown, if required. During non-daylight hours, when a cetacean is detected by acoustic monitoring and may be close to the source vessel, the *Langseth* crew would be notified immediately so that the proper mitigation measure may be implemented. The observer would enter the information regarding the call into a database. Data entry would include an acoustic encounter identification number, whether it was linked with a visual sighting, date, time when first and last heard and whenever any additional information was recorded, position and water depth when first detected, bearing if determinable, species or species group (e.g., unidentified dolphin, sperm whale), types and nature of sounds heard (e.g., clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, etc.), and any other notable information. Acousticians record the acoustic detection for further analysis.

Observer Data and Documentation

Observers would record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. They would use the data to estimate numbers of animals potentially 'taken' by harassment (as defined in the MMPA). They will also provide information needed to order a power down or shut down of the airguns when a marine mammal is within or near the exclusion zone.

When an observer makes a sighting, they will record the following information:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (e.g., none, avoidance, approach, paralleling, etc.), and behavioral pace.

2. Time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare.

The observer will record the data listed under (2) at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

Observers will record all observations and power downs or shutdowns in a standardized format and will enter data into an electronic database. The observers will verify the accuracy of the data entry by computerized data validity checks during data entry and by subsequent manual checking of the database. These procedures will allow the preparation of initial summaries of data during and shortly after the field program, and will facilitate transfer of the data to statistical, graphical, and other programs for further processing and archiving.

Results from the vessel-based observations will provide:

1. The basis for real-time mitigation (airgun power down or shutdown).

2. Information needed to estimate the number of marine mammals potentially taken by harassment, which the Observatory must report to the Office of Protected Resources.

3. Data on the occurrence, distribution, and activities of marine mammals and turtles in the area where the Observatory would conduct the seismic study.

4. Information to compare the distance and distribution of marine mammals and turtles relative to the source vessel at times with and without seismic activity.

5. Data on the behavior and movement patterns of marine mammals detected during non-active and active seismic operations.

Reporting

The Observatory would submit a report to us and to the Foundation within 90 days after the end of the cruise. The report would describe the operations conducted and sightings of marine mammals and turtles near the operations. The report would provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report would summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report would also include estimates of the number and nature of exposures that could result in ''takes'' of marine mammals by harassment or in other ways.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner not permitted by the authorization (if issued), such as an injury, serious injury, or mortality (e.g., ship-strike, gear interaction, and/or entanglement), the Observatory shall immediately cease the specified activities and immediately report the take to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and the Northeast Regional Stranding Coordinator at (978) 281–9300. The report must 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).

The Observatory shall not resume its activities until we are able to review the circumstances of the prohibited take. We shall work with the Observatory to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The Observatory may not resume their activities until notified by us via letter, email, or telephone.

In the event that the Observatory discovers an injured or dead marine mammal, and the lead visual observer 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 we describe in the next paragraph), the Observatory will immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and the Northeast Regional Stranding Coordinator at (978) 281–9300. The report must include the same information identified in the paragraph above this section. Activities may continue while NMFS reviews the

circumstances of the incident. NMFS would work with the Observatory to determine whether modifications in the activities are appropriate.

In the event that the Observatory discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Observatory would report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and the Northeast Regional Stranding Coordinator at (978) 281–9300, within 24 hours of the discovery. Activities may continue while NMFS reviews the circumstances of the incident. The Observatory would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS.

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].

Acoustic stimuli (i.e., increased underwater sound) generated during the operation of the airgun sub-arrays have the potential to result in the behavioral disturbance of some marine mammals. Thus, NMFS proposes to authorize take by Level B harassment resulting from the operation of the sound sources for the proposed seismic survey based upon the current acoustic exposure criteria shown in Table 3. Our practice has been to apply the 160 dB re: 1 μPa received level threshold for underwater impulse sound levels to determine whether take by Level B harassment occurs. Southall *et al.* (2007) provides a severity scale for ranking observed behavioral responses of both free-ranging marine mammals and laboratory subjects to various types of anthropogenic sound (see Table 4 in Southall *et al.* [2007]).

TABLE 3—NMFS' CURRENT ACOUSTIC EXPOSURE CRITERIA

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).

The probability of vessel and marine mammal interactions (i.e., ship strike) occurring during the proposed survey is unlikely due to the *Langseth's* slow operational speed, which is typically 4.6 kts (8.5 km/h; 5.3 mph). Outside of seismic operations, the *Langseth's* cruising speed would be approximately 11.5 mph (18.5 km/h; 10 kts) which is generally below the speed at which studies have noted reported increases of marine mammal injury or death (Laist *et al.,* 2001). In addition, the *Langseth* has a number of other advantages for avoiding ship strikes as compared to most commercial merchant vessels, including the following: the *Langseth's* bridge offers good visibility to visually monitor for marine mammal presence; observers posted during operations scan the ocean for marine mammals and must report visual alerts of marine mammal presence to crew; and the observers receive extensive training that covers the fundamentals of visual observing for marine mammals and information about marine mammals and their identification at sea. Thus, NMFS does not anticipate that take, in the form of vessel strike, would result from the movement of the vessel.

The Observatory did not estimate any additional take allowance for animals that could be affected by sound sources other than the airguns. We do not expect that the sound levels produced by the echosounder, sub-bottom profiler, and ADCP would exceed the sound levels produced by the airguns for the majority of the time. Because of the beam pattern and directionality of these sources, combined with their lower source levels, it is not likely that these sources would take marine mammals independently from the takes that the Observatory has estimated to result from airgun operations. Therefore, we do not believe it is necessary to authorize additional takes for these sources for the action at this time. We are currently evaluating the broader use of these types of sources to determine under what specific circumstances coverage for incidental take would or would not be advisable. We are working on guidance that would outline a consistent recommended approach for applicants to address the potential impacts of these types of sources.

NMFS considers the probability for entanglement of marine mammals to be low because of the vessel speed and the monitoring efforts onboard the survey vessel. Therefore, NMFS does not believe it is necessary to authorize additional takes for entanglement at this time.

There is no evidence that planned activities could result in serious injury or mortality within the specified geographic area for the requested Authorization. The required mitigation and monitoring measures would minimize any potential risk for serious injury or mortality.

The following sections describe the Observatory's methods to estimate take by incidental harassment. The Observatory based their estimates on the number of marine mammals that could be harassed by seismic operations with the airgun sub-array during approximately 4,900 km^2 (approximately 1,926.6 square miles (mi^2) of transect lines in the northwest Atlantic Ocean as depicted in Figure 1 (Figure 1 of the Observatory's application).

Ensonified Area Calculations: In order to estimate the potential number of marine mammals exposed to airgun sounds, the Observatory considers the total marine area within the 160-dB radius around the operating airguns. This ensonified area includes areas of overlapping transect lines. They determine the ensonified area by entering the planned survey lines into a MapInfo GIS, using the software to identify the relevant areas by ''drawing'' the applicable 160-dB buffer (see Table 2) around each seismic line, and then calculate the total area within the buffers.

Because the Observatory assumes that the *Langseth* may need to repeat some tracklines, accommodate the turning of the vessel, address equipment

malfunctions, or conduct equipment testing to complete the survey, they have increased the proposed number of line-kilometers for the seismic operations from approximately 2,002 km² (1,244 mi) by 25 percent to 2,502 km² (1,555 mi) to account for these contingency operations.

Exposure Estimates: The Observatory calculates the numbers of different individuals potentially exposed to approximately 160 dB re: 1 μPa_{rms} by multiplying the expected species density estimates (in number/km²) for that area in the absence of a seismic program times the estimated area of ensonification (i.e., 2,502 km²; 1,555 mi).

Table 3 of their application presents their estimates of the number of different individual marine mammals that could potentially experience exposures greater than or equal to 160 dB re: 1 µPa (rms) during the seismic survey if no animals moved away from the survey vessel. The Observatory used the Strategic Environmental Research and Development Program's (SERDP) spatial decision support system (SDSS) Marine Animal Model Mapper tool (Read *et al.,* 2009) to calculate cetacean densities within the survey area based on the U.S. Navy's ''OPAREA Density Estimates'' (NODE) model (DoN, 2007). The NODE model derives density estimates using density surface modeling of the existing line-transect data, which uses sea surface temperature, chlorophyll *a,* depth, longitude, and latitude to allow extrapolation to areas/seasons where marine mammal survey data collection did not occur. The Observatory used the SERDP SDSS tool to obtain mean densities in a polygon the size of the seismic survey area for cetacean species during summer (June through August).

For the Authorization, we reviewed the Observatory's take estimates presented in Table 3 of their application and have revised the take calculations for several species based upon the best available density information from the SERDP SDSS Marine Animal Model Mapper tool for the spring and summer months, survey information from Palka (2012), species presence from the New Jersey Department of Environmental Protection Baseline Studies Final Report Volume III: Marine Mammal and Sea Turtle Studies, and stranding records from the New Jersey Marine Mammal Stranding Center. These include takes for blue, fin, humpback, minke, North Atlantic right, and sei whales; harbor porpoise; and gray, harbor, and harp seals.

For North Atlantic right whales, we used the SERDP SDSS Marine Animal Model Mapper tool NODES spring model to obtain mean densities in a polygon the size of the seismic survey area. To be conservative, we increased the estimated take of 1 individual to 3 to account for a cow/calf pair based on information from Whitt et al. (2013).

For blue and humpback whales, we used the SERDP SDSS Duke Habitat Model for baleen and humpback whales, respectively to obtain the summer mean densities in a polygon the size of the seismic survey area for those species.

For species where the SERDP SDSS NODES summer model produced a density estimate of zero, we increased the take estimates based on generalized group size data from Palka (2012). Those species include: humpback, fin, sei, and minke whales; striped dolphins, short-beaked common dolphins, and Atlantic white-sided dolphins. For gray and harp seals, we increased the take estimates based on stranding data from the New Jersey Marine Mammal Stranding Center.

For harbor porpoise and harbor seals, we also used the SERDP SDSS Marine Animal Model Mapper tool NODES spring model to obtain mean densities in a polygon the size of the seismic survey area.

The Observatory's approach for estimating take does not allow for turnover in the marine mammal populations in the area during the course of the survey. To correct this potential underestimation, we have increased the proposed take estimates for odontocetes (excluding sperm whales) and pinnipeds by a factor of 25 percent to conservatively account for new animals entering or passing through the ensonified area.

Table 4 presents the revised estimates of the possible numbers of marine mammals exposed to sound levels greater than or equal to 160 dB re: 1 µPa during the proposed seismic survey.

TABLE 4—DENSITIES AND ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO SOUND LEVELS GREATER THAN OR EQUAL TO 160 dB re: 1 µPa DURING THE PROPOSED SEISMIC SURVEY IN THE NORTH ATLANTIC OCEAN, DURING JULY THROUGH AUGUST, 2014

Species	Density estimate [1]	Modeled number of individuals exposed to sound levels ≥160 dB	Proposed take authorization [2]	Percent of species or stock [3]	Population trend [3]
North Atlantic right whale	[4] 0.283	1	3	0.66	Increasing.
Humpback whale	[5] 0.044	1	[2] 2	0.24	Increasing.
Common minke whale	0	0	[2] 2	0.01	No data.
Sei whale	0.161	1	[2] 2	0.56	No data.
Fin whale	0.002	1	[2] 2	0.06	No data.
Blue whale	[6] 6.73	17	17	3.86	No data.
Sperm whale	7.06	18	18	0.79	No data.
Dwarf sperm whale	0.001	2	3	0.17	No data.
Pygmy sperm whale	0.001	2	3	0.17	No data.
Cuvier's beaked whale	0.124	3	4	0.06	No data.
Gervais' beaked whale	0.124	3	4	0.06	No data.
Sowerby's beaked whale	0.124	3	4	0.06	No data.
Unidentified Mesoplodon/Ziphid: True's, Blainville, northern bottlenose whale.	0.124	1	4	0.06	No data.
Rough-toothed dolphin	0	0	0	0	No data.
Bottlenose dolphin (pelagic)	111.3	279	349	0.45	No data.
Bottlenose dolphin (coastal)	111.3	279	349	3.02	No data.
Pantropical spotted dolphin	0	0	0	0	No data.
Atlantic spotted dolphin	36.1	90	113	0.25	No data.
Spinner dolphin	0	0	0	0	No data.

TABLE 4—DENSITIES AND ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO SOUND LEVELS GREATER THAN OR EQUAL TO 160 dB re: 1 μPa DURING THE PROPOSED SEISMIC SURVEY IN THE NORTH ATLANTIC OCEAN, DURING JULY THROUGH AUGUST, 2014—Continued

Species	Density estimate [1]	Modeled number of individuals exposed to sound levels ≥160 dB	Proposed take authorization [2]	Percent of species or stock [3]	Population trend [3]
Striped dolphin	0	0	59	0.11	No data.
Short-beaked common dolphin	0	0	23	0.01	No data.
White-beaked dolphin	0	0	0	0	No data.
Atlantic white-sided dolphin	0	0	19	0.04	No data.
Risso's dolphin	13.6	35	44	0.24	No data.
False killer whale	0	0	0	0	No data.
Pygmy killer whale	0	0	0	0	No data.
Killer whale	0	0	0	0	No data.
Long-finned pilot whale	0.184	1	12	0.05	No data.
Short-finned pilot whale	0.184	1	12	0.06	No data.
Harbor porpoise	[4] 0.008	1	3	0.0038	No data.
Gray seal	0	0	15	0.005	Increasing.
Harbor seal	[4] 44.43	112	140	0.20	No data.
Harp seal	0	0	5	0.00007	Increasing.

[1] Except where noted, densities are the mean values for the survey area calculated from the SERDP SDSS NODES summer model (Read et al., 2009) as presented in Table 3 of the Observatory's application.

[2] Proposed take includes increases for mean group size or cow/calf pairs based on Palka, 2012; NJDEP, 2010; or increases for gray and harp seals based on stranding data from the NJ Marine Mammal Stranding Center. We have also increased the proposed take estimates by a factor of 25 percent to conservatively account for new animals entering or passing through the ensonified area.

[3] Table 1 in this notice lists the stock species abundance estimates used in calculating the percentage of species/stock. Population trend information from Waring et al., 2013. No data. = Insufficient data to determine population trend.

[4] NMFS revised estimate based on the NODES model using the spring mean density estimate for that species in survey area.

[5] NMFS revised estimate based on the SERDP SDSS Duke Habitat Model using the summer mean density estimate for humpback whales in survey area.

[6] NMFS revised estimate based on the SERDP SDSS Duke Habitat Model using the summer mean density estimate for baleen whales in survey area.

Encouraging and Coordinating Research

The Observatory would coordinate the planned marine mammal monitoring program associated with the seismic survey in the northwest Atlantic Ocean with applicable U.S. agencies.

Analysis and 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). The lack of likely adverse effects on annual rates of recruitment or survival (i.e., population level effects) forms the basis of a negligible impact finding. Thus, 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, we 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, and the number of estimated mortalities, effects on habitat, and the status of the species.

In making a negligible impact determination, we consider:

- The number of anticipated injuries, serious injuries, or mortalities;
- The number, nature, and intensity, and duration of Level B harassment; and
- The context in which the takes occur (e.g., impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);
- The status of stock or species of marine mammals (i.e., depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);
- Impacts on habitat affecting rates of recruitment/survival; and
- The effectiveness of monitoring and mitigation measures to reduce the number or severity of incidental take.

For reasons stated previously in this document and based on the following factors, the Observatory's specified activities are not likely to cause long-term behavioral disturbance, permanent threshold shift, or other non-auditory injury, serious injury, or death. They include:

- The anticipated impacts of the Observatory's survey activities on marine mammals are temporary behavioral changes due to avoidance of the area.
- The likelihood that marine mammals approaching the survey area will likely be traveling through the or opportunistically foraging within the vicinity. Marine mammals transiting within the vicinity of survey operations will be transient as no breeding, calving, pupping, or nursing areas, or haul-outs, overlap with the survey area.
- The low potential of the survey to cause an effect on coastal bottlenose dolphin populations due to the fact that the Observatory's study area is approximately 20 km (12 mi) away from the identified habitats for coastal bottlenose dolphins and their calves.
- The low likelihood that North Atlantic right whales would be exposed to sound levels greater than or equal to 160 dB re: 1 μPa due to the requirement that the *Langseth* crew must shutdown the airgun(s) immediately if observers detect this species, at any distance from the vessel.
- The anticipated impacts of the Observatory's survey activities on marine mammals are temporary

behavioral changes due to avoidance of the area.

- The likelihood that, given sufficient notice through relatively slow ship speed, we expect marine mammals to move away from a noise source that is annoying prior to its becoming potentially injurious;
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the operation of the airgun(s) to avoid acoustic harassment;
- We also expect that the seismic survey would have no more than a temporary and minimal adverse effect on any fish or invertebrate species that serve as prey species for marine mammals, and therefore consider the potential impacts to marine mammal habitat minimal;
- The relatively low potential for temporary or permanent hearing impairment and the likelihood that the Observatory would avoid this impact through the incorporation of the required monitoring and mitigation measures (including the incorporation of larger exclusion zones for Level A Harassment, power-downs, and shutdowns); and
- The high likelihood that trained visual protected species observers would detect marine mammals at close proximity to the vessel.

NMFS does not anticipate that any injuries, serious injuries, or mortalities would occur as a result of the Observatory's proposed activities, and NMFS does not propose to authorize injury, serious injury, or mortality at this time.

We anticipate only behavioral disturbance to occur primarily in the form of avoidance behavior to the sound source during the conduct of the survey activities. Further, the additional mitigation measure requiring the Observatory to increase the size of the Level A harassment exclusion zones will effect the least practicable impact marine mammals.

Table 4 in this document outlines the number of requested Level B harassment takes that we anticipate as a result of these activities. NMFS anticipates that 27 marine mammal species (6 mysticetes, 18 odontocetes, and 3 pinnipeds) under our jurisdiction would likely occur in the proposed action area. Of the marine mammal species under our jurisdiction that are known to occur or likely to occur in the study area, six of these species are listed as endangered under the ESA and depleted under the MMPA, including: the blue, fin, humpback, north Atlantic right, sei, and sperm whales.

Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described (see ''Potential Effects on Marine Mammals'' section in this notice), we do not expect the activity to impact rates of recruitment or survival for any affected species or stock. In addition, the seismic surveys would not take place in areas of significance for marine mammal feeding, resting, breeding, or calving and would not adversely impact marine mammal habitat, including the identified habitats for coastal bottlenose dolphins and their calves.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (i.e., 24 hour cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). While we anticipate that the seismic operations would occur on consecutive days, the estimated duration of the survey would last no more than 30 days. Specifically, the airgun array moves continuously over 10s of kilometers daily, as do the animals, making it unlikely that the same animals would be continuously exposed over multiple consecutive days. Additionally, the seismic survey would increase sound levels in the marine environment in a relatively small area surrounding the vessel (compared to the range of the animals), which is constantly travelling over distances, and some animals may only be exposed to and harassed by sound for less than a day.

In summary, we expect marine mammals to avoid the survey area, thereby reducing the risk of exposure and impacts. We do not anticipate disruption to reproductive behavior and there is no anticipated effect on annual rates of recruitment or survival of affected marine mammals.

Based on this notice's analysis 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 finds that the Observatory's proposed seismic survey would have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

As mentioned previously, NMFS estimates that the Observatory's activities could potentially affect, by Level B harassment only, 27 species of marine mammals under our jurisdiction. For each species, these estimates constitute small numbers (each, less than or equal to four percent) relative to the population size and we have provided the regional population estimates for the marine mammal species that may be taken by Level B harassment in Table 4 in this notice.

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 mitigation and monitoring measures, NMFS finds that the Observatory's proposed activity would take small numbers of marine mammals relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action.

Endangered Species Act (ESA)

There are six marine mammal species that may occur in the proposed survey area, several are listed as endangered under the Endangered Species Act, including the blue, fin, humpback, north Atlantic right, sei, and sperm whales. Under section 7 of the ESA, the Foundation has initiated formal consultation with NMFS on the proposed seismic survey. NMFS (i.e., National Marine Fisheries Service, Office of Protected Resources, Permits and Conservation Division) also consulted with NMFS on the proposed issuance of an Authorization under section 101(a)(5)(D) of the MMPA. NMFS consolidated those consultations in a single Biological Opinion.

On June 30, 2014, the Endangered Species Act Interagency Cooperation Division issued an Opinion to us and the Foundation which concluded that the issuance of the Authorization and the conduct of the seismic survey were not likely to jeopardize the continued existence of blue, fin, humpback, North Atlantic right, sei, and sperm whales. The Opinion also concluded that the issuance of the Authorization and the conduct of the seismic survey would not affect designated critical habitat for these species.

National Environmental Policy Act (NEPA)

The Foundation has prepared an EA titled, ''Environmental Assessment of a Marine Geophysical Survey by the R/V Marcus G. Langseth in the Atlantic Ocean off New Jersey, June–July 2014,'' prepared by LGL, Ltd. environmental research associates, on behalf of the

Foundation and the Observatory. We have also prepared an EA titled, ''Issuance of an Incidental Harassment Authorization to Lamont Doherty Earth Observatory to Take Marine Mammals by Harassment Incidental to a Marine Geophysical Survey in the Northwest Atlantic Ocean, June–August, 2014,'' and FONSI in accordance with NEPA and NOAA Administrative Order 216–6. We provided relevant environmental information to the public through our notice of proposed Authorization (79 FR 14779, March 17, 2014) and considered public comments received prior to finalizing our EA and deciding whether or not to issue a Finding of No Significant Impact (FONSI). We concluded that issuance of an Incidental Harassment Authorization would not significantly affect the quality of the human environment and have issued a FONSI. Because of this finding, it is not necessary to prepare an environmental impact statement for the issuance of an Authorization to the Observatory for this activity. Our EA and FONSI for this activity are available upon request (see **ADDRESSES**).

Authorization

We have issued an Incidental Harassment Authorization to the Observatory for the take of marine mammals incidental to conducting a marine seismic survey in the Atlantic Ocean, July 1, 2014 to August 17, 2014.

Dated: July 1, 2014.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–15842 Filed 7–7–14; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Friday, July 11, 2014.

PLACE: 1155 21st St. NW., Washington, DC, 9th Floor Commission Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance, Enforcement Matters, and Examinations. In the event that the times, dates, or locations of this or any future meetings change, an announcement of the change, along with the new time and place of the meeting will be posted on the Commission's Web site at *http://www.cftc.gov.*

CONTACT PERSON FOR MORE INFORMATION: Christopher J. Kirkpatrick, 202–418–5964.

Christopher J. Kirkpatrick,

Acting Secretary.

[FR Doc. 2014–15934 Filed 7–3–14; 11:15 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 14–C0003]

HMI Industries, Inc., Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with HMI Industries, Inc., containing a civil penalty of $725,000.00, within twenty (20) days of service of the Commission's final Order accepting the Settlement Agreement.[1]

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by July 23, 2014.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 14–C0003 Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 820, Bethesda, Maryland 20814–4408.

FOR FURTHER INFORMATION CONTACT: Mary B. Murphy, Assistant General Counsel, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814–4408; telephone (301) 504–7809.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

[1] The Commission voted (2–1) to provisionally accept this Settlement Agreement and Order. Acting Chairman Robert S. Adler and Commissioner Marietta S. Robinson voted to provisionally accept Settlement Agreement and Order. Commissioner Ann Marie Buerkle voted to reject the attached Settlement Agreement and Order.

Dated: July 2, 2014.

Todd A. Stevenson,

Secretary.

UNITED STATES OF AMERICA

CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of:
HMI Industries Inc.

CPSC Docket No.: *14–C0003*

SETTLEMENT AGREEMENT

1. In accordance with the Consumer Product Safety Act (CPSA), 15 U.S.C. §§ 2051–2089 and 16 C.F.R. § 1118.20, HMI Industries Inc. (HMI), and the U.S. Consumer Product Safety Commission (Commission), through its staff (staff), hereby enter into this Settlement Agreement (Agreement). The Agreement and the incorporated attached Order (Order) resolve staff's charges set forth below.

THE PARTIES

2. The Commission is an independent federal regulatory agency established pursuant to, and responsible for, the enforcement of the CPSA. By executing this Agreement, staff is acting on behalf of the Commission, pursuant to 16 C.F.R. § 1118.20(b). The Commission issues the Order under the provisions of the CPSA.

3. HMI is a corporation, organized and existing under the laws of the state of Delaware with its principal corporate office located in Strongsville, Ohio. HMI is a manufacturer of floor cleaners and indoor air purifiers.

STAFF CHARGES

4. Between September 2004 and August 2006, HMI manufactured and distributed approximately 44,000 Filter Queen Majestic 360 floor cleaners (Subject Products, or Floor Cleaners). The Floor Cleaners were sold through independent distributors nationwide for approximately $1,800.

5. The Floor cleaners are ''consumer products,'' and at all relevant times, HMI was a ''manufacturer'' of these consumer products, which were ''distributed in commerce,'' as those terms are defined or used in sections 3(a)(5) and (11), of the CPSA, 15 U.S.C. § 2052(a)(5) and (11).

6. The Floor Cleaners are defective because their wiring can overheat, causing electrical arcing and melting. This poses a burn hazard to consumers.

7. HMI received notice of the defect shortly after distribution began in September 2004. Between 2005 and 2008, HMI received hundreds of reports of electrical arcing, sparking, and fire, including reports of property damage

and injuries to consumers. During that same time, HMI implemented four separate design changes to alleviate the hazard posed by the product. HMI distributed product information notices to consumers in March 2006 and May 2006, alerting users to the defect which the design change attempted to correct. Throughout this period, HMI also paid out claims filed by consumers who reported that the product failed and caused fires and/or property damage.

8. By March 2006, HMI had sufficient information that reasonably supported the conclusion that the Floor Cleaners contained a defect that could create a substantial product hazard or created an unreasonable risk of serious injury or death. HMI was required to inform the Commission immediately of such defect or risk, as required by sections 15(b)(3) and (4) of the CPSA, 15 U.S.C. §§ 2064(b)(3) and (4). By that date, the Firm had received approximately 500 reports of arcing, had instituted its third design change, and had sent product information notices to consumers alerting them to the defect.

9. Despite having information regarding the Floor Cleaner's defect or risk, HMI failed to inform the Commission immediately, as required by sections 15(b)(3) and (4) of the CPSA, 15 U.S.C. §§ 2064(b)(3) and (4).

10. In failing to inform the Commission about the Subject Products immediately, HMI knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. § 2068(a)(4), as the term ''knowingly'' is defined in section 20(d) of the CPSA, 15 U.S.C. § 2069(d).

11. HMI did not file its Full Report with the Commission until February 2009. By that date, HMI was aware of approximately 2,000 incidents of arcing involving the Floor Cleaners, approximately 120 consumer reports of overheating and property damage, and injuries to two consumers. However, HMI advised staff that it knew of only 40 consumer complaints of overheating and damage to carpets, with no reports of injury. Staff relied upon that information and included that information in the joint press release issued on April 29, 2009.

12. In underreporting to Commission staff the number of incidents and injuries associated with the Floor Cleaners, HMI knowingly committed a material misrepresentation to an officer or employee in the course of an investigation under the CPSA in violation of section 19(a)(13) of the CPSA, 15 U.S.C. § 2068(a)(13).

13. Pursuant to section 20 of the CPSA, 15 U.S.C. § 2069, HMI is subject to civil penalties for its knowing failure to report, as required by section 15(b) of the CPSA, 15 U.S.C. § 2064(b), and for HMI's material misrepresentation in violation of CPSA Section 19(a)(13).

HMI's RESPONSE

14. This Agreement does not constitute an admission by HMI to the charges set forth in paragraphs 4 through 13, including, but not limited to, the charge that the Floor Cleaners contained a defect which could create a substantial product hazard or created an unreasonable risk of serious injury or death, and the contention that HMI failed to notify the Commission in a timely manner, in accordance with section 15(b) of the CPSA, 15 U.S.C. § 2064(b), and the charge that HMI knowingly committed a material misrepresentation to an officer or employee in the course of an investigation in violation of Section 19(a)(13) of the CPSA.

AGREEMENT OF THE PARTIES

15. Under the CPSA, the Commission has jurisdiction over the matter involving the Floor Cleaners described herein and over HMI.

16. In settlement of staff's charges, and to avoid the cost, distraction, delay, uncertainty, and inconvenience of protracted litigation or other proceedings, HMI shall pay a civil penalty in the amount of seven hundred twenty-five thousand dollars ($725,000), with three hundred twenty-five thousand ($325,000) of that sum suspended. The remaining four hundred thousand dollars ($400,000) is to be paid in forty equal payments of $10,000, with the first payment due and payable within twenty (20) calendar days after receiving service of the Commission's final Order accepting the Agreement, and each subsequent payment due and payable no later than the 15th day of each succeeding month until all amounts due and payable under this Agreement are paid in full. Interest at the federal legal rate of interest set forth at 28 U.S.C. § 1961(a) and (b) shall accrue only on amounts not timely paid as provided in this Agreement and shall be payable by HMI. All payments shall be applied first to accrued but unpaid interest, if any, and then to principal. All payments to be made under this Agreement shall constitute debts owing to the United States and shall be made by electronic wire transfer to the United States via: *http://www.pay.gov* for allocation to and credit against the payment obligations of HMI hereunder.

17. The parties agree that this settlement figure has been agreed to by staff, and is predicated, among other things, upon the accuracy of oral and written representations of, and statements by, HMI and HMI's representatives (including representations and warranties set forth in this Agreement) regarding (a) facts that establish HMI's status as a small business and (b) the financial condition of HMI, including statements concerning HMI's inability to pay a greater penalty due to restrictions imposed by a tangible net worth covenant in an existing loan agreement.

18. HMI warrants and represents that the financial statements and financial information provided to staff are true, accurate, and complete and have been prepared in accordance with GAAP applied on a consistent basis throughout the periods indicated and with each other; and that the financial statements and financial information fairly present the financial condition and results of operations and cash flow of HMI as of the dates, and for the periods, indicated therein, all in conformity with GAAP consistently applied during the periods involved except as otherwise noted. HMI additionally warrants and represents that all information provided to staff in connection with this civil penalty matter is true, accurate, and complete. To the extent that financial information provided by the Firm during the course of this civil penalty matter included projections and/or forward looking statements, such projections or statements represented HMI's good faith assessment of the HMI's future performance, and had a reasonable basis.

19. HMI has provided staff with its consolidated financial statements as of and for the years ending September 30, 2012 and September 30, 2013 and, along with related notes to the financial statements, as reviewed and audited by independent auditors.

20. The parties agree that an amount equal to $725,000 (representing the entire civil penalty including the suspended portion) plus any accrued and unpaid interest minus any penalty amounts paid by HMI shall become immediately due and payable upon the occurrence of an ''Event of Default.'' An Event of Default means: (1) HMI's breach or failure to perform in any respect any of its agreements, covenants, representations or warranties contained in this Agreement (including the failure of HMI to timely pay any payment obligation under this Agreement as set forth in this Agreement); or (2) a violation by HMI of any CPSC statute or regulation.

21. The suspended portion of the civil penalty ($325,000), and any obligations of HMI related to such payment, will terminate upon the payment in full by HMI as provided in this Agreement of

an amount equal to $400,000 plus accrued and unpaid interest, if any, provided that no Event of Default has occurred.

22. The parties enter into this Agreement for settlement purposes only. The Agreement does not constitute an admission by HMI that HMI violated the CPSA.

23. Following staff's receipt of this Agreement executed on behalf of HMI, staff shall promptly submit the Agreement to the Commission for provisional acceptance. Promptly following provisional acceptance of the Agreement by the Commission, the Agreement shall be placed on the public record and published in the **Federal Register**, in accordance with the procedures set forth in 16 C.F.R. § 1118.20(e). If within fifteen (15) calendar days the Commission does not receive any written request not to accept the Agreement, the Agreement shall be deemed finally accepted on the sixteenth (16th) calendar day after the date the Agreement is published in the **Federal Register**, in accordance with 16 C.F.R. § 1118.20(f).

24. This Agreement is conditioned upon, and subject to, the Commission's final acceptance, as set forth above, and is subject to the provisions of 16 C.F.R. § 1118.20(h). Upon the later of: (i) the Commission's final acceptance of this Agreement and service of the accepted Agreement upon HMI, and (ii) the date of issuance of the final Order, this Agreement shall be in full force and effect and shall be binding upon the parties.

25. Effective upon the later of: (i) the Commission's final acceptance of the Agreement and service of the accepted Agreement upon HMI, and (ii) the date of issuance of the final Order, for good and valuable consideration, HMI hereby expressly and irrevocably waives and agrees not to assert any past, present, or future rights to the following, in connection with the matter described in the Agreement: (a) an administrative or judicial hearing; (b) judicial review or other challenge or contest of the validity of the Order or of the Commission's actions; (c) a determination by the Commission of whether HMI failed to comply with the CPSA and the underlying regulations; (d) a statement of findings of fact and conclusions of law; and (e) any claims under the Equal Access to Justice Act.

26. HMI shall implement and maintain a compliance program designed to ensure compliance with the statutes and regulations enforced by the Commission that, at a minimum, contains the following elements: (i) written standards and policies; (ii) procedures for implementing corrective and preventive actions when compliance deficiencies or violations are identified; (iii) a mechanism for confidential employee reporting of compliance-related questions or concerns to either a compliance officer or to another senior manager with authority to act as necessary; (iv) effective communication of company compliance-related policies and procedures to all employees through training programs or otherwise; (v) senior manager responsibility for compliance and accountability for violations of the statutes and regulations enforced by the Commission; (vi) board oversight of compliance (if applicable); and (vii) retention of all compliance-related records for at least five (5) years and availability of such records to staff upon request.

27. HMI shall maintain and enforce a system of internal controls and procedures designed to ensure that: (i) information required to be disclosed by HMI to the Commission is recorded, processed and reported in accordance with applicable law; (ii) all reporting made to the Commission is timely, truthful, complete and accurate; and (iii) prompt disclosure is made to HMI management of any significant deficiencies or material weaknesses in the design or operation of such internal controls that are reasonably likely to adversely affect in any material respect HMI's ability to record, process, and report to the Commission in accordance with applicable law.

28. Upon request of staff, HMI shall provide written documentation of its compliance program, and internal controls and procedures including, but not limited to, the effective dates thereof. HMI shall cooperate fully and truthfully with staff and shall make available all information, materials, and personnel deemed necessary by staff to evaluate HMI's compliance with the terms of the Agreement.

29. The parties acknowledge and agree that the Commission may make public disclosure of the terms of the Agreement and the Order.

30. HMI represents that the Agreement: (i) is entered into freely and voluntarily, without any degree of duress or compulsion whatsoever; (ii) has been duly authorized; and (iii) constitutes the valid and binding obligation of HMI, and each of its successors and/or assigns, enforceable against HMI in accordance with the Agreement's terms. The individuals signing the Agreement on behalf of HMI represent and warrant that they are duly authorized by HMI to execute the Agreement.

31. The Commission signatories represent that they are signing the Agreement in their official capacities and that they are authorized to execute this Agreement.

32. The Agreement is governed by the laws of the United States.

33. The Agreement and the Order shall apply to, and be binding upon, HMI and each of its subsidiaries, successors, transferees, and assigns, and a violation of the Agreement or Order may subject HMI and each of its successors, transferees, and assigns to appropriate legal action.

34. The Agreement and the Order constitute the complete agreement between the parties on the subject matter contained herein and therein.

35. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. For purposes of construction, the Agreement shall be deemed to have been drafted by both of the parties, and therefore, shall not be construed against any party for that reason in any subsequent dispute.

36. The Agreement shall not be waived, amended, modified, or otherwise altered, except as in accordance with the provisions of 16 C.F.R. § 1118.20(h). The Agreement may be executed in counterparts.

37. If any provision of the Agreement or the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and HMI agree that severing the provision materially affects the purpose of the Agreement and Order.

HMI, INDUSTRIES INC.

Dated: *June 10, 2014*

By: _____

Kirk W. Foley, *Chairman and CEO, HMI Industries Inc., 13325 Darice Parkway, Unit A, Strongsville, Ohio 44149*

Dated: *June 11, 2014*

By: _____

Elizabeth Abbene Coleman, *Jenner & Block, LLP, 353 North Clark Street, Chicago, Illinois 60654, Counsel for HMI Industries Inc.*

Dated: *June 10, 2014*

By: _____

Mary B. Murphy, *Assistant General Counsel*

U.S. CONSUMER PRODUCT SAFETY COMMISSION STAFF

Stephanie Tsacoumis, *General Counsel*

UNITED STATES OF AMERICA

CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of: HMI, Industries Inc.

CPSC Docket No.: 14–C0003

ORDER

Upon consideration of the Settlement Agreement entered into between HMI, Industries Inc. (HMI), and the U.S. Consumer Product Safety Commission (Commission), and the Commission having jurisdiction over the subject matter and over HMI, and it appearing that the Settlement Agreement and the Order are in the public interest, it is

ORDERED that the Settlement Agreement be, and is, hereby, accepted; and it is

FURTHER ORDERED, that HMI shall comply with the terms of the Settlement Agreement and shall pay a civil penalty of $725,000 ($725,000, with $325,000 of the total suspended) subject to the terms and conditions of the Settlement Agreement. HMI shall pay the non-suspended portion of the penalty, $400,000, in accordance with the schedule and terms set forth in the Settlement Agreement. Upon the occurrence of an Event of Default as set forth in the Settlement Agreement, an amount equal to $725,000 (representing the entire civil penalty including the suspended portion) plus any accrued and unpaid interest minus any penalty amounts paid by HMI immediately shall become due and payable.

Provisionally accepted and provisional Order issued on the *2nd* day of *July,* 2014.

By Order of the Commission:

Todd A. Stevenson, *Secretary, U.S. Consumer Product Safety Commission.*

[FR Doc. 2014–15905 Filed 7–7–14; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–OS–0100]

Proposed Collection; Comment Request

AGENCY: Washington Headquarters Service, Acquisition Directorate (WHS/AD), DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Washington Headquarters Service, Acquisition Directorate (WHS/AD), 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 September 8, 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 Director, Washington Headquarters Services Acquisition Directorate, 1225 S. Clark Street, Suite 1202, Arlington, VA 22302 (703–545–0423).

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: OFPP Rate the Agency Initiative; OMB Control Number 0704–TBD.

Needs and Uses: The information collection requirement is necessary to obtain offerors' feedback on the pre-award phase of WHS/AD Requests for Proposals (RFPs) greater than $1M. Their answers will help WHS/AD assess performance and identify strengths and weaknesses. The survey is optional and anonymous. The results from the survey will not be published or made publicly available. The survey will be provided to all those firms submitting offers in response to specific Requests for Proposals greater than $1M.

Affected Public: Business or other for profit.

Annual Burden Hours: 133.

Number of Respondents: 800.

Responses per Respondent: 1.

Average Burden per Response: 10 minutes.

Frequency: On occasion.

OMB has asked the Acquisitions Directorate (AD) of Washington Headquarters Service to participate in a pilot program whereby AD surveys its contractors after the pre-award phase of the acquisition process to obtain their feedback. Responses to the survey will help assess AD's performance and identify its strengths and weaknesses. The survey contains 17 questions and should take no more than 10 minutes to complete.

Dated: July 1, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–15827 Filed 7–7–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Independent Review Panel on Military Medical Construction Standards; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense (DoD).

ACTION: Notice of meeting.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal Advisory Committee meeting of the Independent Review Panel on Military Medical Construction Standards (''the Panel'').

DATES:

Monday, July 21, 2014

10:00 a.m.–12:15 p.m. CST (Open Session)

12:15 p.m.–3:30 p.m. CST (Administrative Working Meeting)

Tuesday, July 22, 2014

8:00 a.m.–9:00 a.m. (Administrative Working Meeting)

9:00 a.m.–11:15 a.m. (Open Session)

11:15 a.m.–2:30 p.m. (Administrative Working Meeting)

Wednesday, July 23, 2014

8:00 a.m.–10:00 a.m. (Open Session)
10:00 a.m.–12:00 p.m. (Administrative Working Meeting)

ADDRESSES: San Antonio Military Medical Center, 3551 Roger Brooke Drive, Fort Sam Houston, Texas 78234. Wilford Hall Ambulatory Surgical Center, 2200 Bergquist Drive, Joint Base San Antonio, Lackland, Texas 78236. Carl R. Darnall Army Medical Center, 36000 Darnall Loop, Fort Hood, Texas 76544.

FOR FURTHER INFORMATION CONTACT: The Director is Ms. Christine Bader, 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042, *christine.bader@dha.mil*, (703) 681–6653, Fax: (703) 681–9539. For meeting information, please contact Ms. Kendal Brown, 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042, *kendal.brown.ctr@dha.mil*, (703) 681–6670, Fax: (703) 681–9539.

SUPPLEMENTARY INFORMATION: This meeting is being held 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.

Purpose of the Meeting

At this meeting, the Panel will address the Ike Skelton National Defense Authorization Act (NDAA) for Fiscal Year 2011 (Pub. L. 111–383), Section 2852(b) requirement to provide the Secretary of Defense independent advice and recommendations regarding a construction standard for military medical centers to provide a single standard of care, as set forth below:

a. Reviewing the unified military medical construction standards to determine the standards consistency with industry practices and benchmarks for world class medical construction;

b. Reviewing ongoing construction programs within the DoD to ensure medical construction standards are uniformly applied across applicable military centers;

c. Assessing the DoD approach to planning and programming facility improvements with specific emphasis on facility selection criteria and proportional assessment system; and facility programming responsibilities between the Assistant Secretary of Defense for Health Affairs and the Secretaries of the Military Departments;

d. Assessing whether the Comprehensive Master Plan for the National Capital Region Medical (''the Master Plan''), dated April 2010, is adequate to fulfill statutory requirements, as required by section 2714 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Pub. L. 111–84; 123 Stat. 2656), to ensure that the facilities and organizational structure described in the Master Plan result in world class military medical centers in the National Capital Region; and

e. Making recommendations regarding any adjustments of the Master Plan that are needed to ensure the provision of world class military medical centers and delivery system in the National Capital Region.

Agenda

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, the Panel meeting is open to the public from 10:00 a.m. to 12:15 p.m. on July 21, 9:00 a.m. to 11:15 a.m. on July 22, and 8:00 a.m. to 10:00 a.m. on July 23, 2014, as the Panel will meet with senior military healthcare leaders to discuss facility design standards and benchmarking processes.

Availability of Materials for the Meeting

A copy of the agenda or any updates to the agenda for the July 21–23, 2014, meeting, as well as any other materials presented in the meeting, may be obtained at the meeting.

Public's Accessibility to the Meeting

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis. All members of the public who wish to attend the public meeting must contact Ms. Kendal Brown at the number listed in the section **FOR FURTHER INFORMATION CONTACT** no later than 12:00 p.m. on Monday, July 14, 2014, to register and make arrangements for an escort, if necessary. Public attendees requiring escort should arrive with sufficient time to complete security screening no later than 30 minutes prior to the start of each meeting. To complete security screening, please come prepared to present two forms of identification and one must be a picture identification card.

Special Accommodations

Individuals requiring special accommodations to access the public meeting should contact Ms. Kendal Brown at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Statements

Any member of the public wishing to provide comments to the Panel may do so in accordance with 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, and the procedures described in this notice.

Individuals desiring to provide comments to the Panel may do so by submitting a written statement to the Director (see **FOR FURTHER INFORMATION CONTACT**). Written statements should address the following details: the issue, discussion, and a recommended course of action. Supporting documentation may also be included, as needed, to establish the appropriate historical context and to provide any necessary background information.

If the written statement is not received at least five (5) business days prior to the meeting, the Director may choose to postpone consideration of the statement until the next open meeting.

The Director will review all timely submissions with the Panel Chairperson and ensure they are provided to members of the Panel before the meeting that is subject to this notice. After reviewing the written comments, the President and the Director may choose to invite the submitter to orally present their issue during an open portion of this meeting or at a future meeting. The Director, in consultation with the Panel Chairperson, may allot time for members of the public to present their issues for review and discussion by the Panel.

Due to difficulties beyond the control of the Designated Federal Officer (DFO), the DFO was unable to approve the Independent Review Panel on Military Medical Construction Standards' meeting agenda for the scheduled meeting of July 21, 2014, through July 24, 2014, to ensure compliance with the requirements of 41 CFR 102–3.150(a). 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: July 2, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–15896 Filed 7–7–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–OS–0101]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records, DHRA 06 DoD, entitled ''Defense Sexual Assault Incident Database,'' in its inventory of record systems subject to the Privacy Act of 1974, as amended. This system will be used to centralize case-level sexual assault data involving a member of the Armed Forces, in a manner consistent with DoD regulations for unrestricted and restricted reporting, including information, if available, about the nature of the assault (e.g., incident date and location, type of offense), the victim, the alleged perpetrator, investigative information, case outcomes in connection with the assault, and other information necessary to fulfill reporting requirements. Records may also be used as a management tool for statistical analysis, tracking, reporting, evaluating program effectiveness and conducting research. The system includes the capability for entering records and interfacing data; generating various level reports and queries; and conducting case and business management.

DATES: Comments will be accepted on or before August 7, 2014. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number 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: Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Service, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/.*

The proposed system report, as required by U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 27, 2014, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental 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).

Dated: July 1, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DHRA 06 DoD

SYSTEM NAME:

Defense Sexual Assault Incident Database (November 19, 2012, 77 FR 69442).

CHANGES:

* * * * *

SYSTEM LOCATION:

DELETE ENTRY AND REPLACE WITH ''PRIMARY LOCATION:

Washington Headquarters Services (WHS), Enterprise Information Technology Support Directorate, WHS-Supported Organizations Division, 2521 South Clark Street, Suite 640, Arlington, VA 22209–2328.

SECONDARY LOCATIONS:

The Department of the Army, Automated Criminal Investigation/Intelligence System, Russell Knox Building, 27130 Telegraph Road, Quantico, VA 22134–2253.

The Department of the Navy, Consolidated Law Enforcement Operations Center, Naval Criminal Investigative Service, Russell Knox Building, 27130 Telegraph Road, Quantico, VA 22134–2253.

The Department of the Air Force, Investigative Information Management System, Headquarters United States Air Force, Air Force Office of Special Investigations, Russell Knox Building, 27130 Telegraph Road, Quantico, VA 22134–2253.

Decentralized locations include the Services staff and field operating agencies, major commands, installations, and activities. Official mailing addresses are published as an appendix to each Services compilation of systems of records notices.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Active duty Army, Navy, Marine Corps and Air Force members; active duty Reserve members and National Guard members covered by title 10 or title 32 (hereafter 'service members'); service members who were victims of a sexual assault prior to enlistment or commissioning; military dependents age 18 and older; DoD civilians; DoD contractors; other government civilians; U.S. civilians; and foreign military members who may be lawfully admitted into the U.S. or foreign military members who are not covered under the Privacy Act who may be victims and/or alleged perpetrators in a sexual assault involving a member of the Armed Forces.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Victim information, in unrestricted reports, includes last, first, and middle name, Defense Sexual Assault Incident Database (DSAID) control number (i.e., system generated unique control number), identification type (e.g., DoD Identification (DoD ID) number, Social Security Number (SSN), passport, U.S. Permanent Residence Card, foreign identification), identification number for identification provided, birth date, victim contact information (e.g. phone number, mailing address, email address), age at the time of incident, gender, race, ethnicity, and victim type (e.g., military, DoD civilian/contractor, other government civilian, U.S. civilian, foreign national/military, unknown), affiliation, grade/rank, status (e.g., Active Duty, Reserve, National Guard), location, relationship to subject, and name of victim's commander.

Alleged perpetrator information, in unrestricted reports, includes last, first, and middle name, identification type (e.g., DoD ID number, SSN, passport, U.S. Permanent Residence Card, or foreign identification), identification number for identification provided,

birth date, age at the time of incident, gender, race, ethnicity, subject type (e.g., military, DoD civilian/contractor, other government civilian, U.S. civilian, foreign national/military, unknown), affiliation, grade/rank, status (e.g., Active Duty Reserve, National Guard) and location.

However, if a victim of a sexual assault involving a member of the Armed Forces makes a restricted report (report that does not initiate investigation) of sexual assault, no personal identifying information for the victim and/or alleged perpetrator is maintained in DSAID. Any personal information collected is stored and maintained locally.

Other data collected, for unrestricted reports, to support case and business management includes the date and type of report; tracking information on Sexual Assault Forensic Examinations performed, expedited transfers and civilian/military protective orders, and referrals to appropriate resources; information on line of duty determinations; victim safety information; case management meeting information; and information on memoranda of understanding.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 113 note, Department of Defense Policy and Procedures on Prevention and Response to Sexual Assaults Involving Members of the Armed Forces; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 8013, Secretary of the Air Force; 32 U.S.C. 102, National Guard; DoD Directive 6495.01, Sexual Assault Prevention and Response (SAPR) Program; DoD Instruction 6495.02, Sexual Assault Prevention and Response (SAPR) Program Procedures; Army Regulation 600–20, Chapter 8, Army Command Policy (Sexual Assault Prevention and Response Program); Secretary of the Navy Instruction 1752.4B, Sexual Assault Prevention and Response; Marine Corps Order 1752.5B, Sexual Assault Prevention and Response (SAPR) Program; Air Force Instruction 36–6001, Sexual Assault Prevention and Response (SAPR) Program; and E.O. 9397 (SSN), as amended.''

PURPOSE(S):

Delete entry and replace with ''To centralize case-level sexual assault data involving a member of the Armed Forces, in a manner consistent with DoD regulations for unrestricted and restricted reporting, including information, if available, about the nature of the assault (e.g., incident date and location, type of offense), the victim, the alleged perpetrator, investigative information, case outcomes in connection with the assault, and other information necessary to fulfill reporting requirements. Records may also be used as a management tool for statistical analysis, tracking, reporting, evaluation program effectiveness and conducting research.

The system includes the capability for entering records and interfacing data; generating various level reports and queries; and conducting case and business management.

At the DoD level, only de-identified data is used to respond to mandated reporting requirements. Identified closed case information and de-identified, aggregate open case information may also be used as a management tool for statistical analysis, tracking, reporting, evaluating program effectiveness and conducting research. In accordance with DoD policy, at the Military Service level, information regarding unrestricted reports should only be released to personnel with an official need to know or as authorized by law; proper release of restricted reporting information should also be limited to those with an official need to know or as authorized by law.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD Blanket Routine Uses set forth at the beginning of Office of the Secretary of Defense (OSD) systems of records notices may apply to this system.''

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Delete entry and replace with ''Paper file folders and electronic storage media.''

* * * * *

SAFEGUARDS:

Delete entry and replace with ''Records are maintained in a controlled facility. Physical entry is restricted by the use of guards, identification badges, key cards, and locks. Access to case files in the system is role-based and requires the use of a Common Access Card (CAC) and password. Access roles and permission lists for SARCs and authorized Military Service legal officers are granted by Military Service Sexual Assault Prevention and Response program managers through the assignment of appropriate user roles. Periodic security audits are also conducted. Technical safeguards include firewalls, passwords, encryption of data, and use of virtual private network. Access is further restricted to authorized users with a .mil email address and a CAC.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Records are cut off at the end of the fiscal year and destroyed fifty years after cut off.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Sexual Assault Prevention and Response Office, ATTN: Defense Sexual Assault Incident Database Program Manager, 4800 Mark Center Drive, Alexandria, VA 22350–8000.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the appropriate Service office listed below:

The Department of the Army, Human Resources Policy Directorate (HRPD), Sexual Harassment/Assault Response and Prevention (SHARP), 2530 Crystal Drive, 6th Floor, Arlington, VA 22202–3938.

The Department of the Navy, ATTN: Sexual Assault Prevention and Response Program Manager, 716 Sicard Street SE., Suite 1000, Washington Navy Yard, DC 20374–5140.

Headquarters United States Air Force/A1S, ATTN: Sexual Assault Prevention and Response Program Manager, 1040 Air Force Pentagon, Washington, DC 20330–1040.

The National Guard Bureau, Sexual Assault Prevention and Response Office, ATTN: Sexual Assault Prevention and Response Program Manager, 111 South George Mason Drive, AH2, Arlington, VA 22204–1373.

Signed, written requests should contain the name, identification number and type of identification, and indicate whether the individual is a victim or alleged perpetrator.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to records about themselves contained in this

system of records should address written inquiries to the following as appropriate:

The Department of the Army, HRPD, Sexual Harassment/Assault Response and Prevention (SHARP), 2530 Crystal Drive, 6th Floor, Arlington, VA 22202–3938.

The Department of the Navy, ATTN: Sexual Assault Prevention and Response Program Manager, 716 Sicard Street SE., Suite 1000, Washington Navy Yard, DC 20374–5140.

Headquarters United States Air Force/A1S, ATTN: Sexual Assault Prevention and Response Program Manager, 1040 Air Force Pentagon, Washington, DC 20330–1040.

The National Guard Bureau, Sexual Assault Prevention and Response Office, ATTN: Sexual Assault Prevention and Response Program Manager, 111 South George Mason Drive, AH2, Arlington, VA 22204–1373.

Signed, written requests should contain the name, identification number and type of identification, indicate whether the individual is a victim or alleged perpetrator, and the number of this system of records notice.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Individual, SARCs, Military Service Legal Officers (i.e. attorneys provided access to the system), Automated Criminal Investigation/Intelligence System (Army), Consolidated Law Enforcement Operations Center (Navy), and Investigative Information Management System (Air Force).''

* * * * *

[FR Doc. 2014–15784 Filed 7–7–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Inland Waterways Users Board Meeting Notice

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the U.S. Army Corps of Engineers, Inland Waterways Users Board (Board). This meeting is open to the public. For additional information about the Board, please visit the committee's Web site at *http://www.iwr.usace.army.mil/Missions/Navigation/InlandWaterwaysUsersBoard.aspx.*

DATES: The Army Corps of Engineers, Inland Waterways Users Board will meet from 9:00 a.m. to 1:00 p.m. on August 14, 2014. Public registration will begin at 8:30 a.m.

ADDRESSES: The Board meeting will be conducted at the Marcus Whitman Hotel, 6 West Rose Street, Walla Walla, WA 99362, at 509–525–2200 and 866–826–9422, or *http://www.marcuswhitmanhotel.com/.*

FOR FURTHER INFORMATION CONTACT: Ms. Mindy M. Simmons, the Designated Federal Officer (DFO) for the committee, in writing at Headquarters, U.S. Army Corps of Engineers, ATTN: CECW–IP, 441 G Street NW., Washington, DC 20314–1000; by telephone at 202–761–1934; and by email at *Mindy.M.Simmons@usace.army.mil.* In the alternative, contact Mr. Mark R. Pointon, the Alternate Designated Federal Officer (ADFO), in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GM, 7701 Telegraph Road, Casey Building, Alexandria, Virginia 22315–3868; by telephone at 703–428–6438; and by email at *Mark.Pointon@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The committee meeting is being held 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.

Purpose of the Meeting: The Board is chartered to provide independent advice and recommendations to the Secretary of the Army on construction and rehabilitation project investments on the commercial navigation features of the inland waterways system of the United States. At this meeting, the Board will receive briefings and presentations regarding the investments, projects and status of the inland waterways system of the United States and conduct discussions and deliberations on those matters. The Board is interested in written and verbal comments from the public relevant to these purposes.

Proposed Agenda: At this meeting the agenda will include the status of funding for inland navigation projects and studies, the status of the Inland Waterways Trust Fund, the USACE Navigation Budget, Implications of the Water Resources Reform Development Act of 2014, status of the Olmsted Locks and Dam Project, status and path forward for the Locks and Dams 2, 3, and 4 Monongahela River Project, an update on the Inland Marine Transportation System (IMTS) Investment Program (Capital Projects Business Model) Revisions, Total Risk Exposure Approach to Infrastructure Management, and a discussion of the Board's 2014 Annual Report.

Availability of Materials for the Meeting. A copy of the agenda or any updates to the agenda for the August 14, 2014, meeting. The final version will be provided at the meeting. All materials will be posted to the Web site after the meeting.

Public Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.1 65, and subject to the availability of space, this meeting is open to the public. Registration of members of the public who wish to attend the meeting will begin at 8:30 a.m. on the day of the meeting. Seating is limited and is on a first-to-arrive basis. Attendees will be asked to provide their name, title, affiliation, and contact information to include email address and daytime telephone number at registration. Any interested person may attend the meeting, file written comments or statements with the committee, or make verbal comments from the floor during the public meeting, at the times, and in the manner, permitted by the committee, as set forth below.

Special Accommodations: The meeting venue is fully handicap accessible, with wheelchair access. Individuals requiring special accommodations to access the public meeting or seeking additional information about public access procedures, should contact Ms. Simmons, the committee DFO, or Mr. Pointon, the ADFO, at the email addresses or telephone numbers listed in the **FOR FURTHER INFORMATION CONTACT** section, at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Board about its mission and/or the topics to be addressed in this public meeting. Written comments or statements should be submitted to Ms. Simmons, the committee DFO, or Mr. Pointon, the committee ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section in the following formats: Adobe Acrobat or Microsoft Word. The comment or statement must include the author's name, title, affiliation, address,

and daytime telephone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the committee DFO or ADFO at least five (5) business days prior to the meeting so that they may be made available to the Board for its consideration prior to the meeting. Written comments or statements received after this date may not be provided to the Board until its next meeting. Please note that because the Board operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection.

Verbal Comments: Members of the public will be permitted to make verbal comments during the Board meeting only at the time and in the manner allowed herein. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three business (3) days in advance to the committee DFO or ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section. The committee DFO and ADFO will log each request to make a comment, in the order received, and determine whether the subject matter of each comment is relevant to the Board's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described above, will be allotted no more than three (3) minutes during this period, and will be invited to speak in the order in which their requests were received by the DFO and ADFO.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2014–15825 Filed 7–7–14; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Fiber Optic Sensor Systems Technology Corporation

AGENCY: Department of the Navy, DoD.

ACTION: Notice; revision.

SUMMARY: The Department of the Navy published a document in the **Federal Register** on December 10, 2012 and a revision on March 20, 2013, announcing an intent to grant to Fiber Optic Sensor Systems Technology Corporation, a revocable, nonassignable, exclusive license. The scope of the intent to license has been revised.

FOR FURTHER INFORMATION CONTACT: Rita Manak, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue SW., Washington, DC 20375–5320, telephone 202–767–3083. Due to U.S. Postal delays, please fax 202–404–7920, email: *rita.manak@nrl.navy.mil* or use courier delivery to expedite response.

Correction

In the **Federal Register** of March 20, 2013, make the following revision:

1. In the third column, on page 17187 and the first column, on page 17188, revise the **SUMMARY** caption to read as follows:

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Fiber Optic Sensor Systems Technology Corporation a revocable, nonassignable, exclusive license to practice the field of use of electrical power measurements for the measurement or control of temperature, pressure, strain, vibration, acceleration, and any other measurement enabled in electrical power systems, including but not limited to, substations, generating facilities, transmission lines, distribution facilities and other electrical power infrastructure and in electrical power systems equipment, including but not limited to, generators, motors, transformers, switches, power supplies, batteries and other devices employed to generate, transform, transport, distribute or store electrical energy; the field of use of monitoring and control systems used in industrial production and infrastructure monitoring and control, including particularly supervisory control systems and distributed control systems used in manufacturing, mining and utilities in the United States, the Government-owned inventions described in U.S. Patent No. 7,020,354: Intensity Modulated Fiber Optic Pressure Sensor, Navy Case No. 83,816//U.S. Patent No. 7,149,374: Fiber Optic Pressure Sensor, Navy Case No. 84,557//U.S. Patent No. 7,379,630: Multiplexed Fiber Optic Sensor System, Navy Case No. 97,488//U.S. Patent No. 7,460,740: Intensity Modulated Fiber Optic Static Pressure Sensor System, Navy Case No. 97,279//U.S. Patent No. 7,646,946: Intensity Modulated Fiber Optic Strain Sensor, Navy Case No. 97,005//U.S. Patent No. 7,697,798: Fiber Optic Pressure Sensors and Catheters, Navy Case No. 97,569//U.S. Patent No. 8,094,519: Intensity Modulated Fiber Optic Hydrophones, Navy Case No. 98,318//U.S. Patent No. 8,195,013: Miniature Fiber Optic Temperature Sensors, Navy *Case No. 98,030//U.S. Patent No. 8,322,919:* Miniature Fiber Optic Temperature Sensor with Edge Reflector, Navy Case No. 100,134 and any continuations, divisionals or re-issues thereof.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than July 23, 2014.

Dated: June 26, 2014.

N.A. Hagerty-Ford,

Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2014–15839 Filed 7–7–14; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2984–017.

Applicants: Merrill Lynch Commodities, Inc.

Description: Notice of Non-Material Change in Status of Merrill Lynch Commodities, Inc.

Filed Date: 6/26/14.

Accession Number: 20140626–5101.

Comments Due: 5 p.m. ET 7/17/14.

Docket Numbers: ER13–395–001.

Applicants: Safe Harbor Water Power Corporation.

Description: Safe Harbor Updated Market Power Analysis, Order No. 697–A Compl, Chg of Status to be effective 7/1/2014.

Filed Date: 6/26/14.

Accession Number: 20140626–5050.

Comments Due: 5 p.m. ET 8/25/14.

Docket Numbers: ER14–1608–000.

Applicants: Public Service Electric and Gas Company, PJM Interconnection, L.L.C.

Description: Public Service Electric and Gas Company submits tariff filing per 35: PSE&G submits compliance filing per 5/27/2014 Order in Docket No. ER14–1608 to be effective 5/28/2014.

Filed Date: 6/26/14.

Accession Number: 20140626–5102.

Comments Due: 5 p.m. ET 7/17/14.

Docket Numbers: ER14–1711–003.

Applicants: TC Ravenswood, LLC.

Description: Clarification of 6/24/14 amendment to restart 60 day clock effective 5/1/14 to be effective 5/1/2014.

Filed Date: 6/26/14.

Accession Number: 20140626–5038.

Comments Due: 5 p.m. ET 7/7/14.

Docket Numbers: ER14–2259–001; ER11–4026–003.

Applicants: Desert View Power LLC, Eel River Power LLC.

Description: Notice of Change in Status of the Greenleaf MBR Sellers.

Filed Date: 6/26/14.

Accession Number: 20140626–5097.

Comments Due: 5 p.m. ET 7/17/14.

Docket Numbers: ER14–2273–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–06–26 SA 2426 Montana Dakota-Thunder Spirit 2nd Amend GIA (G752) to be effective 6/27/2014.

Filed Date: 6/26/14.

Accession Number: 20140626–5074.

Comments Due: 5 p.m. ET 7/17/14.

Docket Numbers: ER14–2274–000.

Applicants: Aesir Power, LLC.

Description: Petition of Aesir Power LLC MBR Tariff Application to be effective 8/25/2014.

Filed Date: 6/26/14.

Accession Number: 20140626–5075.

Comments Due: 5 p.m. ET 7/17/14.

Docket Numbers: ER14–2275–000.

Applicants: Grays Ferry Cogeneration Partnership.

Description: Grays Ferry NE Triennial & 784 to be effective 6/27/2014.

Filed Date: 6/26/14.

Accession Number: 20140626–5084.

Comments Due: 5 p.m. ET 8/25/14.

Docket Numbers: ER14–2276–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–06–26 SA 2467 MDU–MDU Amended GIA (J200) to be effective 6/27/2014.

Filed Date: 6/26/14.

Accession Number: 20140626–5085.

Comments Due: 5 p.m. ET 7/17/14.

Docket Numbers: ER14–2277–000.

Applicants: Mojave Solar LLC.

Description: Mojave Solar LLC submits tariff filing per 35: Notice of Succession Revisions to MBR Tariff to be effective 6/27/2014.

Filed Date: 6/26/14.

Accession Number: 20140626–5103.

Comments Due: 5 p.m. ET 7/17/14.

Docket Numbers: ER14–2278–000.

Applicants: NorthWestern Corporation.

Description: NorthWestern Corporation submits tariff filing per 35.13(a)(2)(iii: Revised Rate Schedule 188—Colstrip 1 and 2 Transmission Agreement to be effective 9/1/2014.

Filed Date: 6/26/14.

Accession Number: 20140626–5131.

Comments Due: 5 p.m. ET 7/17/14.

Docket Numbers: ER14–2279–000.

Applicants: Spinning Spur Wind LLC.

Description: Spinning Spur Wind LLC submits tariff filing per 35.15: Notice of Cancellation of Spinning Spur Wind Rate Schedules FERC Nos. 1 and 2 to be effective 6/26/2014.

Filed Date: 6/26/14.

Accession Number: 20140626–5134.

Comments Due: 5 p.m. ET 7/17/14.

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: June 26, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–15845 Filed 7–7–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR14–37–000.

Applicants: SourceGas Distribution LLC.

Description: Tariff filing per 284.123(b)(1) + (g): Revised Statement of Operating Conditions to be effective 6/1/2014; TOFC: 1300.

Filed Date: 6/25/14.

Accession Number: 20140625–5098.

Comments Due: 5 p.m. ET 7/16/14.

284.123(g) Protests Due: 5 p.m. ET 8/25/14.

Docket Numbers: RP14–1058–000.

Applicants: Rockies Express Pipeline LLC.

Description: Neg Rate 2014–06–20 Antero to be effective 6/25/2014.

Filed Date: 6/25/14.

Accession Number: 20140625–5063.

Comments Due: 5 p.m. ET 7/7/14.

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 date(s). 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: June 26, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–15848 Filed 7–7–14; 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: EC14–107–000.

Applicants: Lone Valley Solar Park I LLC, Lone Valley Solar Park II LLC.

Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Lone Valley Solar Park I LLC, et. al.

Filed Date: 6/27/14.

Accession Number: 20140627–5090.

Comments Due: 5 p.m. ET 7/18/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1585–005; ER10–2960–003; ER10–1586–003; ER10–1594–005; ER10–1595–003; ER11–4051–004; ER14–1656–001; ER10–1596–003; ER10–1597–004; ER10–1598–003; ER10–1616–003; ER10–1617–005; ER10–1618–003; ER10–1619–003; ER10–1620–004; ER10–1623–003; ER10–1624–004; ER10–1625–004; ER12–60–007; ER10–1632–007; ER10–1626–004; ER10–1628–005; ER11–1936–003; ER10–1630–003.

Applicants: Astoria Generating Company, L.P., Big Sandy Peaker Plant, LLC, California Electric Marketing, LLC, Crete Energy Venture, LLC,CSOLAR IV South, LLC,CSOLAR IV West, LLC, High Desert Power Project, LLC, Kiowa Power Partners, LLC, Lincoln Generating Facility, LLC, New Covert Generating Company, LLC, New Mexico Electric Marketing, LLC, Rolling Hills Generating, L.L.C., Tenaska Alabama Partners, L.P., Tenaska Alabama II Partners, L.P., Tenaska Frontier Partners, Ltd., TENASKA GATEWAY PARTNERS LTD, TENASKA GEORGIA PARTNERS LP, Tenaska Power Management, LLC, Tenaska Virginia Partners, L.P., Texas Electric Marketing, LLC, TPF Generation Holdings, LLC, Alabama Electric Marketing, LLC.

Description: Notification of Change in Status of the Tenaska MBR Sellers.

Filed Date: 6/27/14.

Accession Number: 20140627–5043.

Comments Due: 5 p.m. ET 7/18/14.

Docket Numbers: ER14–2281–000.

Applicants: Homer City Generation, L.P.

Description: Homer City Generation, L.P. submits tariff filing per 35.12: Reactive Supply and Voltage Control Service Tariff to be effective 7/1/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5050.

Comments Due: 5 p.m. ET 7/18/14.

Docket Numbers: ER14–2282–000.

Applicants: Appalachian Power Company.

Description: Appalachian Power Company submits tariff filing per 35.15: 20140627 AEPSC OATT Cancellation to be effective 8/1/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5051.

Comments Due: 5 p.m. ET 7/18/14.

Docket Numbers: ER14–2283–000.

Applicants: Alabama Power Company.

Description: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: SMEPA NITSA Amendment (to add Vidalia Delivery Point) to be effective 6/23/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5060.

Comments Due: 5 p.m. ET 7/18/14.

Docket Numbers: ER14–2284–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2014–06–27_SA 2672 METC-Lansing Brd of Water IFA to be effective 6/28/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5074.

Comments Due: 5 p.m. ET 7/18/14.

Docket Numbers: ER14–2285–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–06–27_Revisions to Sch 7,8,9 June Update to be effective 6/1/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5106.

Comments Due: 5 p.m. ET 7/18/14.

Docket Numbers: ER14–2286–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–06–27 ATC D–T IAs Update Batch 2 to be effective 8/28/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5115.

Comments Due: 5 p.m. ET 7/18/14.

Docket Numbers: ER14–2287–000.

Applicants: Nevada Power Company.

Description: Rate Schedule No. 144 Engineering, Procurement Construction Agmt—First Solar to be effective 5/19/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5116.

Comments Due: 5 p.m. ET 7/18/14.

Docket Numbers: ER14–2288–000.

Applicants: Dynegy Morro Bay, LLC.

Description: Notice of Cancellation to be effective 6/28/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5120.

Comments Due: 5 p.m. ET 7/18/14.

Docket Numbers: ER14–2289–000.

Applicants: PJM Interconnection, L.L.C.

Description: Ministerial Clean-Up re OATT Att DD Sections due to rejected language ER14–1461 to be effective 6/1/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5128.

Comments Due: 5 p.m. ET 7/18/14.

Docket Numbers: ER14–2290–000.

Applicants: Josco Energy Corp.

Description: Josco Energy Corp. submits tariff filing per 35.12: Josco Market Based Rate Application to be effective 8/11/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5135.

Comments Due: 5 p.m. ET 7/18/14.

Docket Numbers: ER14–2291–000.

Applicants: EME Homer City Generation, L.P.

Description: EME Homer City Generation, L.P. submits tariff filing per 35.15: Notice of Cancellation of Market-Based Rate Tariff to be effective 6/28/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5149.

Comments Due: 5 p.m. ET 7/18/14.

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.

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Dated: June 27, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–15847 Filed 7–7–14; 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 exempt wholesale generator filings:

Docket Numbers: EG14–70–000.

Applicants: Keechi Wind, LLC.

Description: Self-Certification of EG of Keechi Wind, LLC.

Filed Date: 6/26/14.

Accession Number: 20140626–5109.

Comments Due: 5 p.m. ET 7/17/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1707–003.

Applicants: Hess Corporation.

Description: Updated Market Power Analysis for the Northeast Region of Hess Corporation.

Filed Date: 6/26/14.

Accession Number: 20140626–5145.

Comments Due: 5 p.m. ET 8/25/14.

Docket Numbers: ER10–3078–002; ER10–3079–007.

Applicants: Commonwealth Chesapeake Company, LLC, Tyr Energy, LLC.

Description: Triennial Market Power Report for the Northeast Region of Commonwealth Chesapeake Company, LLC, et. al.

Filed Date: 6/27/14.

Accession Number: 20140627–5034.

Comments Due: 5 p.m. ET 8/26/14.

Docket Numbers: ER10–3168–009; ER12–1301–003.

Applicants: ArcLight Energy Marketing, LLC, Zone J Tolling Co., LLC.

Description: Updated Market Power Analysis for the Northeast Region of ArcLight Energy Marketing, LLC, et. al.

Filed Date: 6/26/14.

Accession Number: 20140626–5148.

Comments Due: 5 p.m. ET 8/25/14.

Docket Numbers: ER11–3460–004.

Applicants: Bayonne Energy Center, LLC.

Description: Updated Market Power Analysis for the Northeast Region of Bayonne Energy Center, LLC.

Filed Date: 6/26/14.

Accession Number: 20140626–5146.

Comments Due: 5 p.m. ET 8/25/14.

Docket Numbers: ER13–1380–004.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc. submits tariff filing per 35: Compliance filing re: G–J Locality pivotal supplier threshold to be effective 3/23/2015.

Filed Date: 6/26/14.

Accession Number: 20140626–5119.

Comments Due: 5 p.m. ET 7/17/14.

Docket Numbers: ER13–1485–002; ER10–3253–002; ER14–1777–001; ER10–3237–002; ER10–3240–002; ER10–3230–002; ER10–3239–002.

Applicants: Wheelabrator Baltimore, L.P., Wheelabrator Bridgeport, L.P., Wheelabrator Falls Inc., Wheelabrator Frackville Energy Co. Inc., Wheelabrator North Andover Inc., Wheelabrator Portsmouth Inc., Wheelabrator Westchester L.P.

Description: Updated Market Power Analysis for the Northeast Region of the Wheelabrator Sellers.

Filed Date: 6/26/14.

Accession Number: 20140626–5149.

Comments Due: 5 p.m. ET 8/25/14.

Docket Numbers: ER14–25–004.

Applicants: Prairie Breeze Wind Energy LLC.

Description: Notification of Change in Facts Under Market-Based Rate Authority of Prairie Breeze Wind Energy LLC.

Filed Date: 6/27/14.

Accession Number: 20140627–5032.

Comments Due: 5 p.m. ET 7/18/14.

Docket Numbers: ER14–1608–002.

Applicants: Public Service Electric and Gas Company, PJM Interconnection, L.L.C.

Description: Public Service Electric and Gas Company submits tariff filing per 35: PSE&G submits compliance filing per 5/27/2014 Order in Docket No. ER14–1608 to be effective 5/28/2014.

Filed Date: 6/26/14.

Accession Number: 20140626–5102.

Comments Due: 5 p.m. ET 7/17/14.

Docket Numbers: ER14–2116–001.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.17(b): Errata to Original Service Agreement No. 3872; Queue No. X4–039 to be effective 5/8/2014.

Filed Date: 6/26/14.

Accession Number: 20140626–5144.

Comments Due: 5 p.m. ET 7/17/14.

Docket Numbers: ER14–2280–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: GIA and Distrib Serv Agmt with LACSD for Puente Hills Gas-to-Energy Project to be effective 8/27/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5003.

Comments Due: 5 p.m. ET 7/18/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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Dated: June 27, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–15846 Filed 7–7–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1484–009.

Applicants: Shell Energy North America (US), L.P.

Description: Updated Market Power Analysis for the Northeast Region of Shell Energy North America (US), L.P.

Filed Date: 6/25/14.

Accession Number: 20140625–5110.

Comments Due: 5 p.m. ET 8/25/14.

Docket Numbers: ER10–3195–003; ER10–3194–003

Applicants: MATEP Limited Partnership, MATEP LLC.

Description: Updated Market Power Analysis for the Northeast Region of MATEP Limited Partnership, et. al.

Filed Date: 6/25/14.

Accession Number: 20140625–5070.

Comments Due: 5 p.m. ET 8/25/14.

Docket Numbers: ER10–3260–004.

Applicants: Granite Ridge Energy, LLC.

Description: Triennial Market Power Report of Granite Ridge Energy, LLC.

Filed Date: 6/25/14.

Accession Number: 20140625–5106.

Comments Due: 5 p.m. ET 8/25/14.

Docket Numbers: ER10–3286–005; ER10–3299–004.

Applicants: Millennium Power Partners, L.P., New Athens Generating Company, LLC.

Description: Triennial Market Power Report of Millennium Power Partners, L.P., et. al.

Filed Date: 6/25/14.

Accession Number: 20140625–5071.

Comments Due: 5 p.m. ET 8/25/14.

Docket Numbers: ER14–1363–003.

Applicants: Kendall Green Energy LLC.

Description: Triennial Market Power Report for the Northeast Region of Kendall Green Energy LLC.

Filed Date: 6/25/14.

Accession Number: 20140625–5105.

Comments Due: 5 p.m. ET 8/25/14.

Docket Numbers: ER14–2046–001.

Applicants: Plum Point Energy Associates, LLC.

Description: Amendment re Reactive Power Application to be effective 9/1/2014.

Filed Date: 6/25/14.

Accession Number: 20140625–5059.

Comments Due: 5 p.m. ET 7/16/14.

Docket Numbers: ER14–2264–000.

Applicants: Northern Indiana Public Service Company.

Description: Filing of CIAC Agreement with IMPA to be effective 6/10/2014.

Filed Date: 6/25/14.

Accession Number: 20140625–5064.

Comments Due: 5 p.m. ET 7/16/14.

Docket Numbers: ER14–2265–000.

Applicants: MATEP Limited Partnership.

Description: MATEP LP 2nd Rev MBR re 784 AS to be effective 6/26/2014.

Filed Date: 6/25/14.

Accession Number: 20140625–5066.

Comments Due: 5 p.m. ET 7/16/14.

Docket Numbers: ER14–2266–000.

Applicants: Copper Mountain Solar 1, LLC.

Description: Copper Mountain Solar 1 Order No. 784 Compliance Filing to be effective 6/26/2014.

Filed Date: 6/25/14.

Accession Number: 20140625–5072.

Comments Due: 5 p.m. ET 7/16/14.

Docket Numbers: ER14–2267–000.

Applicants: Energia Sierra Juarez U.S., LLC.

Description: Energia Sierra Juarez Order No. 784 Compliance Filing to be effective 6/26/2014.

Filed Date: 6/25/14.

Accession Number: 20140625–5073.

Comments Due: 5 p.m. ET 7/16/14.

Docket Numbers: ER14–2268–000.

Applicants: Mesquite Power, LLC.

Description: Mesquite Power Order No. 784 Compliance Filing to be effective 6/26/2014.

Filed Date: 6/25/14.

Accession Number: 20140625–5074.

Comments Due: 5 p.m. ET 7/16/14.

Docket Numbers: ER14–2269–000.

Applicants: Termoelectrica U.S., LLC.

Description: Termoelectrica US Order No. 784 Compliance Filing to be effective 6/26/2014.

Filed Date: 6/25/14.

Accession Number: 20140625–5075.

Comments Due: 5 p.m. ET 7/16/14.

Docket Numbers: ER14–2270–000.

Applicants: NorthWestern Corporation.

Description: SA 721—City of Great Falls Construction Agreement to be effective 6/26/2014.

Filed Date: 6/25/14.

Accession Number: 20140625–5097.

Comments Due: 5 p.m. ET 7/16/14.

Docket Numbers: ER14–2271–000.

Applicants: Paradise Solar Urban Renewal, L.L.C.

Description: Paradise Solar Urban Renewal, L.L.C. Notice of Cancellation of MBR Tariff to be effective 6/26/2014.

Filed Date: 6/25/14.

Accession Number: 20140625–5103.

Comments Due: 5 p.m. ET 7/16/14.

Docket Numbers: ER14–2272–000.

Applicants: Central Maine Power Company.

Description: Termination of Interconnection Agreement and Transmission Service Agreement with the City of Lewiston of Central Maine Power Company.

Filed Date: 6/25/14.

Accession Number: 20140625–5116.

Comments Due: 5 p.m. ET 7/16/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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Dated: June 26, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–15844 Filed 7–7–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR14–38–000.

Applicants: Columbia Gas of Maryland, Inc.

Description: Tariff filing per 284.123(b)(1)/.: Second Amended Application for Approval of Statement of Operating Conditions to be effective 10/9/2013; TOFC: 980.

Filed Date: 6/26/14.

Accession Number: 20140626–5049.

Comments Due: 5 p.m. ET 7/17/14.

284.123(g) Protests Due:

Docket Numbers: PR14–39–000.

Applicants: Rocky Mountain Natural Gas LLC.

Description: Tariff filing per 284.123(b)(1) +(g): Revised Statement of Operating Conditions to be effective 6/1/2014; TOFC: 1300.

Filed Date: 6/26/14.

Accession Number: 20140626–5104.

Comments Due: 5 p.m. ET 7/17/14.

284.123(g) Protests Due: 5 p.m. ET 8/25/14.

Docket Numbers: CP14–508–000.

Applicants: Southern Natural Gas Company.

Description: Abbreviated Application for Authorization to Abandonment Exchange and/or Transportation Agreements between Southern Natural Gas Company, L.L.C. and Gulf South Pipeline Company.

Filed Date: 6/27/14.

Accession Number: 20140627–5067.

Comments Due: 5 p.m. ET 7/18/14.

Docket Numbers: RP14–827–000.

Applicants: East Tennessee Natural Gas, LLC.

Description: Wacker Project In-service Notice.

Filed Date: 6/26/14.

Accession Number: 20140626–5076.

Comments Due: 5 p.m. ET 7/8/14.

Docket Numbers: RP14–1059–000.

Applicants: Alliance Pipeline L.P.

Description: July 1 31, 2014 Auction to be effective 7/1/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5093.

Comments Due: 5 p.m. ET 7/9/14.

Docket Numbers: RP14–1060–000.

Applicants: Kern River Gas Transmission Company.

Description: 2014 Capacity Release to be effective 8/1/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5105.

Comments Due: 5 p.m. ET 7/9/14.

Docket Numbers: RP14–1061–000.

Applicants: Trailblazer Pipeline Company LLC.

Description: Neg Rate 2014–06–27 Enserco to be effective 7/1/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5107.

Comments Due: 5 p.m. ET 7/9/14.

Docket Numbers: RP14–1062–000.

Applicants: Granite State Gas Transmission, Inc.

Description: Limited Section 4 Rate Change to be effective 8/1/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5111.

Comments Due: 5 p.m. ET 7/9/14.

Docket Numbers: RP14–1063–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: Algonquin Gas Transmission, LLC submits tariff filing per 154.204: Negotiated Rate Release eff 7–1–14 to be effective 7/1/2014.

Filed Date: 6/27/14.

Accession Number: 20140627–5146.

Comments Due: 5 p.m. ET 7/9/14.

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: June 30, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–15849 Filed 7–7–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9913–25–Region 3]

Delegation of Authority to the State of West Virginia To Implement and Enforce Additional or Revised National Emission Standards for Hazardous Air Pollutants and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: On September 13, 2013, EPA sent the State of West Virginia (West Virginia) a letter acknowledging that West Virginia's delegation of authority to implement and enforce National Emissions Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS) had been updated, as provided for under previously approved delegation mechanisms. To inform regulated facilities and the public of West Virginia's updated delegation of authority to implement and enforce NESHAP and NSPS, EPA is making available a copy of EPA's letter to West Virginia through this notice.

DATES: On September 13, 2013, EPA sent West Virginia a letter acknowledging that West Virginia's delegation of authority to implement and enforce NESHAP and NSPS had been updated.

ADDRESSES: Copies of documents pertaining to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103–2029. Copies of West Virginia's submittal are also available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304. Copies of West Virginia's notice to EPA that West Virginia has updated its incorporation by reference of Federal NESHAP and NSPS, and of EPA's response, may also be found posted on EPA Region III's Web site at: *http://www.epa.gov/reg3artd/airregulations/delegate/wvdelegation.htm.*

FOR FURTHER INFORMATION CONTACT: Ray Chalmers, (215) 814–2061, or by email at *chalmers.ray@epa.gov.*

SUPPLEMENTARY INFORMATION: On June 5, 2013, West Virginia notified EPA that West Virginia had updated its incorporation by reference of Federal NESHAP and NSPS to include many such standards, as found in the Code of Federal Regulations (CFR), Parts 60, 61, and 63. On September 13, 2013, EPA sent West Virginia a letter acknowledging that West Virginia now has the authority to implement and enforce the NESHAP and NSPS as specified by West Virginia in its notice to EPA, as provided for under previously approved automatic delegation mechanisms. All notifications, applications, reports and other correspondence required pursuant to the delegated NESHAP and NSPS must be submitted to both the US EPA Region III and to the West Virginia Department of Environmental Protection, unless the delegated standard specifically provides that such submittals may be sent to EPA or a delegated State. In such cases, the submittals should be sent only to the West Virginia Department of Environmental Protection. A copy of EPA's letter to West Virginia follows:

''Mr. John Benedict, Director, Division of Air Quality, West Virginia Department of Environmental Protection, 601 57th Street, Charleston, West Virginia 25304.

Dear Mr. Benedict:

The United States Environmental Protection Agency (EPA) has previously delegated to the State of West Virginia (West Virginia) the authority to implement and enforce various federal National Emissions Standards for Hazardous Air Pollutants (NESHAP) and New Source Performance Standards (NSPS), which are found at 40 C.F.R. Parts 60, 61 and 63.[1] In those actions EPA also delegated to West Virginia the authority to implement and enforce any future EPA NESHAP or NSPS on the condition that West Virginia legally adopt the future standards, make only allowed wording changes, and provide specified notice to EPA.

In a letter dated June 5, 2013, West Virginia informed EPA that West Virginia had updated its incorporation by reference of federal NESHAP and NSPS to include many such standards, to the extent referenced in 40 C.F.R. Part 60, effective June 1, 2012, and in 40 C.F.R. Parts 61, and 63, effective June 1, 2011. West Virginia noted that it understood that it was automatically delegated the authority to implement these standards. West Virginia committed to enforcing the standards in conformance with the terms of EPA's previous delegations of authority. West Virginia made only allowed wording changes.

West Virginia provided copies of the revised West Virginia Legislative Rules which specify the NESHAP and NSPS which West Virginia has adopted by reference. These revised Legislative Rules are entitled 45 CSR 34—''Emission Standards for Hazardous Air Pollutants,'' and 45 CSR 16—''Standards of Performance for New Stationary Sources.'' These revised Rules have an effective date of June 1, 2013.

Accordingly, EPA acknowledges that West Virginia now has the authority, as provided for under the terms of EPA's previous delegation actions, to implement and enforce the NESHAP and NSPS standards which West Virginia has adopted by reference in West Virginia's revised Legislative Rules 45 CSR 34 and 45 CSR 16, both effective on June 1, 2013.

Please note that on December 19, 2008 in *Sierra Club* vs. *EPA*,[2] the United States Court of Appeals for the District of Columbia Circuit vacated certain provisions of the General Provisions of 40 C.F.R. Part 63 relating to exemptions for startup, shutdown, and malfunction (SSM). On October 16, 2009, the Court issued the mandate vacating these SSM exemption provisions, which are found at 40 C.F.R. Part 63, §§ 63.6(f)(1) and (h)(1).

Accordingly, EPA no longer allows sources the SSM exemption as provided for in the vacated provisions at 40 C.F.R. Part 63, §§ 63.6(f)(1) and (h)(1), even though EPA has not yet formally removed the SSM exemption provisions from the General Provisions of 40 C.F.R. Part 63. Because West Virginia incorporated 40 C.F.R. Part 63 by reference, West Virginia should also no longer allow sources to use the former SSM exemption from the General Provisions of 40 C.F.R. Part 63 due to the Court's ruling in Sierra Club vs. EPA.

EPA appreciates West Virginia's continuing NESHAP and NSPS enforcement efforts, and also West Virginia's decision to take automatic delegation of additional and more recent NESHAP and NSPS by adopting them by reference.

If you have any questions, please contact me or Ms. Kathleen Cox, Associate Director, Office of Permits and Air Toxics, at 215–814–2173.

Sincerely,

Diana Esher,

Director Air Protection Division''

This notice acknowledges the update of West Virginia's delegation of authority to implement and enforce NESHAP and NSPS.

[1] EPA has posted copies of these actions at: *http://www.epa.gov/reg3artd/airregulations/delegate/wvdelegation.htm.*

[2] *Sierra Club* v. *EPA,* 551 F.3rd 1019 (D.C. Cir. 2008).

Dated: June 17, 2014.

David Arnold,

Acting Director, Air Protection Division, Region III.

[FR Doc. 2014–15884 Filed 7–7–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Request for Candidates

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Board Action: Pursuant to *31 U.S.C. 3511*(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in October, 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) is currently seeking candidates (candidates must not currently be federal employees) to serve as non-federal members of the FASAB.

FASAB is the body designated to establish generally accepted accounting principles for federal government entities. Generally, non-federal Board members are selected from the general financial community, the accounting and auditing community, or the academic community. Specifically, FASAB is particularly interested in candidates who have experience as:

- Analysts of financial information,
- Economists or forecasters,
- Academics,
- Auditors,
- Preparers of financial information, or
- Those otherwise knowledgeable regarding the use of financial information in decision-making.

The FASAB meets in Washington, DC, for two days every other month. Members are compensated based on current federal executive salaries. The member designated as chairperson of the board is typically compensated for 40-hours during each two-week pay period. Other members are typically compensated for 24 days per year. Travel expenses are reimbursed in accordance with federal travel regulations.

Responses may be submitted by email to *paynew@fasab.gov* or by fax to (202) 512–7366. Responses may also be sent to: Ms. Wendy Payne, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street NW., (Mailstop 681H19), Washington, DC 20548.

Please submit your resume by September 15, 2014. Additional information about the FASAB can be obtained from its Web site at *http://www.fasab.gov.*

FOR FURTHER INFORMATION CONTACT: Wendy Payne, Executive Director, at (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

Dated: July 1, 2014.

Charles Jackson,

Federal Register Liaison Officer.

[FR Doc. 2014–15822 Filed 7–7–14; 8:45 am]

BILLING CODE 1610–02–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 September 8, 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: 3060–0506.

Title: Application for FM Broadcast Station License, Form 302–FM.

Form Number: FCC Form 302–FM.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 925 respondents; 925 responses.

Estimated Time per Response: 1–2 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 3,135 hours.

Total Annual Costs: $601,500.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: FCC Form 302–FM is required to be filed by licensees and permittees of FM broadcast stations to request and obtain a new or modified station license and/or to notify the Commission of certain changes in the licensed facilities of these stations. Data is used by FCC staff to confirm that the station is built to the terms specified in the outstanding construction permit and to ensure that any changes made to the station will not have any impact on other stations and the public. Data is extracted from FCC Form 302–FM for inclusion in the license to operate the station.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–15881 Filed 7–7–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501—3520), the Federal Communications Commission (FCC) 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 further ways to 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 Control Number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before September 8, 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 FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Leslie F. 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, send them to *PRA@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Leslie F. Smith at (202) 418–0217, or via the Internet at *PRA@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0411.

Title: Procedures for Formal Complaints.

Form Number: FCC Form 485.

Type of Review: Extension of a currently-approved collection.

Respondents: Individuals or households, business or other for-profit entities, not-for-profit institutions, federal government, and state, local, or tribal governments.

Number of Respondents and Responses: 20 respondents; 301 responses.

Estimated Time per Response: 1–60 hours.

Frequency of Response: Recordkeeping requirement, 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. 151, 154(i), 154(j), 206, 207, 208, 209, 301, 303, 304, 309, 316, 332, and 1302.

Total Annual Burden: 1,349 hours.

Total Annual Cost: $1,847,900.

Nature and Extent of Confidentiality: 47 CFR Section 1.731 provides for confidential treatment of materials disclosed or exchanged during the course of formal complaint proceedings when the disclosing party has identified the materials as proprietary or confidential. In the rare case in which a producing party believes that section 1.731 will not provide adequate protection for its assorted confidential material, it may request either that the opposing party consent to greater protection, or that the staff supervising the proceeding order greater protection.

Privacy Act Impact Assessment: The information collection requirements may affect individuals or households. As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a, and OMB regulations, M–03–22 (September 22, 2003), the FCC has completed both a system of records, FCC/EB–5, ''Enforcement Bureau Activity Tracking System,'' and a Privacy Impact Assessment (PIA), to cover the collection, maintenance, use, and disposal of all personally identifiable information (PII) that may be submitted as part of a formal complaint filed against a common carrier:

(a) The system of records notice (SORN), FCC/EB–5, ''Enforcement Bureau Activity Tracking System (EBATS),'' was published in the **Federal Register** on December 14, 2010 (75 FR 77872) and became effective on January 24, 2011. It is posted on the FCC's Privacy Act Web page at: *http://www.fcc.gov/omd/privacyact/records-systems.html*.

(b) The initial Privacy Impact Assessment (PIA) was completed on May 22, 2009. However, with the approval of the FCC/EB–5, ''EBATS,'' on January 24, 2011 and supplementation expected in Fall 2014, the Commission is now updating the PIA to include the information that is contained in this SORN.

Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 154(j), 206, 207, 208, 209, 301, 303, 304, 309, 316, 332, and 1302.

Needs and Uses: Sections 206–209 of the Communications Act of 1934, as amended (the ''Act''), provide the statutory framework for adjudicating formal complaints against common carriers. To resolve complaints between providers regarding compliance with data roaming obligations, Commission Rule 20.12(e) adopts by reference the procedures already in place for resolving Section 208 formal complaints against common carriers, except that the remedy of damages, is not available for complaints against commercial mobile data service providers.

Section 208(a) authorizes complaints by any person ''complaining of anything done or omitted to be done by any common carrier'' subject to the provisions of the Act.

Section 208(a) states that if a carrier does not satisfy a complaint or there appears to be any reasonable ground for investigating the complaint, the Commission shall ''investigate the matters complained of in such manner and by such means as it shall deem proper.'' Certain categories of complaints are subject to a statutory deadline for resolution. *See, e.g.,* 47 U.S.C. 208(b)(1) (imposing a five-month deadline for complaints challenging the ''lawfulness of a charge, classification, regulation, or practice''); 47 U.S.C. 271(d)(6) (imposing a 90-day deadline for complaints alleging that a Bell Operating Company has ceased to meet conditions imposed in connection with approval to provide in-region interLATA services).

Formal complaint proceedings before the Commission are similar to civil litigation in federal district court. In fact, under section 207 of the Act, a party claiming to be damaged by a common carrier may file its complaint with the Commission or in any district court of the United States, ''but such person shall not have the right to pursue both such remedies'' (47 U.S.C. 207). The Commission has promulgated rules (Formal Complaint Rules) to govern its formal complaint proceedings that are

similar in many respects to the Federal Rules of Civil Procedure. *See* 47 CFR Sections 1.720–1.736. These rules require the submission of information from the parties necessary to create a record on which the Commission can decide complex legal and factual issues. As described in section 1.720 of the rules, the Commission resolves formal complaint proceedings on a written record consisting of a complaint, answer or response, and joint statement of stipulated facts, disputed facts and key legal issues, along with all associated affidavits, exhibits and other attachments.

This collection of information includes the process for submitting a formal complaint against a common carrier. The Commission uses this information to determine the sufficiency of complaints and to resolve the merits of disputes between the parties. The Commission bases its orders in formal complaint proceedings upon evidence and argument produced by the parties in accordance with the Formal Complaint Rules. If the information were not collected, the Commission would not be able to resolve common carrier-related complaint proceedings, as required by section 208 of the Act.

In addition, the Commission has adopted most of this formal complaint process to govern data roaming complaints. Specifically, the Commission has extended, as applicable, the procedural rules in the Commission's Part I, Subpart E rules, 47 CFR Sections 1.716–1.718, 1.720, 1.721, and 1.723–1.735, to disputes arising out of the data roaming rule contained in 47 CFR Section 20.12(e). Therefore, in addition to being necessary to resolve common carrier-related complaint proceedings, this collection of information is also necessary to resolve data roaming-related complaint proceedings.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–15880 Filed 7–7–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted to the Office of Management and Budget for Review and Approval

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 August 7, 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, via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and 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: Section 15.407(j), U–NII Operator Filing Requirement.

Form Number: N/A.

Type of Review: New collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 17 Respondents; 17 Responses.

Estimated Time per Response: 32 hours.

Frequency of Response: On occasion one time reporting, recordkeeping 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. 154(i), 301, 302a, 303(e), 303(f), 303(g) and 303(r).

Total Annual Burden: 544 hours.

Total Annual Costs: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Privacy Act Impact Assessment: N/A.

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) to obtain the full year three year clearance from them. The Commission is requesting approval of this information collection.

On March 31, 2014, the Commission adopted a First Report and Order, *Revision of Part 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U–NII) in the 5 GHz Band,* ET Docket No. 13–49, FCC 14–30. Section 15.407(j) of the Commission's rules established filing requirements for U–NII operators that deploy a collection of more than one thousand outdoor access points with the 5.15–5.25 GHz band, parties must submit a letter to the Commission acknowledging that, should harmful interference to licensed services in this band occur, they will be required to take corrective action. Corrective actions may include reducing power, turning off devices, changing frequency bands, and/or further reducing power radiated in the vertical direction. This material shall be submitted to Laboratory Division, Office of Engineering and Technology, Federal Communications Commission, 7435 Oakland Mills Road, Columbia, MD, 21046 Attn: U–NII Coordination, or via Web site at *https://www.fcc.gov/labhelp* with the Subject Line: ''U–NII–1 Filing''.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2014–15882 Filed 7–7–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communication Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before August 7, 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 contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMai,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0126.

Title: Section 73.1820, Station Log.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 15,200 respondents; 15,200 responses.

Estimated Time per Response: 0.017–0.5 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 15,095 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: 47 CFR 73.1820 requires that each licensee of an AM, FM or TV broadcast station maintain a station log. Each entry must accurately reflect the station's operation. This log should reflect adjustments to operating parameters for AM stations with directional antennas without an approved sampling system; for all stations the actual time of any observation of extinguishment or improper operation of tower lights; and entry of each test of the Emergency Broadcast System (EBS) for commercial stations.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–15879 Filed 7–7–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Advisory Committee on Community Banking; Notice of Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of open meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Advisory Committee on Community Banking, which will be held in Washington, DC. The Advisory Committee will provide advice and recommendations on a broad range of policy issues that have particular impact on small community banks throughout the United States and the local communities they serve, with a focus on rural areas.

DATES: Wednesday, July 23, 2014, from 8:45 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held in the FDIC Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–7043.

SUPPLEMENTARY INFORMATION:

Agenda: The agenda will include a discussion of current issues affecting community banking. The agenda is subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

Type of Meeting: The meeting will be open to the public, limited only by the space available on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present a valid photo identification to enter the building. The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY) at least two days before the meeting to make necessary arrangements. Written statements may be filed with the committee before or after the meeting. This Community Banking Advisory Committee meeting will be Webcast live via the Internet at *https://fdic.primetime.mediaplatform.com/#/channel/1384299242770/Advisory+Committee+on+Community+Banking+*. Questions or troubleshooting help can be found at the same link. For optimal viewing, a high speed internet

connection is recommended. The Community Banking meeting videos are made available on-demand approximately two weeks after the event.

Dated: July 2, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Committee Management Officer.

[FR Doc. 2014–15843 Filed 7–7–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE & TIME: Thursday July 10, 2014, 15 minutes after the conclusion of the open meeting.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. 437g.

Matters concerning participation in civil actions or proceedings or arbitration.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2014–16069 Filed 7–3–14; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE & TIME: Thursday, July 10, 2014 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC (ninth floor)

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED: Draft Advisory Opinion 2014–06: Congressman Paul Ryan, Ryan for Congress, Inc., and Prosperity Action, Inc.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2014–16068 Filed 7–3–14; 4:15 pm]

BILLING CODE 6715–01–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 July 22, 2014.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *CEP Investors in Metropolitan, LP, Seattle, Washington; CEP Investors in Metropolitan's Manager LP, Seattle, Washington; Columbia Equity Capital Partners, LLC, and CEP Advisors, LLC, both of Seattle, Washington; William Dean Donovan, San Francisco, California; Brian Charles Flynn, Jr., Seattle, Washington; and Kevin William Wilson,* Virginia Beach, Virginia; to retain and acquire additional voting shares of Metropolitan BancGroup, Inc., Ridgeland, Mississippi, and thereby indirectly retain and acquire additional voting shares of Metropolitan Bank, Crystal Springs, Mississippi.

Board of Governors of the Federal Reserve System, July 2, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–15865 Filed 7–7–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 1, 2014.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Independent Bank Group, Inc.,* McKinney, Texas; to merge with Houston City Bancshares, Inc., and thereby indirectly acquire Houston Community Bank, N.A., both in Houston, Texas.

Board of Governors of the Federal Reserve System, July 2, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–15864 Filed 7–7–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0012]

Fostering Cooperation and Strengthening Medical Product Regulatory Systems in the Americas

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Office of International Programs (OIP) is announcing the availability of grant funds for the support of a single source cooperative agreement to the Pan American Health Organization (PAHO) for fostering cooperation and strengthening medical product regulatory systems in the Americas. The goal of the cooperative agreement is to build upon existing cooperation between OIP/FDA and PAHO to foster regulatory collaboration and strengthen regulatory capacity throughout the Americas.

DATES: Important dates are as follows:

1. The application due date is August 1, 2014.

2. The anticipated start date is October 1, 2014.

3. The expiration date is August 2, 2014.

ADDRESSES: Submit electronic applications to: *http://www.grants.gov.* For more information, see section III of the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Charles M. Preston, Office of Strategy, Partnerships and Analytics, Office of International Programs, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3309, Silver Spring, MD 20993, 301–796–0654; or Kimberly Pendleton-Chew, Food and Drug Administration, Division of Acquisitions and Grants (HFA 500), 5630 Fishers Lane, Rm. 2031, Rockville, MD 20857, 240–402–7610.

For more information on this funding opportunity announcement (FOA) and to obtain detailed requirements, please refer to the full FOA located at *http://www.fda.gov/InternationalPrograms/CapacityBuilding/default.htm.*

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

RFA–FD–13–039

93.103

A. Background

PAHO is the Regional Office for the Americas of the World Health Organization (WHO). WHO has responsibility for helping to ensure access to essential medical products of assured safety, quality, and efficacy within its 193 member states. It does so in three primary areas: (1) Setting global norms and standards; (2) articulating evidence-based policy options, including those relating to regulatory systems performance; and (3) providing technical support to national and regional regulatory authorities and governments. These activities help to strengthen regulatory systems which, in this era of globalization, where the supply chain of medicines has become a global network, and as national, regional, and global health programs work to scale up access to medicines and health products, strong regulatory systems, are imperative.

The necessary constituents of a medical products regulatory system have been defined by PAHO and WHO. They include regulatory frameworks, marketing authorization, import/export control and postmarket surveillance, licensing of manufacturers, inspections, laboratories, pharmacovigilance, clinical trials, and vaccine lot release. Specifically, PAHO helps to strengthen medical products regulatory systems through activities that include disseminating quality norms and standards, facilitating the exchange of regulatory information, evaluating regulatory authorities, providing training and technical assistance, distributing scientific materials and information on aspects of regulation, strengthening regional monitoring and surveillance for falsified and substandard products (including supporting national pharmacovigilance programs), and building capacity as a component of WHO's prequalification programs.

In recent years, OIP/FDA has been actively engaged with PAHO on a number of areas related to regulatory systems strengthening. OIP/FDA and PAHO are currently involved in a 4-year cooperative agreement which began in September 2010 that promotes medical product regulatory system strengthening in the Americas. The centerpiece of the agreement is the development of the Regional Platform for Access and Innovation of Health Technologies (PRAIS), an electronic platform for regulatory exchange. The site was launched by PAHO in 2012 and the cooperative agreement is managed by OIP, with additional strategic and technical guidance provided by a steering group of FDA Center subject matter experts. PRAIS includes features such as communities of practice, where regulators can share information and engage in real-time dialogue around regulatory issues, and an ''observatory'', where information on the basic structures and functions of participating regulatory authorities is housed.

PAHO envisions PRAIS to be a cornerstone of its regulatory system strengthening activities in the Americas. Beyond the immediate functionalities, PRAIS is also being used to prioritize and coordinate activities related to the Pan American Network for Drug Regulatory Harmonization. In addition, PRAIS is being used to develop regional models for regulatory systems; for example, data from the observatory have been used in research to assess strengths and weaknesses of regulatory systems in the Caribbean towards a regional system. Another initiative related to PRAIS is a secure platform for sharing non-public information, called PRAISsec, and FDA has been engaged in its governance and assessing agency needs and requirements. At this time, the platform is not yet built and no non-public information has been shared. A next phase of development for PRAIS may include global scale-up, which will enhance the platform's utility to other parts of the world that are in critical need of regulatory information exchange and capacity building tools.

OIP/FDA entered a similar cooperative agreement on regulatory systems strengthening with WHO in fiscal year (FY) 2014. Activities include work that WHO is undertaking at the global level, including advancement of a member state mechanism on substandard, spurious, falsified, falsely-labeled, and counterfeit medical products (SSFFC), enhancement of another FDA-supported cooperative agreement to develop a global monitoring system for SSFFC medical products, and specific work to improve regulation of active pharmaceutical ingredients among regulators in WHO's member states.

B. Research Objectives

The cooperative agreement announced in this FOA represents the further expansion of well-established collaborations between OIP/FDA and PAHO in support of data-driven and science-based public health strategies and approaches. The objective is to build upon existing cooperation to foster regulatory collaboration and

strengthen regulatory capacity throughout the Americas in ways that provide benefit and contribution to the FDA regulatory and public health mission. This partnership aligns with FDA's domestic and global goals of addressing medical product safety and quality challenges.

This cooperative agreement will support collaboration and investigation in the following areas:

1. Developing and Applying Regional/Global Norms and Standards

- Enable the sharing of scientific findings and data through expert meetings and technical consultations;
- assist member states in the implementation and subsequent evaluation of internationally-recognized standards and guidelines, e.g. WHO guidelines and standards and those emerging from standards development venues such as the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH);
- utilize PAHO's convening power to engage with relevant stakeholders on science-based norms and standards; and
- facilitate the alignment and convergence of standards between PAHO, other regions, and/or global bodies.

2. Researching Regulatory Systems Performance

- Contribute to the knowledge base of the current state of medical product regulation globally, including challenges, risks, and emerging trends, and making the business case for investments in regulatory systems; and
- enable and/or further strengthen the development of data/information systems as sources of inputs for evidence-based regulatory decisions and actions and enhanced knowledge management systems, coalitions, and networks.

3. Providing Technical Support to Regulatory Systems Strengthening Efforts and Expand Awareness of the Role of Regulatory Systems in the Broader Global Health Development Framework

- Enable the strengthening of regulatory systems at the regional and global levels in such critical domains as: Regulatory frameworks; marketing authorization; import/export control and postmarket surveillance; inspections; laboratories; pharmacovigilance; clinical trials and vaccine lot release; staff development and training, including the professionalization of the regulatory workforce; monitoring and evaluation of product quality; inspection and surveillance of products throughout the supply chain; and risk assessment, analysis, and management; and
- contribute strategies to expand the knowledge and awareness of the essential role of regulatory systems within the broader global health and development frameworks, including ways that can leverage existing initiatives, investments and partnerships or catalyze new ones.

C. Eligibility Information

This is a single source cooperative agreement. PAHO is eligible to apply for this award. PAHO is the Regional Office for the Americas of WHO. WHO has responsibility for helping to ensure access to essential medical products of assured safety, quality, and efficacy within its 193 member states. It does so in three primary areas: (1) Setting global norms and standards; (2) articulating evidence-based policy options, including those relating to regulatory systems performance; and (3) providing technical support to national and regional regulatory authorities and governments. In recent years, OIP/FDA has been actively engaged with PAHO on a number of areas related to regulatory systems strengthening. OIP/FDA and PAHO are currently involved in a 4-year cooperative agreement which began in September 2010 that promotes medical product regulatory system strengthening in the Americas.

II. Award Information/Funds Available

A. Award Amount

This award is contingent upon FDA appropriations and meritorious application. FDA/OIP can fund one award in the amount up to $2 million for FY 2015 based on available appropriations.

B. Length of Support

The total project period may not exceed 5 years. Funding in future years will be contingent on the availability of appropriations and successful performance in the award not to exceed $2 million per year.

III. Electronic Application, Registration, and Submission

Only electronic applications will be accepted. To submit an electronic application in response to this FOA, applicants should first review the full announcement located *http://www.fda.gov/InternationalPrograms/CapacityBuilding/default.htm.* (FDA has verified the Web site addresses throughout this document, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.) For all electronically submitted applications, the following steps are required.

- Step 1: Obtain a Dun and Bradstreet (DUNS) Number
- Step 2: Register With System for Award Management (SAM)
- Step 3: Obtain Username & Password
- Step 4: Authorized Organization Representative (AOR) Authorization
- Step 5: Track AOR Status
- Step 6: Register With Electronic Research Administration (eRA) Commons

Steps 1 through 5, in detail, can be found at *http://www07.grants.gov/applicants/organization_registration.jsp.* Step 6, in detail, can be found at *https://commons.era.nih.gov/commons/registration/registrationInstructions.jsp.* After you have followed these steps, submit electronic applications to: *http://www.grants.gov.*

Dated: July 2, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15870 Filed 7–7–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–N–2014–0865]

Patient-Focused Drug Development for Idiopathic Pulmonary Fibrosis; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing a public meeting and an opportunity for public comment on Patient-Focused Drug Development for idiopathic pulmonary fibrosis. Patient-Focused Drug Development is part of FDA's performance commitments made as part of the fifth authorization of the Prescription Drug User Fee Act (PDUFA V). The public meeting is intended to allow FDA to obtain patient perspectives on the impact of idiopathic pulmonary fibrosis on daily life as well as patient views on treatment approaches for idiopathic pulmonary fibrosis.

DATES: The public meeting will be held on September 26, 2014, from 1 p.m. to 5 p.m. Registration to attend the meeting

must be received by September 10, 2014 (see **SUPPLEMENTARY INFORMATION** for instructions). Submit electronic or written comments by November 26, 2014.

ADDRESSES: The public meeting will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Participants must enter through Building 1 and undergo security screening. For more information on parking and security procedures, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

Submit electronic comments 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. All comments should be identified with the docket number found in brackets in the heading of this document.

FDA will post the agenda approximately 5 days before the meeting at: *http://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm395774.htm.*

FOR FURTHER INFORMATION CONTACT: Pujita Vaidya, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1144, Silver Spring, MD 20993, 301–796–0684, FAX: 301–847–8443, email: *Pujita.Vaidya@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA has selected idiopathic pulmonary fibrosis as the focus of a public meeting under Patient-Focused Drug Development, an initiative that involves obtaining a better understanding of patient perspectives on the severity of a disease and the available therapies for that condition. Patient-Focused Drug Development is being conducted to fulfill FDA performance commitments that are part of the reauthorization of PDUFA under Title I of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144). The full set of performance commitments is available on the FDA Web site at *http://www.fda.gov/downloads/forindustry/userfees/prescriptiondruguserfee/ucm270412.pdf.*

FDA committed to obtain the patient perspective on 20 disease areas during the course of PDUFA V. For each disease area, the Agency will conduct a public meeting to discuss the disease and its impact on patients' daily lives, the types of treatment benefit that matter most to patients, and patients' perspectives on the adequacy of the available therapies. These meetings will include participation of FDA review divisions, the relevant patient communities, and other interested stakeholders.

On April 11, 2013, FDA published a notice (78 FR 08441) in the **Federal Register** announcing the disease areas for meetings in fiscal years (FY) 2013–2015, the first 3 years of the 5-year PDUFA V time frame. The Agency used several criteria outlined in the April 11 notice to develop the list of disease areas. FDA obtained public comment on the Agency's proposed criteria and potential disease areas through a public docket and a public meeting that was convened on October 25, 2012. In selecting the set of disease areas, FDA carefully considered the public comments received and the perspectives of review divisions at FDA. By the end of FY 2015, FDA will initiate a second public process for determining the disease areas for FY 2016–2017. More information, including the list of disease areas and a general schedule of meetings, is posted on FDA's Web site at *http://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm326192.htm.*

II. Purpose and Scope of Meeting

The purpose of this Patient-Focused Drug Development meeting is to obtain input on the symptoms and other impacts of idiopathic pulmonary fibrosis that matter most to patients, as well as perspectives on current approaches to treating idiopathic pulmonary fibrosis. FDA expects that this information will come directly from patients, caregivers, and patient advocates. Idiopathic pulmonary fibrosis is a rare and life-threatening disease in which lung tissue become scarred over time. Many people with idiopathic pulmonary fibrosis survive only 3 to 5 years from the time of diagnosis. Symptoms of idiopathic pulmonary fibrosis can include shortness of breath, dry cough, fatigue, and chest pain. There is no cure for idiopathic pulmonary fibrosis; symptomatic treatment options include corticosteroids, oxygen therapy, pulmonary rehabilitation, and lifestyle changes.

The questions that will be asked of patients and patient stakeholders at the meeting are listed in this section, organized by topic. For each topic, a brief initial patient panel discussion will begin the dialogue. This will be followed by a facilitated discussion inviting comments from other patient and patient stakeholder participants. In addition to input generated through this public meeting, FDA is interested in receiving patient input addressing these questions through written comments, which can be submitted to the public docket (see **ADDRESSES**).

Topic 1: Symptoms and Daily Impacts That Matter Most to Patients

- Of all the symptoms that you experience because of your condition, which one to three symptoms have the most significant impact on your life? (Examples may include shortness of breath, cough, fatigue, etc.)
- Are there specific activities that are important to you but that you cannot do at all or as fully as you would like because of your condition? (Examples of activities may include household chores, walking up the stairs, etc.)
  - How do your symptoms and their negative impacts affect your daily life on the best days?
  - How do your symptoms and their negative impacts affect your daily life on the worst days?
- How has your condition and its symptoms changed over time?

Topic 2: Patient Perspectives on Treatment Approaches

- What are you currently doing to help treat your condition or its symptoms? (Examples may include prescription medicines, over-the-counter products, and other therapies including non-drug therapies such as diet modification.) How well does your current treatment regimen treat the most significant symptoms of your disease?
- What are the most significant downsides to your current treatments and how do they affect your daily life? (Examples of downsides may include bothersome side effects, going to the hospital for treatment, etc.)
- Because there is no complete cure for your condition, what specific things would you look for in an ideal treatment for your condition?

III. Attendance and Participation

If you wish to attend this meeting, visit *http://patientfocusedIPF.eventbrite.com.* Please register by September 10, 2014. If you are unable to attend the meeting in person, you can register to view a live Web cast of the meeting. You will be asked to indicate in your registration if you plan to attend in person or via the Web cast. Your registration will also contain your complete contact information, including name, title, affiliation, address, email address, and phone number. Seating will be limited, so early registration is

recommended. Registration is free and will be on a first-come, first-served basis. However, FDA may limit the number of participants from each organization based on space limitations. Registrants will receive confirmation once they have been accepted. Onsite registration on the day of the meeting will be based on space availability. If you need special accommodations because of a disability, please contact Pujita Vaidya (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days before the meeting.

Patients who are interested in presenting comments as part of the initial panel discussions will be asked to indicate in their registration which topic(s) they wish to address. They will be asked to send a brief summary of responses to the topic questions to *PatientFocused@fda.hhs.gov.* Panelists will be notified of their selection a few days after the close of registration on September 10, 2014. FDA will try to accommodate all patients and patient advocate participants who wish to speak, either through the panel discussion or audience participation; however, the duration of comments may be limited by time constraints.

IV. Comments

Submit electronic or written responses to the questions pertaining to Topics 1 and 2 to the public docket (see **ADDRESSES**) by November 26, 2014. 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.*

V. Transcripts

As soon as a transcript is available, FDA will post it at *http://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm395774.htm.*

Dated: July 2, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15871 Filed 7–7–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0233]

Center for Drug Evaluation and Research; Use of Innovative Packaging, Storage, and/or Disposal Systems To Address the Misuse and Abuse of Opioid Analgesics; Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice, reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period for the notice entitled ''Center for Drug Evaluation and Research; Use of Innovative Packaging, Storage, and/or Disposal Systems to Address the Misuse and Abuse of Opioid Analgesics,'' which published in the **Federal Register** of April 9, 2014. FDA is reopening the comment period to allow interested persons additional time to submit comments.

DATES: Submit either electronic or written comments by August 7, 2014.

ADDRESSES: Submit electronic comments 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: Colleen Brennan, Center for Drug Evaluation and Research, Food and Drug Administration, Office of Surveillance and Epidemiology, 10903 New Hampshire Ave., Bldg. 22, Rm. 4410, Silver Spring, MD 20993–0002, 301–796–2316, email: *Colleen.Brennan@fda.hhs.gov*, with the subject line identified as ''Packaging Abuse Deterrence Strategies.''

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of April 9, 2014 (79 FR 19619), FDA announced the establishment of a docket to receive suggestions, recommendations, and comments on innovative packaging, storage and disposal systems, technologies or designs that could be used to prevent or deter misuse and abuse of opioid analgesics by patients and others. In the notice, FDA stated that comments about specific system or technology designs should include a description of the following: (1) Design features and functionality; (2) results of any formative or summative human factors assessments conducted; (3) applications to date, including information on the effectiveness and acceptability of those applications (with literature references or other documentation); (4) recommendations for how the system/technology design could be applied or adapted (either alone and/or in combination with other systems/technologies) to help prevent or deter misuse and abuse, and any limitations of that application; (5) specific problems that could be addressed (e.g., serious complications such as addiction or overdose due to improper dosage and/or administration, improper disposal, accidental use by someone for whom the medication was not prescribed); and (6) to the extent possible, considerations for implementation into routine dispensing and clinical use (e.g., how the solution would impact the workflow in a retail pharmacy).

To help FDA prioritize among proposed approaches, the Agency is also interested in receiving feedback about methods that could be used to assess a system or technology's potential abuse-deterrent characteristics and real-world impact (e.g., actual ability to prevent or deter misuse and abuse, effect on access for appropriate patients, patient confidentiality, burden on the healthcare system, feasibility of implementation, whether the design could create unintended medication errors). Finally, FDA is interested in receiving feedback on methods for encouraging further research and development in this area, and, if promising technologies are identified, incentivizing the pharmaceutical industry (e.g. via patent extensions) to adopt such technologies.

Interested persons were given until June 9, 2014, to submit comments. On our own initiative, the Agency is reopening the comment period until August 7, 2014 to allow interested persons additional time to submit comments. The Agency believes that an additional 30 days allows adequate time for interested persons to submit comments without significantly delaying the Agency's consideration of these important issues.

II. How To Submit Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division

of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

Dated: July 1, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15809 Filed 7–7–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Specimen Resource Locator (NCI)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 8, 2014 (Vol. 79, P. 19345) and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments To OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: Joanne Demchok, Program Director, Cancer Diagnosis Program, Division of Cancer Treatment and Diagnosis, 9609 Medical Center Drive, Rockville, Md. 20892 or call non-toll-free number 240–276–5959 or Email your request, including your address to: *peterjo@mail.nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Specimen Resource Locator, Existing Collection in Use without OMB Control Number, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The availability of specimens and associated data is critical to increase our knowledge of cancer biology, and to translate important research discoveries to clinical application. The discovery and validation of cancer prevention markers require access, by researchers, to quality clinical biospecimens. In response, to this need, the National Cancer Institute's (NCI) Cancer Diagnosis Program has developed, and is expanding, a searchable database: Specimen Resource Locator (SRL). The SRL allows scientist in the research community and the NCI to locate specimens needed for their research. The SRL will list all NCI supported repositories and their links. This administrative submission is an on-line form that will collect information to manage and improve a program and its resources for the use of all scientists. This submission does not involve any analysis.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 105.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hour
Private Sector	Initial Request	70	1	30/60	35
State Government		70	1	30/60	35
Federal Government		60	1	30/60	30
Private Sector	Annual Update	20	1	5/60	2
State Government		20	1	5/60	2
Federal Government		10	1	5/60	1

Dated: July 1, 2014.

Karla Bailey,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2014–15890 Filed 7–7–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Assessment of Oncology Nursing Education and Training in Low and Middle Income Countries (NCI)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), 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 or request more information on the proposed project, contact: Annette Galassi, Center for Global Health, National Cancer Institute, 9609 Medical Center Dr., RM 3W250, Rockville, MD 20850 or call non-toll-free number 240–276–6632 or Email your request, including your address to: *agalassi@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: Assessment of Oncology Nursing Education and Training in Low and Middle Income Countries, 0925–NEW, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This is a request for OMB to approve the Assessment of Oncology Nursing Education and Training in Low and Middle Income Countries (LMICs). NCI-Designated Cancer Centers have a range of international activities, some of which are funded by NCI, but many of which are not. These international activities may include oncology nursing education and training in LMICs, but the extent of these activities across cancer centers is unknown. The proposed assessment requests information about oncology nursing education and training projects including: Descriptions of projects, partner organizations, types of activities, cost, and impact. NCI's Center for Global Health (CGH) is in the process of developing its strategic plan for oncology nursing education in LMICs. This information will help inform this strategic planning process and provide evidence to inform decisions on potential investments in grants for oncology nursing education in LMICs. Additionally, this information will be used in an online, interactive map that is being developed by CGH which will allow external organizations, such as cancer centers, to explore what projects are being done in which countries, which will facilitate collaborations and minimize duplication. The frequency of the data collection will be once per year although respondents may have more than one response if they have up to three projects.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 51.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Number of respondents/year	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Directors of Nursing	68	3	15/60	51

Dated: July 1, 2014.

Karla Bailey,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2014–15893 Filed 7–7–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Diabetes and Physical Performance Ancillary Studies.

Date: July 24, 2014.

Time: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Carol J. Goter-Robinson, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS).

Dated: July 1, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–15858 Filed 7–7–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; SBIR/STTR HDM Informatics.

Date: July 16, 2014.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Melinda Jenkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3156, MSC 7770, Bethesda, MD 20892, 301–437–7872, *jenkinsml2@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: AIDS and AIDS Related Applications.

Date: July 17, 2014.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Mary Clare Walker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892, (301) 435–1165, *walkermc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: July 1, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–15855 Filed 7–7–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel; Cooperative Reprogrammed Cell Research Groups (NCRCRG) to Study Mental Illness.

Date: July 21, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Cooperative Drug Discovery/Development Groups (NCDDG) for the Treatment of Mental Disorders, Drug or Alcohol Addiction (UM1).

Date: July 25, 2014.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS).

Dated: July 1, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–15859 Filed 7–7–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed 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 Arthritis and Musculoskeletal and Skin Diseases, Special Emphasis Panel; Accelerating Medicines Partnership in Rheumatoid Arthritis and Lupus (UH2/UH3).

Date: July 30–31, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Kan Ma, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20892, 301–451–4838, *mak2@mail.nih.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases, Special Emphasis Panel; Accelerating Medicines Partnership Network Leadership Center Review (UM2).

Date: August 1, 2014.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Charles N. Rafferty, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20892, 301–594–5019, *charles.rafferty@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS).

Dated: July 1, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–15857 Filed 7–7–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1420]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway

(hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Illinois:						
Cook	City of Palos Heights (13–05–8093P).	The Honorable Robert Straz, Mayor, City of Palos Heights, 7607 West College Drive, Palos Heights, IL 60463.	City Hall, 7607 West College Drive, Palos Heights, IL 60463.	*http://www.msc.fema.gov/lomc.*	September 19, 2014.	170142
DuPage	Village of Lisle (14–05–2185P).	The Honorable Joseph J. Broda, Mayor, Village of Lisle, 925 Burlington Avenue, Lisle, IL 60532.	Village Hall, 925 Burlington Avenue, Lisle, IL 60532.	*http://www.msc.fema.gov/lomc.*	September 10, 2014.	170211
Indiana:						
Marshall	City of Plymouth (14–05–0926P).	The Honorable Mark Senter, Mayor, City of Plymouth, 124 North Michigan Street, Plymouth, IN 46563.	124 North Michigan Street, Plymouth, IN 46563.	*http://www.msc.fema.gov/lomc.*	September 11, 2014.	180164
Marshall	Unincorporated Areas of Marshall County, (14–05–0926P).	The Honorable Kevin Overmyer, Marshall County President, Board of Commissioners, 112 West Jefferson Street, Room 205, Plymouth, IN 46563.	112 West Jefferson, Plymouth, IN 46563.	*http://www.msc.fema.gov/lomc.*	September 11, 2014.	180443
Kansas: Lyon	City of Emporia (13–07–1700P).	The Honorable Rob Gilligan, Mayor, City of Emporia, P.O. Box 928, Emporia, KS 66801.	521 Market Street, Emporia, KS 66801.	*http://www.msc.fema.gov/lomc.*	October 10, 2014	200203
Minnesota:						
Olmsted	City of Rochester (13–05–8106P).	The Honorable Ardell F. Brede, Mayor, City of Rochester, 201 4th Street SE., Room 281, Rochester, MN 55904.	2122 Campus Drive, Suite 300, Rochester, MN 55904.	*http://www.msc.fema.gov/lomc.*	October 17, 2014	275246

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Pennington ..	City of Thief River Falls (14–05–0815P).	The Honorable Jim Dagg, Mayor, City of Thief River Falls, 405 Third Street East, Thief River Falls, MN 56701.	City Hall, 405 Third Street East, Thief River Falls, MN 56701.	*http://www.msc.fema.gov/lomc.*	September 18, 2014.	270344
Pennington ..	Unincorporated Areas of Pennington County (14–05–0815P).	The Honorable Neil Peterson, Pennington County Chairman, Board of Commissioners, P.O. Box 616, Thief River Falls, MN 56701.	201 Sherwood Avenue South, Thief River Falls, MN 56701.	*http://www.msc.fema.gov/lomc.*	September 18, 2014.	270651
Missouri:						
Buchanan	City of St. Joseph (14–07–0148P).	The Honorable Bill Falkner, Mayor, City of Saint Joseph, 1100 Frederick Avenue, Room 309, St. Joseph, MO 64506.	1100 Frederick Avenue, Room 107, St. Joseph, MO 64506.	*http://www.msc.fema.gov/lomc.*	September 25, 2014.	290043
Cape Girardeau.	City of Cape Girardeau (14–07–0463P).	The Honorable Harry Rediger, Mayor, City of Cape Girardeau, 401 Independence Street, Cape Girardeau, MO 63703.	401 Independence Street, Cape Girardeau, MO 63703.	*http://www.msc.fema.gov/lomc.*	September 8, 2014	290458
New Hampshire: Hillsborough.	City of Nashua (14–01–0876P).	The Honorable Donnalee Lozeau, Mayor, City of Nashua, 229 Main Street, Nashua, NH 03061.	229 Main Street, Nashua, NH 03061.	*http://www.msc.fema.gov/lomc.*	September 19, 2014.	330097
Ohio:						
Logan	City of Bellefontaine (14–05–4416P).	The Honorable Adam Brannon, Mayor, City of Bellefontaine, 135 North Detroit Street, Bellefontaine, OH 43311.	135 North Detroit Street, Bellefontaine, OH 43311.	*http://www.msc.fema.gov/lomc.*	September 19, 2014.	390340
Summit	City of Hudson (14–05–3718P).	The Honorable William A. Currin, Mayor, City of Hudson, 115 Executive Parkway, Suite 400, Hudson, OH 44236.	27 East Main Street, Hudson, OH 44236.	*http://www.msc.fema.gov/lomc.*	September 22, 2014.	390660
Oregon:						
Jackson	City of Medford (13–10–1490P).	The Honorable Gary Wheeler, Mayor, City of Medford, 411 West 8th Street, Medford, OR 97501.	411 West 8th Street, Medford, OR 97501.	*http://www.msc.fema.gov/lomc.*	September 18, 2014.	410096
Jackson	City of Medford (14–10–0435P).	The Honorable Gary Wheeler, Mayor, City of Medford, 411 West 8th Street, Medford, OR 97501.	411 West 8th Street, Medford, OR 97501.	*http://www.msc.fema.gov/lomc.*	September 15, 2014.	410096
Wisconsin: Chippewa.	City of Eau Clare (14–05–1736P).	Mr. Russell Van Gompel, City of Eau Claire, City Manager, 203 South Farwell Street, Third Floor, Eau Claire, WI 54701.	City Hall, 203 South Farwell Street, Third Floor, Eau Claire, WI 54701.	*http://www.msc.fema.gov/lomc.*	September 12, 2014.	550128

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 17, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–15831 Filed 7–7–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1% annual-chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Alabama: Jefferson (FEMA Docket No.: B–1407).	Unincorporated areas of Jefferson County (13–04–8615P).	The Honorable David Carrington, Chairman, Jefferson County Board of Commissioners, 716 Richard Arrington Jr. Boulevard North, Birmingham, AL 35203.	Jefferson County Courthouse, Land Development Office, 716 Richard Arrington Jr. Boulevard North, Room 202A, Birmingham, AL 35263.	April 24, 2014	010217
Arizona:					
Maricopa (FEMA Docket No.: B–1417).	City of Scottsdale (13–09–2519P).	The Honorable W.J. Lane, Mayor, City of Scottsdale, 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.	City Hall, 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.	May 16, 2014	045012
Maricopa (FEMA Docket No.: B–1417).	City of Scottsdale (13–09–2520P).	The Honorable W.J. Lane, Mayor, City of Scottsdale, 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.	City Hall, 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.	May 23, 2014	045012
California:					
Nevada (FEMA Docket No.: B–1417).	Town of Truckee (13–09–1067P).	The Honorable Patrick Flora, Mayor, Town of Truckee, 10183 Truckee Airport Road, Truckee, CA 96161.	Planning Division, 10183 Truckee Airport Road, Truckee, CA 96161.	May 19, 2014	060762
Riverside (FEMA Docket No.: B–1417).	City of Indio (13–09–3081P).	The Honorable Michael Wilson, Mayor, City of Indio, 100 Civic Center Mall, Indio, CA 92201.	City Hall, 100 Civic Center Mall, Indio, CA 92201.	May 12, 2014	060255
Sacramento (FEMA Docket No.: B–1417).	City of Sacramento (13–09–0004P).	The Honorable Kevin Johnson, Mayor, City of Sacramento, 915 I Street, 5th Floor, Sacramento, CA 95814.	Stormwater Management Department, 1395 35th Avenue, Sacramento, CA 95822.	May 12, 2014	060266
Sacramento (FEMA Docket No.: B–1417).	Unincorporated areas of Sacramento County (13–09–0004P).	The Honorable Susan Peters, Chair, Sacramento County Board of Supervisors, 700 H Street, Room 2450, Sacramento, CA 95814.	Municipal Services Agency, Department of Water Resources, 827 7th Street, Suite 301, Sacramento, CA 95814.	May 12, 2014	060262
San Diego (FEMA Docket No.: B–1417).	City of San Diego (13–09–1496P).	The Honorable Todd Gloria, Interim Mayor, City of San Diego, 202 C Street, 11th Floor, San Diego, CA 92101.	Development Services Center, 1222 1st Avenue, 3rd Floor, San Diego, CA 92101.	May 23, 2014	060295
Colorado:					
Adams (FEMA Docket No.: B–1407).	City of Commerce City (13–08–1128P).	The Honorable Sean Ford, Sr., Mayor, City of Commerce City, 7887 East 60th Avenue, Commerce City, CO 80022.	City Hall, 5291 East 60th Avenue, Commerce City, CO 80022.	April 25, 2014	080006
Denver (FEMA Docket No.: B–1407).	City and County of Denver (13–08–0942P).	The Honorable Michael B. Hancock, Mayor, City and County of Denver, 1437 Bannock Street, Suite 350, Denver, CO 80202.	Department of Public Works, 201 West Colfax Avenue, Denver, CO 80202.	May 5, 2014	080046
Elbert (FEMA Docket No.: B–1417).	Unincorporated areas of Elbert County (13–08–1173P).	The Honorable Robert Rowland, Chairman, Elbert County Board of Commissioners, P.O. Box 7, Kiowa, CO 80117.	Elbert County Community and Development Services Department, P.O. Box 7, Kiowa, CO 80117.	May 23, 2014	080055
Florida:					
Brevard (FEMA Docket No.: B–1407).	City of Cocoa Beach (13–04–4473P).	The Honorable Dave Netterstrom, Mayor, City of Cocoa Beach, 2 South Orlando Avenue, Cocoa Beach, FL 32931.	City Hall, 2 South Orlando Avenue, Cocoa Beach, FL 32931.	May 5, 2014	125097
Brevard (FEMA Docket No.: B–1407).	Unincorporated areas of Brevard County (13–04–4473P).	The Honorable Andy Anderson, Brevard County Commissioner, 2725 Judge Fran Jamieson Way, Viera, FL 32940.	Brevard County Public Works Department, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, FL 32940.	May 5, 2014	125092
Charlotte (FEMA Docket No.: B–1417).	Unincorporated areas of Charlotte County (14–04–0121P).	The Honorable Ken Doherty, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Port Charlotte, FL 33948.	Charlotte County Community Development Department, 18500 Murdock Circle, Port Charlotte, FL 33948.	May 15, 2014	120061

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Escambia (FEMA Docket No.: B–1407).	Unincorporated areas of Escambia County (13–04–5547P).	The Honorable Gene M. Valentino, Chairman, Escambia County Board of Commissioners, 221 Palafox Place, Suite 400, Pensacola, FL 32502.	Escambia County Development Services Department, 3363 West Park Place, Pensacola, FL 32505.	May 12, 2014	120080
Orange (FEMA Docket No.: B–1407).	City of Orlando (13–04–7164P).	The Honorable Buddy Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32808.	Permitting Services Department, 400 South Orange Avenue, Orlando, FL 32801.	April 25, 2014	120186
Georgia:					
Bryan (FEMA Docket No.: B–1417).	Unincorporated areas of Bryan County (13–04–1675P).	The Honorable Jimmy Burnsed, Chairman, Bryan County Board of Commissioners, 173 Davis Road, Richmond Hill, GA 31324.	Bryan County Planning and Zoning Department, 66 Captain Matthew Freeman Drive, Suite 201, Richmond Hill, GA 31324.	May 15, 2014	130016
Jackson (FEMA Docket No.: B–1407).	City of Jefferson (13–04–5609P).	The Honorable Jim Joiner, Mayor, City of Jefferson, 147 Athens Street, Jefferson, GA 30549.	City Hall, 147 Athens Street, Jefferson, GA 30549.	May 1, 2014	130112
Nebraska: Lancaster (FEMA Docket No.: B–1407).	City of Lincoln (13–07–2463P).	The Honorable Chris Beutler, Mayor, City of Lincoln, 555 South 10th Street, Suite 301, Lincoln, NE 68508.	Building and Safety Department, 555 South 10th Street, Lincoln, NE 68508.	May 5, 2014	315273
North Carolina:					
Avery (FEMA Docket No.: B–1417).	Town of Newland (14–04–0936P).	The Honorable Valerie Jaynes, Mayor, Town of Newland, P.O. Box 429, Newland, NC 28657.	Town Hall, 301 Cranberry Street, Newland, NC 28657.	April 11, 2014	370012
Avery (FEMA Docket No.: B–1417).	Unincorporated areas of Avery County (14–04–0936P).	The Honorable Kenny Poteat, Chairman, Avery County Board of Commissioners, P.O. Box 640, Newland, NC 28657.	Avery County Planning and Inspections Department, 200 Montezuma Street, Newland, NC 28657.	April 11, 2014	370010
Avery (FEMA Docket No.: B–1407).	Unincorporated areas of Avery County (14–04–0128P).	The Honorable Kenny Poteat, Chairman, Avery County Board of Commissioners, P.O. Box 640, Newland, NC 28657.	Avery County Planning and Inspections Department, 200 Montezuma Street, Newland, NC 28657.	April 25, 2014	370010
Buncombe (FEMA Docket No.: B–1407).	Town of Black Mountain (14–04–0350P).	The Honorable Carl Bartlett, Mayor, Town of Black Mountain, 160 Midland Avenue, Black Mountain, NC 28711.	Planning and Development Department, 160 Midland Avenue, Black Mountain, NC 28711.	April 25, 2014	370033
Buncombe (FEMA Docket No.: B–1417).	Unincorporated areas of Buncombe County (13–04–1379P).	Ms. Wanda Greene, Buncombe County Manager, 200 College Street, Suite 300, Asheville, NC 28801.	Buncombe County Planning Department, 46 Valley Street, Asheville, NC 28801.	May 12, 2014	370031
Forsyth (FEMA Docket No.: B–1417).	City of Winston-Salem (13–04–0816P).	The Honorable Allen Joines, Mayor, City of Winston-Salem, 101 North Main Street, Suite 150, Winston-Salem, NC 27101.	Inspections Department, 100 East 1st Street, Suite 328, Winston-Salem, NC 27101.	May 13, 2014	375360
Surry (FEMA Docket No.: B–1417).	Unincorporated areas of Surry County (14–04–0937P).	The Honorable Eddie Harris, Chairman, Surry County Board of Commissioners, 118 Hamby Road, Dobson, NC 27017.	Surry County Planning and Development Department, 122 Hamby Road, Dobson, NC 27017.	April 11, 2014	370364
Union (FEMA Docket No.: B–1417).	City of Monroe (14–04–0931P).	The Honorable Bobby Kilgore, Mayor, City of Monroe, 300 West Crowell Street, Monroe, NC 28112.	City Hall, 300 West Crowell Street, Monroe, NC 28112.	April 10, 2014	370236
Wake (FEMA Docket No.: B–1417).	Town of Garner (14–04–0933P).	The Honorable Ronnie Williams, Mayor, Town of Garner, 900 7th Avenue, Garner, NC 27529.	Town Hall, 900 7th Avenue, Garner, NC 27529.	April 10, 2014	370240
South Carolina:					
Charleston (FEMA Docket No.: B–1407).	City of Charleston (13–04–6316P).	The Honorable Joseph P. Riley, Jr., Mayor, City of Charleston, P.O. Box 652, Charleston, SC 29402.	Department of Public Services, 75 Calhoun Street, 3rd Floor, Charleston, SC 29401.	May 5, 2014	455412
Richland (FEMA Docket No.: B–1417).	City of Columbia (14–04–0393P).	The Honorable Steve Benjamin, Mayor, City of Columbia, P.O. Box 147, Columbia, SC 29217.	Department of Engineering, P.O. Box 147, Columbia, SC 29217.	May 26, 2014	450172

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 17, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–15833 Filed 7–7–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1% annual-chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or the regulatory floodway (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed

communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard determinations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

These new or modified flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Arkansas:					
White (FEMA Docket No.: B–1406).	City of Searcy, (13–06–2147P).	The Honorable David Morris, Mayor, City of Searcy, 401 West Arch Avenue, Searcy, AR 72143.	City Hall, 401 West Arch Avenue, Searcy, AR 72143.	May 5, 2014	050229
White, (FEMA Docket No.: B–1406).	Unincorporated areas of White County, (13–06–2147P).	The Honorable Michael Lincoln, White County Judge, 300 North Spruce Street, Searcy, AR 72143.	White County Office Building, Department of Emergency Management, 2301 Eastline Road, Searcy, AR 72143.	May 5, 2014	050467
New Jersey: Monmouth, (FEMA Docket No.: B–1408).	Borough of Shrewsbury, (13–02–1926P).	The Honorable Donald W. Burden, Mayor, Borough of Shrewsbury, P.O. Box 7420, Shrewsbury, NJ 07702.	Borough Municipal Complex, 419 Sycamore Avenue, Shrewsbury, NJ 07702.	May 27, 2014	340326
New Mexico:					
Bernalillo (FEMA Docket No.: B–1405).	City of Albuquerque, (13–06–2926P).	The Honorable Richard J. Berry, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103.	Development and Review Services Division, 600 2nd Street Northwest, Room 201, Albuquerque, NM 87102.	May 5, 2014	350002
Bernalillo (FEMA Docket No.: B–1405).	Unincorporated areas of Bernalillo County, (13–06–2994P).	The Honorable Debbie O'Malley, Chairman, Bernalillo County Board of Commissioners, 1 Civic Plaza Northwest, Albuquerque, NM 87102.	Bernalillo County Public Works Division, 2400 Broadway Boulevard Southeast, Albuquerque, NM 87102.	May 1, 2014	350001
Bernalillo (FEMA Docket No.: B–1405).	Unincorporated areas of Bernalillo County, (13–06–2926P).	The Honorable Debbie O'Malley, Chairman, Bernalillo County Board of Commissioners, 1 Civic Plaza Northwest, Albuquerque, NM 87102.	Bernalillo County Public Works Division, 2400 Broadway Boulevard Southeast, Albuquerque, NM 87102.	May 5, 2014	350001
Oklahoma: Tulsa (FEMA Docket No.: B–1406).	City of Tulsa, (13–06–3500P).	The Honorable Dewey F. Bartlett, Mayor, City of Tulsa, 175 East 2nd Street, Suite 690, Tulsa, OK 74103.	Engineering Services, 2317 South Jackson Avenue, Room S–312, Tulsa, OK 74107.	May 14, 2014	405381
Puerto Rico: (FEMA Docket No.: B–1405).	Commonwealth of Puerto Rico, (13–02–1051P).	Mr. Luis Garcia Pelatti, President, Puerto Rico Planning Board, Roberto Sanchez Vilella Governmental Center, North Building, 16th Floor, De Diego Avenue, International Baldorioty de Castro Avenue, San Juan, PR 00940.	Commonwealth of Puerto Rico, Roberto Sanchez Vilella Governmental Center, North Building, 9th Floor, De Diego Avenue, International Baldorioty de Castro Avenue, San Juan, PR 00940.	May 29, 2014	720000
Texas:					
Bexar (FEMA Docket No.: B–1408).	City of Helotes, (13–06–4596P).	The Honorable Thomas A. Schoolcraft, Mayor, City of Helotes, P.O. Box 507, Helotes, TX 78023.	Development Services Department, 12951 Bandera Road, Helotes, TX 78023.	May 1, 2014	481643
Bexar (FEMA Docket No.: B–1408).	City of San Antonio, (13–06–4596P).	The Honorable Julian Castro, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Department of Public Works, Storm Water Engineering, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	May 1, 2014	480045

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Bexar (FEMA Docket No.: B–1405).	Unincorporated areas of Bexar County, (13–06–3877P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	May 27, 2014	480035
Brazos (FEMA Docket No.: B–1406).	City of Bryan, (12–06–1920P).	The Honorable Jason Bienski, Mayor, City of Bryan, 300 South Texas Avenue, Bryan, TX 77803.	300 South Texas Avenue, Bryan, TX 77803.	May 9, 2014	480082
Brazos (FEMA Docket No.: B–1406).	Unincorporated areas of Brazos County, (12–06–1920P).	The Honorable Duane Peters, Brazos County Judge, 200 South Texas Avenue, Suite 332, Bryan, TX 77803.	Brazos County, 2617 Highway 21 West, Bryan, TX 77803.	May 9, 2014	481195
Collin (FEMA Docket No.: B–1405).	City of Frisco, (13–06–2575P).	The Honorable Maher Maso, Mayor, City of Frisco, 6101 Frisco Square Boulevard, Frisco, TX 75034.	City Hall, 6101 Frisco Square Boulevard, Frisco, TX 75034.	May 27, 2014	480134
Comal (FEMA Docket No.: B–1406).	Unincorporated areas of Comal County, (13–06–2849P).	The Honorable Sherman Krause, Comal County Judge, 150 North Seguin Avenue, New Braunfels, TX 78130.	Comal County, Engineer's Office, 195 David Jonas Drive, New Braunfels, TX 78132.	May 5, 2014	485463
Dallas (FEMA Docket No.: B–1406).	City of Irving, (13–06–1919P).	The Honorable Beth Van Duyne, Mayor, City of Irving, 825 West Irving Boulevard, Irving, TX 75060.	Capital Improvement Program Department, 825 West Irving Boulevard, Irving, TX 75060.	April 28, 2014	480180
Smith (FEMA Docket No.: B–1405).	City of Tyler, (13–06–3378P).	The Honorable Martin Heines, Mayor, City of Tyler, P.O. Box 2039, Tyler, TX 75710.	423 West Ferguson Street, Tyler, TX 75710.	May 27, 2014	480571
Smith (FEMA Docket No.: B–1405).	Unincorporated areas of Smith County, (13–06–3378P).	The Honorable Joel Baker, Smith County Judge, 200 East Ferguson Street, Suite 100, Tyler, TX 75702.	Smith County Road and Bridge Department, 1700 West Claude Street, Tyler, TX 75702.	May 27, 2014	481185
Tarrant (FEMA Docket No.: B–1408).	City of Forest Hill, (14–06–0893X).	The Honorable Gerald Joubert, Mayor, City of Forest Hill, 3219 California Parkway, Forest Hill, TX 76119.	City Hall, 3219 California Parkway, Forest Hill, TX 76119.	May 29, 2014	480595
Tarrant (FEMA Docket No.: B–1406).	City of Fort Worth, (12–06–3580P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, 1000 Throckmorton Street, Fort Worth, TX 76102.	March 25, 2014	480596
Tarrant (FEMA Docket No.: B–1406).	City of Fort Worth, (12–06–1991P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, 1000 Throckmorton Street, Fort Worth, TX 76102.	April 7, 2014	480596
Tarrant (FEMA Docket No.: B–1408).	City of Fort Worth, (13–06–3009P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, 1000 Throckmorton Street, Fort Worth, TX 76102.	May 29, 2014	480596
Tarrant (FEMA Docket No.: B–1408).	City of Mansfield, (13–06–2771P).	The Honorable David L. Cook, Mayor, City of Mansfield, 1200 East Broad Street, Mansfield, TX 76063.	City Hall, 1200 East Broad Street, Mansfield, TX 76063.	May 16, 2014	480606
Tarrant (FEMA Docket No.: B–1406).	Unincorporated areas of Tarrant County, (12–06–3580P).	The Honorable B. Glen Whitley, Tarrant County Judge, 100 East Weatherford Street, Suite 501, Fort Worth, TX 76196.	Tarrant County Public Works Department, Administration Building, 100 East Weatherford Street, Fort Worth, TX 76196.	March 25, 2014	480582
Victoria (FEMA Docket No.: B–1405).	City of Victoria, (13–06–3977P).	The Honorable Paul Polasek, Mayor, City of Victoria, P.O. Box 1758, Victoria, TX 77902.	Department of Development Services, 702 North Main Street, Suite 122, Victoria, TX 77901.	May 30, 2014	480638
Virginia: Alleghany (FEMA Docket No.: B–1406).	Town of Clifton Forge, (12–03–1156P).	The Honorable Carl Brinkley, Mayor, Town of Clifton Forge, P.O. Box 631, Clifton Forge, VA 24422.	Town Hall, 547 Main Street, Clifton Forge, VA 24422.	February 27, 2014	510038

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 17, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–15834 Filed 7–7–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1% annual-chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or the regulatory floodway (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance

premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard determinations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

These new or modified flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Louisiana: Livingston (FEMA Docket No.: B–1402).	Unincorporated areas of Livingston Parish (13–06–4605P).	The Honorable Layton Ricks, Livingston Parish President, 20399 Government Road, Livingston, LA 70754.	Livingston Parish Building and Permits Department, 20399 Government Road, Livingston, LA 70754.	April 11, 2014	220113
Pennsylvania: Crawford (FEMA Docket No.: B–1406).	Borough of Saegertown (13–03–2659P).	The Honorable Dave Myers, Mayor, Borough of Saegertown, 603 Erie Street, Saegertown, PA 16433.	Borough Hall, 603 Erie Street, Saegertown, PA 16433.	April 23, 2014	420352
Texas: Coleman (FEMA Docket No.: B–1402).	City of Coleman (13–06–1326P).	The Honorable Kay Joffrion, Mayor, City of Coleman, P.O. Box 592, Coleman, TX 76834.	200 West Liveoak Street, Coleman, TX 76834.	April 17, 2014	480129
West Virginia:					
Fayette (FEMA Docket No.: B–1402).	City of Montgomery (13–03–2527P).	The Honorable James F. Higgins, Jr., Mayor, City of Montgomery, 706 3rd Avenue, Montgomery, WV 25136.	City Hall, 706 3rd Avenue, Montgomery, WV 25136.	April 11, 2014	540029
Fayette (FEMA Docket No.: B–1402).	Town of Gauley Bridge (13–03–2527P).	The Honorable John S. Kauff, Mayor, Town of Gauley Bridge, P.O. Box 490, Gauley Bridge, WV 25085.	Town Hall, 278 Railroad Street, Gauley Bridge, WV 25085.	April 11, 2014	540294
Fayette (FEMA Docket No.: B–1402).	Town of Smithers (13–03–2527P).	The Honorable Thomas Skaggs, Mayor, Town of Smithers, P.O. Box 489, Smithers, WV 25186.	Town Hall, 175 Michigan Avenue, Smithers, WV 25186.	April 11, 2014	540033
Fayette (FEMA Docket No.: B–1402).	Unincorporated areas of Fayette County (13–03–2527P).	The Honorable Denise A. Scalph, President, Fayette County Board of Commissioners, P.O. Box 307, Fayetteville, WV 25840.	Fayette County Safety Department, 100 Court Street, Fayetteville, WV 25840.	April 11, 2014	540026

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 17, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–15788 Filed 7–7–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1421]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of

new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Alabama:						
Jefferson	City of Clay (14–04–2938P).	The Honorable Charles Webster, Mayor, City of Clay, P.O. Box 345, Clay, AL 35048.	City Hall, 2441 Old Springville Road, Birmingham, AL 35125.	*http://www.msc.fema.gov/lomc.*	August 14, 2014 ...	010446
Jefferson	Unincorporated Areas of Jefferson County (14–04–2938P).	The Honorable David Carrington, Chairman, Jefferson County Commission, 716 Richard Arrington Jr., Boulevard North, Birmingham, AL 35203.	Jefferson County Land Development Department, 716 North 21st Street, Room 202A, Birmingham, AL 35263.	*http://www.msc.fema.gov/lomc.*	August 14, 2014 ...	010217
Arizona:						
Coconino	Unincorporated Areas of Coconino County (14–09–0827P).	The Honorable Matt Ryan, Chairman, Coconino County Board of Supervisors, 219 East Cherry Avenue, Flagstaff, AZ 86001.	Community Development Department, Engineering Division, 2500 North Fort Valley Road, Building 1, Flagstaff, AZ 86001.	*http://www.msc.fema.gov/lomc.*	July 14, 2014	040019
Maricopa	City of Peoria (14–09–0517P).	The Honorable Bob Barrett, Mayor, City of Peoria, 8401 West Monroe Street, Peoria, AZ 85345.	City Hall, 8401 West Monroe Street, Peoria, AZ 85345.	*http://www.msc.fema.gov/lomc.*	August 1, 2014	040050
Maricopa	City of Scottsdale (13–09–3424P).	The Honorable J. W. Lane, Mayor, City of Scottsdale, 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.	City Hall, 3939 North Drinkwater Boulevard Scottsdale, AZ 85251.	*http://www.msc.fema.gov/lomc.*	July 11, 2014	045012
Maricopa	City of Scottsdale (14–09–0385P).	The Honorable W. J. Lane, Mayor, City of Scottsdale, 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.	City Hall, 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.	*http://www.msc.fema.gov/lomc.*	July 18, 2014	045012
Maricopa	City of Surprise (13–09–2884P).	The Honorable Sharon Wolcott, Mayor, City of Surprise, 16000 North Civic Center Plaza, Surprise, AZ 85374.	Community Services Department, 12425 West Bell Road, Suite D–100 Surprise, AZ 85374.	*http://www.msc.fema.gov/lomc.*	June 20, 2014	040053

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Maricopa	Unincorporated Areas of Maricopa County (13–09–2884P).	The Honorable Denny Barney, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson, 10th Floor, Phoenix, AZ 85003.	Maricopa County Flood Control District, 2801 West Durango Street, Phoenix, AZ 85009.	*http://www.msc.fema.gov/lomc.*	June 20, 2014	040037
Pinal	Unincorporated Areas of Pinal County (14–09–0882P).	The Honorable Anthony Smith, Chairman, Pinal County Board of Supervisors, 41600 West Smith Enke Road, Suite 128, Maricopa, AZ 85138.	Pinal County Engineering Department, 31 North Pinal Street, Building F, Florence, AZ 85232.	*http://www.msc.fema.gov/lomc.*	August 8, 2014	040077
Yavapai	Town of Prescott Valley (13–09–1658P).	The Honorable Harvey C. Skoog, Mayor, Town of Prescott Valley, 7501 East Civic Circle, Prescott Valley, AZ 86314.	Engineering Division, 7501 East Civic Circle, Prescott Valley, AZ 86314.	*http://www.msc.fema.gov/lomc.*	July 25, 2014	040121
Yavapai	Unincorporated Areas of Yavapai County (13–09–1658P).	The Honorable Rowle P. Simmons, Chairman, Yavapai County Board of Supervisors, 1015 Fair Street, Prescott, AZ 86305.	Yavapai County Flood Control District, 1120 Commerce Drive, Prescott, AZ 86305.	*http://www.msc.fema.gov/lomc.*	July 25, 2014	040093
California:						
Orange	City of Newport Beach (14–09–1616P).	The Honorable Rush N. Hill, II, Mayor, City of Newport Beach, 100 Civic Center Drive, Newport Beach, CA 92660.	City Hall, 100 Civic Center Drive, Newport Beach, CA 92660.	*http://www.msc.fema.gov/lomc.*	July 11, 2014	060227
Tulare	City of Porterville (13–09–3041P).	The Honorable Cameron J. Hamilton, Mayor, City of Porterville, 291 North Main Street, Porterville, CA 93257.	Public Works Department, 291 North Main Street, Porterville, CA 93257.	*http://www.msc.fema.gov/lomc.*	July 25, 2014	060407
Colorado:						
Arapahoe	City of Centennial (14–08–0302P).	The Honorable Cathy Noon, Mayor, City of Centennial, 13133 East Arapahoe Road Centennial, CO 80112.	Southeast Metro Stormwater Authority, 76 Inverness Drive East, Suite A, Centennial, CO 80112.	*http://www.msc.fema.gov/lomc.*	July 18, 2014	080315
Arapahoe	City of Greenwood Village (14–08–0302P).	The Honorable Ron Rakowsky, Mayor, City of Greenwood Village, 6060 South Quebec Street, Greenwood Village, CO 80111.	City Hall, 6060 South Quebec Street, Greenwood Village, CO 80111.	*http://www.msc.fema.gov/lomc.*	July 18, 2014	080195
Delta	City of Delta (14–08–0144P).	The Honorable Ed Sisson, Mayor, City of Delta, 360 Main Street Delta, CO 81416.	City Hall, 360 Main Street, Delta, CO 81416.	*http://www.msc.fema.gov/lomc.*	August 7, 2014	080043
Larimer	City of Fort Collins (13–08–1143P).	The Honorable Karen Weitkunat, Mayor, City of Fort Collins, 3009 Phoenix Drive, Fort Collins, CO 80525.	Stormwater Utilities Department, 700 Wood Street, Fort Collins, CO 80521.	*http://www.msc.fema.gov/lomc.*	July 25, 2014	080102
Florida:						
Broward	City of Hollywood (14–04–2264P).	The Honorable Peter J. M. Bober, Mayor, City of Hollywood, P.O. Box 229045, Hollywood, FL 33022.	City Hall, 2600 Hollywood Boulevard, Hollywood, FL 33020.	*http://www.msc.fema.gov/lomc.*	July 11, 2014	125113
Charlotte	Unincorporated Areas of Charlotte County (13–04–8283P).	The Honorable Ken Doherty, Chairman, Charlotte County, Board of Commissioners, 18500 Murdock Circle, Port Charlotte, FL 33948.	Charlotte County Community Development Department, 18500 Murdock Circle, Port Charlotte, FL 33948.	*http://www.msc.fema.gov/lomc.*	July 14, 2014	120061
Lee	Unincorporated Areas of Lee County (14–04–3452X).	The Honorable Larry Kiker, Chairman, Lee County Board of Commissioners, 2115 2nd Street, Fort Myers, FL 33901.	Lee County Community Development Department, 1500 Monroe Street, 2nd Floor, Fort Myers, FL 33901.	*http://www.msc.fema.gov/lomc.*	August 1, 2014	125124
Manatee	Unincorporated Areas of Manatee County (14–04–1072P).	The Honorable Larry Bustle, Chairman, Manatee County Board of Commissioners, P.O. Box 1000, Bradenton, FL 34206.	Manatee County Building and Development Services Department, 1112 Manatee Avenue West, Bradenton, FL 34205.	*http://www.msc.fema.gov/lomc.*	July 14, 2014	120153
Monroe	Unincorporated Areas of Monroe County (14–04–0921P).	The Honorable Sylvia Murphy, Mayor, Monroe County, 1100 Simonton Street, Key West, FL 33040.	Monroe County Public Works Department, 1100 Simonton Street, Key West, FL 33040.	*http://www.msc.fema.gov/lomc.*	July 25, 2014	125129
Monroe	Unincorporated Areas of Monroe County (14–04–1809P).	The Honorable Sylvia Murphy, Mayor, Monroe County, 1100 Simonton Street, Key West, FL 33040.	Monroe County Public Works Department, 1100 Simonton Street, Key West, FL 33040.	*http://www.msc.fema.gov/lomc.*	July 25, 2014	125129
Orange	City of Orlando (13–04–4686P).	The Honorable Buddy Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32802.	Permitting Services Division, 400 South Orange Avenue, Orlando, FL 32801.	*http://www.msc.fema.gov/lomc.*	August 8, 2014	120186

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Orange	City of Winter Park (13–04–4686P).	The Honorable Kenneth W. Bradley, Mayor, City of Winter Park, 401 South Park Avenue, Winter Park, FL 32789.	Building Department, 401 South Park Avenue, Winter Park, FL 32789.	*http://www.msc.fema.gov/lomc.*	August 8, 2014	120188
Orange	Unincorporated Areas of Orange County (13–04–4686P).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Stormwater Management Department, 4200 South John Young Parkway, Orlando, FL 32839.	*http://www.msc.fema.gov/lomc.*	August 8, 2014	120179
Polk	City of Bartow (13–04–7607P).	The Honorable James F. Clements, Mayor, City of Bartow, 450 North Wilson Avenue, Bartow, FL 33830.	Building Department, 450 North Wilson Avenue, Bartow, FL 33830.	*http://www.msc.fema.gov/lomc.*	July 17, 2014	120263
Polk	Unincorporated Areas of Polk County (13–04–7607P).	The Honorable R. Todd Dantzler, Chairman, Polk County Board of Commissioners, P.O. Box 9005, Bartow, FL 33831.	Polk County Engineering Division, 330 West Church Street, Bartow, FL 33830.	*http://www.msc.fema.gov/lomc.*	July 17, 2014	120261
Sumter	Unincorporated Areas of Sumter County (14–04–3677P).	The Honorable Al Butler, Chairman, Sumter County Board of Commissioners, 7375 Powell Road, Wildwood, FL 34785.	Sumter County Planning Department, 7375 Powell Road, Wildwood, FL 34785.	*http://www.msc.fema.gov/lomc.*	August 1, 2014	120296
Montana: Fallon ..	Unincorporated Areas of Fallon County (13–08–0962P).	The Honorable Deb Ranum, Chair, Fallon County Board of Commissioners, P.O. Box 846, Baker, MT 59313.	Fallon County Courthouse, Office of the Clerk and Recorder, 10 West Fallon Avenue, Baker, MT 59393.	*http://www.msc.fema.gov/lomc.*	June 30, 2014	300149
Nevada:						
Clark	Unincorporated Areas of Clark County (13–09–3209P).	The Honorable Steve Sisolak, Chairman, Clark County Board of Commissioners, 500 South Grand Central Parkway, Las Vegas, NV 89155.	Clark County Public Works Department, 500 Grand Central Parkway, Las Vegas, NV 89155.	*http://www.msc.fema.gov/lomc.*	August 1, 2014	320003
Douglas	Unincorporated Areas of Douglas County (13–09–3099P).	The Honorable Doug Johnson, Chairman, Douglas County Board of Commissioners, P.O. Box 218, Minden, NV 89423.	Douglas County Planning Division, 1594 Ismeralda Avenue, Minden, NV 89423.	*http://www.msc.fema.gov/lomc.*	August 1, 2014	320008
New York: Westchester.	Village of Mamaroneck (14–02–0594P).	The Honorable Norman S. Rosenblum, Mayor, Village of Mamaroneck, 123 Mamaroneck Avenue, Mamaroneck, NY 10543.	Building Inspector's Office, 123 Mamaroneck Avenue, Mamaroneck, NY 10543.	*http://www.msc.fema.gov/lomc.*	September 26, 2014.	360916
North Carolina:						
Cumberland	City of Fayetteville (14–04–1195P).	The Honorable Nat Robertson, Mayor, City of Fayetteville, 433 Hay Street, Fayetteville, NC 28301.	Planning Department, 433 Hay Street, Fayetteville, NC 28301.	*http://www.msc.fema.gov/lomc.*	August 5, 2014	370077
Rockingham	City of Reidsville (13–04–2888P).	The Honorable John M. "Jay" Donecker, Mayor, City of Reidsville, 230 West Moreshead Street, Reidsville, NC 27320.	City Hall, 230 West Moreshead, Street, Reidsville, NC 27320.	*http://www.msc.fema.gov/lomc.*	July 7, 2014	370209
Wake	City of Raleigh (13–04–5462P).	The Honorable Nancy McFarlane, Mayor, City of Raleigh, P.O. Box 590, Raleigh, NC 27602.	Public Works Department, 222 West Hargett Street, Raleigh, NC 27601.	*http://www.msc.fema.gov/lomc.*	August 18, 2014 ...	370243
Wake	Town of Fuquay-Varina (13–04–4877P).	The Honorable John W. Byrne, Mayor, Town of Fuquay-Varina, 401 Old Honeycutt Road, Fuquay-Varina, NC 27526.	Planning Department, 401 Old Honeycutt Road, Fuquay-Varina, NC 27526.	*http://www.msc.fema.gov/lomc.*	June 30, 2014	370239
Tennessee: Rutherford.	Unincorporated Areas of Rutherford County (13–04–7742P).	The Honorable Earnest Burgess, Mayor, Rutherford County, 1 Public Square South, Room 101, Murfreesboro, TN 37130.	Rutherford County Planning and Engineering Department, 1 Public Square South, Room 200, Murfreesboro, TN 37130.	*http://www.msc.fema.gov/lomc.*	July 25, 2014	470165
Utah:						
Salt Lake	Town of Herriman (14–08–0040P).	The Honorable Carmen Freeman, Mayor, Town of Herriman, 13011 South Pioneer Street, Herriman, UT 84096.	Town Hall, 13011 South Pioneer Street, Herriman, UT 84096.	*http://www.msc.fema.gov/lomc.*	July 18, 2014	490252
Salt Lake	Unincorporated Areas of Salt Lake County (13–08–0707P).	The Honorable Ben McAdams, Mayor, Salt Lake County, 2001 South State Street, Suite N2100, Salt Lake City, UT 84190.	Public Works Department, 2001 South State Street, Suite N3100, Salt Lake City, UT 84190.	*http://www.msc.fema.gov/lomc.*	July 11, 2014	490102

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 17, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–15832 Filed 7–7–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1423]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR Part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison. Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR Part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Alabama:						
Houston	City of Dothan (14–04–2072P).	The Honorable Mike Schmitz, Mayor, City of Dothan, P.O. Box 2128, Dothan, AL 36302.	Engineering Department, 126 North St. Andrews Street, Dothan, AL 36302.	*http://www.msc.fema.gov/lomc.*	September 11, 2014.	010104
Madison	City of Huntsville (14–04–3285P).	The Honorable Tommy Battle, Mayor, City of Huntsville, P.O. Box 308, Huntsville, AL 35801.	Engineering Department, 320 Fountain Circle, Huntsville, AL 35804.	*http://www.msc.fema.gov/lomc.*	October 3, 2014 ...	010153
Arizona: Mohave	Unincorporated areas of Mohave County (14–09–0399P).	The Honorable Gary Watson, Chairman, Mohave County Board of the Supervisors, 700 West Beale Street, Kingman, AZ 86402.	Mohave County Planning Department, 700 West Beale Street, Kingman, AZ 86402.	*http://www.msc.fema.gov/lomc.*	August 29, 2014 ...	040058
California:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Riverside	City of Corona (13–09–3138P).	The Honorable Karen Spiegel, Mayor, City of Corona, 400 South Vincentia Avenue, Corona, CA 92882.	City Hall, 400 South Vincentia Avenue, Corona, CA 92882.	*http://www.msc.fema.gov/lomc.*	August 18, 2014 ...	060250
Riverside	Unincorporated areas of Riverside County (13–09–3138P).	The Honorable Jeff Stone, Chairman, Riverside County Board of Supervisors, 4080 Lemon Street, 5th Floor, Riverside, CA 95201.	Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 95201.	*http://www.msc.fema.gov/lomc.*	August 18, 2014 ...	060245
San Bernardino.	City of Apple Valley (13–09–2728P).	The Honorable Art Bishop, Mayor, City of Apple Valley, 14955 Dale Evans Parkway, Apple Valley, CA 92307.	Engineering Department, 14955 Dale Evans Parkway, Apple Valley, CA 92307.	*http://www.msc.fema.gov/lomc.*	August 15, 2014 ...	060752
San Bernardino.	City of Hesperia (13–09–2728P).	The Honorable Thurston Smith, Mayor, City of Hesperia, 9700 7th Avenue, Hesperia, CA 92345.	City Hall, 9700 7th Avenue, Hesperia, CA 92345.	*http://www.msc.fema.gov/lomc.*	August 15, 2014 ...	060733
San Bernardino.	City of Victorville (13–09–2728P).	The Honorable Jim Cox, Mayor, City of Victorville, P.O. Box 5001, Victorville, CA 92393.	Engineering Division, Public Works Department, 14343 Civic Drive, Victorville, CA 92393.	*http://www.msc.fema.gov/lomc.*	August 15, 2014 ...	065068
San Bernardino.	Unincorporated areas of San Bernardino County (13–09–2728P).	The Honorable Janice Rutherford, Chair, San Bernardino County Board of Supervisors, 385 North Arrowhead Avenue, 5th Floor, San Bernardino, CA 92415.	San Bernardino County Public Works Department, 825 East 3rd Street, San Bernardino, CA 92415.	*http://www.msc.fema.gov/lomc.*	August 15, 2014 ...	060270
San Diego	City of San Marcos (13–09–2932P).	The Honorable Jim Desmond, Mayor, City of San Marcos, 1 Civic Center Drive, San Marcos, CA 92069.	City Hall, 1 Civic Center Drive, San Marcos, CA 92069.	*http://www.msc.fema.gov/lomc.*	August 21, 2014 ...	060296
San Diego	Unincorporated areas of San Diego County (13–09–2932P).	The Honorable Dianne Jacob, Chair, San Diego County Board of Supervisors, 1600 Pacific Highway, Suite 335, San Diego, CA 92101.	San Diego County Department of Public Works, 5510 Overland Avenue, Suite 410, San Diego, CA 92123.	*http://www.msc.fema.gov/lomc.*	August 21, 2014 ...	060284
Colorado:						
Adams	City of Thornton (14–08–0032P).	The Honorable Heidi Williams, Mayor, City of Thornton, 9500 Civic Center Drive, Thornton, CO 80229.	City Hall, 9500 Civic Center Drive, Thornton, CO 80229.	*http://www.msc.fema.gov/lomc.*	August 29, 2014 ...	080007
Arapahoe	City of Centennial (13–08–1142P).	The Honorable Cathy Noon, Mayor, City of Centennial, 13133 East Arapahoe Road, Centennial, CO 80112.	Southeast Metro Stormwater Authority, 76 Inverness Drive East, Suite A, Centennial, CO 80112.	*http://www.msc.fema.gov/lomc.*	September 5, 2014	080315
Arapahoe	Unincorporated areas of Arapahoe County (13–08–1142P).	The Honorable Nancy Doty, Chair, Arapahoe County Board of Commissioners, 5334 South Prince Street, Littleton, CO 80120.	Arapahoe County Public Works and Development Department, 6924 South Lima Street, Centennial, CO 80112.	*http://www.msc.fema.gov/lomc.*	September 5, 2014	080011
Boulder	City of Longmont (13–08–1185P).	The Honorable Dennis L. Coombs, Mayor, City of Longmont, 350 Kimbark Street, Longmont, CO 80501.	Public Works Department, 1100 South Sherman Street, Longmont, CO 80501.	*http://www.msc.fema.gov/lomc.*	August 21, 2014 ...	080027
Boulder	Unincorporated areas of Boulder County (13–08–1185P).	The Honorable Cindy Domenico, Chair, Boulder County Board of Commissioners, P.O. Box 471, Boulder, CO 80306.	Boulder County Transportation Department, 2525 13th Street, Suite 203, Boulder, CO 80306.	*http://www.msc.fema.gov/lomc.*	August 21, 2014 ...	080023
Douglas	Town of Castle Rock (13–08–1316P).	The Honorable Paul Donahue, Mayor, Town of Castle Rock, 100 North Wilcox Street, Castle Rock, CO 80104.	Utilities Department, 175 Kellogg Court, Castle Rock, CO 80109.	*http://www.msc.fema.gov/lomc.*	September 5, 2014	080050
Douglas	Unincorporated areas of Douglas County (13–08–1316P).	The Honorable Roger Partridge, Chairman, Douglas County Board of Commissioners, 100 3rd Street, Castle Rock, CO 80104.	Douglas County Public Works Department, 100 3rd Street, Castle Rock, CO 80104.	*http://www.msc.fema.gov/lomc.*	September 5, 2014	080049
Florida:						
Brevard	City of Cocoa Beach (13–04–8100P).	The Honorable Dave Netterstrom, Mayor, City of Cocoa Beach, 2 South Orlando Avenue, Cocoa Beach, FL 32931.	Building Department, 2 South Orlando Avenue, Cocoa Beach, FL 32931.	*http://www.msc.fema.gov/lomc.*	September 11, 2014.	125097
Brevard	Unincorporated areas of Brevard County (13–04–8100P).	The Honorable Mary Bolin Lewis, Chair, Brevard County Board of Commissioners, 2725 Judge Fran Jamieson Way, Viera, FL 32940.	Brevard County Public Works Department, 2725 Judge Fran Jamieson Way, Viera, FL 32940.	*http://www.msc.fema.gov/lomc.*	September 11, 2014.	125092

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Collier	City of Naples (14–04–0880P).	The Honorable John Sorey, III, Mayor, City of Naples, 735 8th Street South, Naples, FL 34102.	Building Department, 295 Riverside Circle, Naples, FL 34102.	*http://www.msc.fema.gov/lomc.*	August 11, 2014 ...	125130
Manatee	City of Bradenton (14–04–1057P).	The Honorable Wayne H. Poston, Mayor, City of Bradenton, 101 Old Main Street, Bradenton, FL 34205.	City Hall, 101 Old Main Street, Bradenton, FL 34205.	*http://www.msc.fema.gov/lomc.*	August 29, 2014 ...	120155
Monroe	Unincorporated areas of Monroe County (14–04–1710P).	The Honorable Sylvia Murphy, Mayor, Monroe County, 1100 Simonton Street, Key West, FL 33040.	Monroe County Department of Planning and Environmental Resources, 2798 Overseas Highway, Marathon, FL 33050.	*http://www.msc.fema.gov/lomc.*	August 11, 2014 ...	125129
Monroe	Unincorporated areas of Monroe County (14–04–2295P).	The Honorable Sylvia Murphy, Mayor, Monroe County, 1100 Simonton Street, Key West, FL 33040.	Monroe County Department of Planning and Environmental Resources, 2798 Overseas Highway, Marathon, FL 33050.	*http://www.msc.fema.gov/lomc.*	August 11, 2014 ...	125129
Monroe	Unincorporated areas of Monroe County (14–04–3390P).	The Honorable Sylvia Murphy, Mayor, Monroe County, 1100 Simonton Street, Key West, FL 33040.	Monroe County Department of Planning and Environmental Resources, 2798 Overseas Highway, Marathon, FL 33050.	*http://www.msc.fema.gov/lomc.*	August 15, 2014 ...	125129
Osceola	Unincorporated areas of Osceola County (13–04–8297P).	The Honorable Fred Hawkins, Jr., Chairman, Osceola County Board of Commissioners, 1 Courthouse Square, Kissimmee, FL 34741.	Osceola County Stormwater Section, 1 Courthouse Square, Kissimmee, FL 34741.	*http://www.msc.fema.gov/lomc.*	September 5, 2014	120189
Sarasota	City of Sarasota (13–04–5178P).	The Honorable Shannon Snyder, Mayor, City of Sarasota, 1565 1st Street, Sarasota, FL 34236.	City Hall, 1565 1st Street, Sarasota, FL 34236.	*http://www.msc.fema.gov/lomc.*	August 29, 2014 ...	125150
Seminole	Unincorporated areas of Seminole County (14–04–2923P).	The Honorable Bob Dallari, Chairman, Seminole County Board of Commissioners, 1101 East 1st Street, Sanford, FL 32771.	Seminole County Public Works Department, 1101 East 1st Street, Sanford, FL 32771.	*http://www.msc.fema.gov/lomc.*	August 15, 2014 ...	120289
Sumter	City of Wildwood (14–04–2261P).	The Honorable Ed Wolf, Mayor, City of Wildwood, 100 North Main Street, Wildwood, FL 34785.	Development Services Department, 100 North Main Street, Wildwood, FL 34785.	*http://www.msc.fema.gov/lomc.*	August 8, 2014	120299
Sumter	Unincorporated areas of Sumter County (14–04–2261P).	The Honorable Al Butler, Chairman, Sumter County Board of Commissioners, 7375 Powell Road, Wildwood, FL 34785.	Sumter County Development Department, 7375 Powell Road, Wildwood, FL 34785.	*http://www.msc.fema.gov/lomc.*	August 8, 2014	120296
Georgia: Columbia.	Unincorporated areas of Columbia County (14–04–3712P).	The Honorable Ron C. Cross, Chairman, Columbia County Board of Commissioners, P.O. Box 498, Evans, GA 30809.	Columbia County Planning Commission, 650–B Ronald Reagan Drive, Evans, GA 30809.	*http://www.msc.fema.gov/lomc.*	September 11, 2014.	130059
Kansas:						
Johnson	City of Overland Park (13–07–2288P).	The Honorable Carl Gerlach, Mayor, City of Overland Park, 8500 Santa Fe Drive, Overland Park, KS 66212.	City Hall, 8500 Santa Fe Drive, Overland Park, KS 66212.	*http://www.msc.fema.gov/lomc.*	August 27, 2014 ...	200174
Johnson	Unincorporated areas of Johnson County (13–07–2288P).	The Honorable Ed Eilert, Chairman, Johnson County Board of Commissioners, 111 South Cherry, Suite 3300, Olathe, KS 66061.	Johnson County Courthouse, Planning Office, 111 South Cherry, Suite 3500, Olathe, KS 66061.	*http://www.msc.fema.gov/lomc.*	August 27, 2014 ...	200159
Kentucky: Fayette	Lexington-Fayette Urban County Government (13–04–3690P).	The Honorable Jim Gray, Mayor, Lexington-Fayette Urban County Government, 200 East Main Street, Lexington, KY 40507.	Lexington-Fayette Urban County Government, Division of Planning, 101 East Vine Street, Lexington, KY 40507.	*http://www.msc.fema.gov/lomc.*	August 18, 2014 ...	210067
Montana: Silver Bow.	Unincorporated areas of Butte-Silver Bow County (13–08–1393P).	The Honorable Cindi Shaw, Chair, Butte-Silver Bow County Council of Commissioners, 155 West Granite Street, Butte, MT 59701.	Butte-Silver Bow County Floodplain Administrator, 155 West Granite Street, Butte, MT 59701.	*http://www.msc.fema.gov/lomc.*	August 29, 2014 ...	300077
North Carolina:						
Buncombe ...	City of Asheville (14–04–3620P).	The Honorable Esther E. Manheimer, Mayor, City of Asheville, P.O. Box 7148, Asheville, NC 28802.	Public Works Department, 161 South Charlotte Street, Asheville, NC 28802.	*http://www.msc.fema.gov/lomc.*	September 2, 2014	370032

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Buncombe ...	Unincorporated areas of Buncombe County (14–04–3019P).	The Honorable David Gantt Chairman, Buncombe County Board of Commissioners, 200 College Street, Room 316, Asheville, NC 28801.	Buncombe County Planning Department, 46 Valley Street, Asheville, NC 28801.	*http://www.msc.fema.gov/lomc.*	July 11, 2014	370031
Guilford	City of Greensboro (14–04–4489P).	The Honorable Nancy Vaughn, Mayor, City of Greensboro, P.O. Box 3136, Greensboro, NC 27402.	Water Resources Department, Stormwater Management Division, Planning and Engineering Section, 2602 South Elm-Eugene Street, Greensboro, NC 27406.	*http://www.msc.fema.gov/lomc.*	August 12, 2014 ...	375351
Mecklenburg	Town of Davidson (12–04–5664P).	The Honorable John Woods, Mayor, Town of Davidson, P.O. Box 1929, Davidson, NC 28036.	Planning Department, 216 South Main Street, Davidson, NC 28036.	*http://www.msc.fema.gov/lomc.*	August 15, 2014 ...	370503
Mecklenburg	Unincorporated areas of Mecklenburg County (12–04–5664P).	Ms. Dena Diorio, Mecklenburg County Manager, 600 East 4th Street, Charlotte, NC 28202.	Mecklenburg County Planning Department, 600 East 4th Street, Charlotte, NC 28202.	*http://www.msc.fema.gov/lomc.*	August 15, 2014 ...	370158
South Carolina: Greenville.	Unincorporated areas of Greenville County (13–04–8105P).	The Honorable Bob Taylor, Chairman, Greenville County Council, 301 University Ridge, Suite 2400, Greenville, SC 29601.	Greenville County Code Department, 301 University Ridge, Suite 4100, Greenville, SC 29601.	*http://www.msc.fema.gov/lomc.*	August 15, 2014 ...	450089
South Dakota: Pennington.	City of Rapid City (13–08–1321P).	The Honorable Sam Kooiker, Mayor, City of Rapid City, 300 6th Street, Rapid City, SD 57701.	Planning Department, 300 6th Street, Rapid City, SD 57701.	*http://www.msc.fema.gov/lomc.*	August 21, 2014 ...	465420

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 17, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–15830 Filed 7–7–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615—New]

Agency Information Collection Activities: DNA Evidence in Refugee Processing: Forms; G–1294, DNA Collection Consent Form (Laboratory Test) and G–1295, DNA Collection Consent Form (Rapid Test): New Collection

ACTION: 60-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed new collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until September 8, 2014.

ADDRESSES: All submissions received must include the OMB Control Number 1615-New in the subject box, the agency name and Docket ID USCIS–2014–0002. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *www.regulations.gov* under e-Docket ID number USCIS–2014–0002;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

SUPPLEMENTARY INFORMATION:

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

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

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* DNA Evidence in Refugee Processing.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–1294, DNA Collection Consent Form (Laboratory Test) and G–1295, DNA Collection Consent Form (Rapid Test); USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households. Overseas applicants for refugee status filing through the USCIS Form I–590 (OMB Control Number 1615–0068) that have a spouse and/or child(ren) must meet all requirements of Immigration and Nationality Act § 207(c)(2) and have the necessary burden of proof to establish the relationship(s). In the case of a parent-child relationship, there is often a degree of difficulty in establishing this for refugee populations that often lack reliable documentation. USCIS is seeking to allow I–590 applicants to provide DNA testing results through an AABB accredited laboratory, and in coordination with the USCIS overseas office, to provide effective and credible evidence of this parent-child relationship. USCIS is also seeking to conduct simultaneous Rapid DNA testing as a pilot to make a determination if the Rapid DNA machines provide a valid alternative to traditional DNA testing. USCIS will be collecting samples for traditional DNA testing through an AABB accredited laboratory in conjunction with the Rapid DNA pilot to test the validity of the results obtained during the pilot. The collection of DNA, regardless of process employed, is strictly voluntary and refusal to provide a sample does not adversely impact an applicant's I–590 application.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 60 respondents for the standard DNA process with a total of 360 hours of burden with an estimated average of 6 hours per response. 250 respondents for the Rapid DNA process with a total of 110 hours of burden with an estimated average of .44 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual public burden for this collection of information is 470 hours.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377.

Dated: July 1, 2014.

Samantha Deshommes,

Acting Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–15829 Filed 7–7–14; 8:45 am]

BILLING CODE 9111–97–P

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

Request for Nominations to the Board of Trustees

AGENCY: Institute of American Indian and Alaska Native Culture and Arts Development (aka Institute of American Indian Arts).

ACTION: NOTICE—Request for nominations.

SUMMARY: The Board directs the Administration of the Institute of American Indian and Alaska Native Culture and Arts Development, including soliciting, accepting, and disposing of gifts, bequests, and other properties for the benefit of the Institute. The Institute, established under Public Law 99–498 (20 U.S.C. 4411 et seq.), provides scholarly study of and instruction in Indian art and culture, and establishes programs which culminate in the awarding of degrees in the various fields of Indian art and culture.

The Board consists of thirteen members appointed by the President of the United States, by and with the consent of the U.S. Senate, who are American Indians or persons knowledgeable in the field of Indian art and culture. This notice requests nominations to fill one expiring term on the Board of Trustees.

ADDRESSES: Institute of American Indian Arts, 83 Avan Nu Po Road, Santa Fe, New Mexico 87508.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Martin, President, 505–424–2301.

Dated: June 23, 2014.

Robert Martin,

President.

[FR Doc. 2014–15836 Filed 7–7–14; 8:45 am]

BILLING CODE 4312–W4–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Docket No. ONRR–2012–0003; DS63600000 DR2PS0000.PX8000 145D0102R2]

U.S. Extractive Industries Transparency Initiative Multi-Stakeholder Group (USEITI MSG) Advisory Committee Meetings Change Notice

AGENCY: Policy, Management and Budget, Interior.

ACTION: Notice.

SUMMARY: This notice announces location and date changes to the upcoming meetings of the United States Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group (MSG) Advisory Committee. The location for the September 9–11, 2014, meeting has changed and the November 18–20, 2014, meeting has been rescheduled.

Dates and Times: The November 18–20, 2014, meeting has been rescheduled to December 10–11, 2014. Both the September and December meetings will occur in-person from 9:30 a.m. to 5:00 p.m. Eastern Time on all days, unless otherwise indicated at *www.doi.gov/eiti/faca,* where agendas, meeting logistics, and meeting materials will be posted.

ADDRESSES: Both meetings will take place at the U.S. Department of the Interior Steward Lee Udall Building located at 1849 C Street NW., Washington, DC 20240. The September 9–11, 2014, meeting will be held in the South Penthouse, and the December 10–11, 2014, meeting will be held in the North Penthouse. Members of the public may attend in person or participate remotely by viewing documents and presentations on-line via WebEx at *http://bit.ly/1cR9W6t* and listening to the proceedings at telephone number 1–866–707–0640, passcode: 1500538.

FOR FURTHER INFORMATION CONTACT: Rosita Compton Christian, USEITI Secretariat; 1849 C Street NW., MS–4211, Washington, DC 20240. You may also contact the USEITI Secretariat via

email at *useiti@ios.doi.gov,* by phone at 202–208–0272, or by fax at 202–513–0682.

SUPPLEMENTARY INFORMATION: The U.S. Department of the Interior established the USEITI Advisory Committee (Committee) on July 26, 2012, to serve as the initial USEITI multi-stakeholder group. More information about the Committee, including its charter, can be found at *www.doi.gov/eiti/faca.*

The agenda for the September meeting will include a review and discussion of Subcommittee action items and an introduction of the Independent Administrator. The agenda for the December meeting will include a presentation of the Independent Administrator's inception report, a review of the work-plan to meet all EITI requirements, and planning for 2015 activities.

The final agendas and materials for all meetings will be posted on the USEITI MSG Web site at *www.doi.gov/eiti/faca.* All Committee meetings are open to the public.

Whenever possible, we encourage those participating by telephone to gather in conference rooms in order to share teleconference lines. Please plan to dial into the meeting and/or log into to WebEx at least 10–15 minutes prior to the scheduled start time in order to avoid possible technical difficulties. Individuals with special needs will be accommodated whenever possible. If you require special assistance (such as an interpreter for the hearing impaired), please notify Interior staff in advance of the meeting at 202–208–0272 or via email at *useiti@ios.doi.gov.*

The minutes from these proceedings will be posted on USEITI MSG Web site at *http://www.doi.gov/eiti/faca* and will also be available for public inspection and copying at our office in the Main Interior Building in Washington, DC, by contacting Interior staff at useiti@ios.doi.gov or by telephone at 202–208–0272. For more information on USEITI, visit *http://www.doi.gov/eiti.*

Dated: June 23, 2014.

Amy Holley,

Chief of Staff—Policy, Management and Budget, Department of the Interior.

[FR Doc. 2014–15812 Filed 7–7–14; 8:45 am]

BILLING CODE 4310–T2–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2014–N093; FX3ES11130300000–145–FF03E00000]

Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Status Reviews of Nine Listed Animal and Two Listed Plant Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of reviews; request for information.

SUMMARY: We, the U.S. Fish and Wildlife Service, are initiating 5-year status reviews under the Endangered Species Act of 1973, as amended (Act), for nine animal and two plant species. A 5-year status review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of any such information that has become available since the last review for the species.

DATES: To ensure consideration, please send your written information by September 8, 2014. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: For how to send comments or information for each species, see the table in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: To request information, contact the appropriate person in the table in the **SUPPLEMENTARY INFORMATION** section. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We are initiating 5-year status reviews under the Endangered Species Act of 1973, as amended (Act), for nine animal and two plant species: Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), Piping plover-Great Lakes breeding population (*Charadrius melodus*), Piping plover–Atlantic Coast and Northern Great Plains populations (*Charadrius melodus*), Scioto madtom (*Noturus trautmani*), Curtis' Pearlymussel (*Epioblasma florentina curtisi*), Purple cat's paw (*Epioblasma* (=*dysnomia*) *obliquata obliquata*), Scaleshell mussel (*Leptodea leptodon*), Higgins eye (*Lampsilis higginsii*), Pitcher's thistle (*Cirsium pitcheri*), and Lakeside daisy (*Hymenoxys herbacea* (=*H. acaulis* var. *glabra*)).

Why do we conduct 5-year reviews?

Under the Act (16 U.S.C. 1531 *et seq.*), we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List) in the Code of Federal Regulations (CFR) at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the Act requires us to review each listed species' status at least once every 5 years. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species under active review. For additional information about 5-year reviews, go to *http://www.fws.gov/endangered/what-we-do/recovery-overview.html,* scroll down to ''Learn More about 5-Year Reviews,'' and click on our factsheet.

What information do we consider in our review?

A 5-year review considers all new information available at the time of the review. In conducting these reviews, we consider the best scientific and commercial data that have become available since the listing determination or most recent status review, such as:

(A) Species biology, including but not limited to population trends, distribution, abundance, demographics, and genetics;

(B) Habitat conditions, including but not limited to amount, distribution, and suitability;

(C) Conservation measures that have been implemented that benefit the species;

(D) Threat status and trends in relation to the five listing factors (as defined in section 4(a)(1) of the Act); and

(E) Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Any new information will be considered during the 5-year review and will also be useful in evaluating the ongoing recovery programs for the species.

What species are under review?

This notice announces our active 5-year status reviews of the species in the following table.

Common name	Scientific name	Listing status	Where listed	Final listing rule (**Federal Register** citation and publication date)	Contact person, phone, email	Contact person's U.S. mail address
ANIMALS						
Gray bat	*Myotis grisescens*	E	U.S.A. (AL, AR, FL, GA, IL, IN, KS, KY, MO, OK, TN, VA, WV).	41 FR 17736; April 28, 1976.	Ms. Shauna Marquardt, *shauna_marquardt@fws.gov;* 573–234–2132, x174.	USFWS, 101 Park DeVille Drive, Suite A; Columbia, MO 65203.
Indiana bat	*Myotis sodalis*	E	U.S.A. (AL, AR, CT, GA, IL, IN, IA, KY, MD, MI, MS, MO, NJ, NY, NC, OH, OK, PA, TN, VT, VA, WV).	32 FR 4001; March 11, 1967.	Mr. Andrew King, *Indiana_bat@fws.gov;* 812–334–4261, x1216.	USFWS, 620 S. Walker Street Bloomington, IN 47403.
Piping plover (Great Lakes breeding population).	*Charadrius melodus*	E	U.S.A. (Great Lakes watershed in IL, IN, MI, MN, MS, NY, OH, PA, WI).	50 FR 50726; December 11, 1985.	*Michigan, Wisconsin, Minnesota, Illinois, Indiana, Ohio, Pennsylvania, and Ontario:* Mr. Vincent Cavalieri, *vincent_cavalieri@fws.gov;* 517–351–5467.	USFWS, 2651 Coolidge Road, Suite 101; East Lansing, MI 48823.
Piping plover (Atlantic Coast and Northern Great Plains populations).	*Charadrius melodus*	T	Entire, except those areas where listed as endangered above.	50 FR 50726; December 11, 1985.	*Montana, North Dakota, South Dakota, Iowa, Nebraska, Colorado, Kansas, Alberta, Saskatchewan, and Manitoba:* Ms. Carol Aron, *carol_aron@fws.gov;* 701–250–4481.	USFWS, 3425 Miriam Avenue, Bismarck, ND 58501.
					North Carolina, South Carolina, Georgia, Bahamas, Cuba, Puerto Rico, and other Caribbean Islands: Ms. Melissa Bimbi, *melissa_bimbi @fws.gov;* 843–727–4707.	USFWS, P.O. Box 33726, Raleigh, NC 27636–3726
					Texas and Mexico: Ms. Robyn Cobb, *robyn_cobb@fws.gov;* 361–994–9005.	USFWS, Ecological Services Field Office, c/o TAMUCC, 6300 Ocean Drive—USFWS, Unit 5837; Corpus Christi, TX 78412–5837.
					Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, Newfoundland, Quebec, Nova Scotia, Prince Edward Island, New Brunswick, and St. Pierre and Miquelon (France), any area not listed above, and information pertinent to multiple regions: Ms. Anne Hecht, *anne_hecht@fws.gov;* 978–443–4325.	USFWS, 73 Weir Hill Road, Sudbury, MA 01776.
Scioto madtom	*Noturus trautmani*	E	U.S.A. (OH)	40 FR 44149; September 25, 1975.	Ms. Angela Boyer, *angela_boyer@fws.gov;* 614–416–8993, x22.	USFWS, 4625 Morse Road, Suite 104; Columbus, OH 43230.
Curtis' Pearlymussel*	*Epioblasma florentina curtisi.*	E	U.S.A. (AR, MO)	41 FR 24064; June 14, 1976.	Mr. Andy Roberts, *andy_roberts@fws.gov;* 573–234–2132, x110.	USFWS, 101 Park DeVille Drive, Suite A; Columbia, MO 65203.
Purple cat's paw	*Epioblasma (=dysnomia) obliquata obliquata).*	E	U.S.A. (AL, IL, IN, KY, OH, TN).	55 FR 28209; July 10, 1990.	Ms. Angela Boyer, *Angela_Boyer@fws.gov;* 614–416–8993, x22.	USFWS, 4625 Morse Road, Suite 104; Columbus, OH 43230.
Scaleshell mussel*	*Leptodea leptodon*	E	U.S.A. (AL, AR, IA, IL, IN, KY, MN, MO, OH, OK, SD, TN, WI).	66 FR 51322; October 9, 2001.	Mr. Andy Roberts; *andy_roberts@fws.gov;* 573–234–2132, x110.	USFWS, 101 Park DeVille Drive, Suite A; Columbia, MO 65203.
Higgins eye	*Lampsilis higginsii*	E	U.S.A. (IA, IL, MN, MO, NE, WI).	41 FR 24064; June 14, 1976.	Mr. Phil Delphey, *phil_delphey@fws.gov;* 612–725–3548.	USFWS, 4101 E. 80th Street, Bloomington, MN 55425.
PLANTS						
*Cirsium pitcher**	Pitcher's thistle*	T	U.S.A. (IL, IN, MI, WI); Canada (Ont.).	53 FR 27137; July 18, 1988.	Mr. Vincent Cavalieri, *vincent_cavalieri@fws.gov;* 517–351–5467.	USFWS, 2651 Coolidge Road, Suite 101; East Lansing, MI 48823.

Common name	Scientific name	Listing status	Where listed	Final listing rule (**Federal Register** citation and publication date)	Contact person, phone, email	Contact person's U.S. mail address
Hymenoxys herbacea (=*H. acaulis* var. *glabra*).	Lakeside daisy	T	U.S.A. (IL, MI, OH); Canada (Ont.).	53 FR 23742; June 23, 1988.	Ms. Angela Boyer, *angela_boyer@fws.gov;* 614–416–8993, x22.	USFWS, 4625 Morse Road, Suite 104; Columbus, OH 43230.

* Species' 5-year review was previously initiated, but that review was never completed. We are reinitiating here to ensure that we have the most up-to-date information to complete the review.

Request for Information

To ensure that a 5-year review is complete and based on the best available scientific and commercial information, we request new information from all sources. See ''What Information Do We Consider in Our Review?'' for specific criteria. If you submit information, please support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

How do I ask questions or provide information?

If you wish to provide information for any species listed above, please submit your comments and materials to the appropriate contact in the table above. You may also direct questions to those contacts. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

Public Availability of Submissions

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices where the comments are submitted.

Authority

We publish this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: June 30, 2014.

Lynn M. Lewis,

Assistant Regional Director, Ecological Services, Midwest Region.

[FR Doc. 2014–15867 Filed 7–7–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[14X LLORB00000.L17110000.PH0000. LXSS020H0000; HAG14–0152]

Notice of Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, and the U.S. Department of the Interior, Bureau of Land Management (BLM), the Steens Mountain Advisory Council (SMAC) will meet as indicated below:

DATES: July 17–18, 2014, 8:30 a.m. to 4 p.m. each day, at the Frenchglen School, 39235 Oregon 205, in Frenchglen, Oregon. Daily sessions may end early if all business items are accomplished ahead of schedule.

FOR FURTHER INFORMATION CONTACT: Tara Martinak, Public Affairs Specialist, BLM Burns District Office, 28910 Highway 20 West, Hines, Oregon 97738, (541) 573–4519, or email *tmartina@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: The SMAC was initiated August 14, 2001, pursuant to the Steens Mountain Cooperative Management and Protection Act (CMPA) of 2000 (Pub. L. 106–399). The SMAC provides representative counsel and advice to the BLM regarding new and unique approaches to management of the land within the bounds of the Steens Mountain CMPA; recommending cooperative programs and incentives for landscape management that meet human needs, and the maintenance and improvement of the ecological and economic integrity of the area. Tentative agenda items for the July 17–18 sesson include a field tour to and discussion regarding the Page Springs Weir; a possible field tour to the Andle Creek basin area; a discussion on managing wildfire for multiple objectives; and regular business items such as approving the previous meeting's minutes, member round-table, the Designated Federal Official's update and planning the next meeting's agenda. A public comment period will be available each day of each meeting, excluding sessions that are entirely in the field for tour purposes. The public is welcome to attend all sessions, including field tours. Unless otherwise approved by the SMAC Chair, the public comment period will last no longer than 30 minutes, and each speaker may address the SMAC for a maximum of five minutes.

Before including your address, phone number, email address, or other personal identifying information in your comments, please be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Brendan Cain,

Burns District Manager.

[FR Doc. 2014–15887 Filed 7–7–14; 8:45 am]

BILLING CODE 4310–33–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 August 7, 2014.

DATES: Protests of the survey must be filed before August 7, 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) 896–5007, *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 Energy, Minerals and Realty, and was necessary to determine federal leasable mineral lands. The lands we surveyed are:

Fifth Principal Meridian, North Dakota

T. 154 N., R. 97 W.

The plat, in two sheets, representing the supplemental plat of secs. 21, 22, 23, 24, 25, 26, 27, and 28, showing the amended lottings, Township 154 North, Range 97 West, Fifth Principal Meridian, North Dakota, was accepted April 9, 2014.

T. 154 N., R. 98 W.

The plat, in one sheet, representing the supplemental plat of sec. 35, showing the amended lottings, Township 154 North, Range 98 West, Fifth Principal Meridian, North Dakota, was accepted April 9, 2014.

T. 154 N., R. 95 W.

The plat, in three sheets, representing the supplemental plat of secs. 25, 26, 27, 28, 29, 30, 31, 32, 33, and 36, showing the amended lottings, Township 154 North, Range 95 West, Fifth Principal Meridian, North Dakota, was accepted May 8, 2014.

T. 154 N., R. 96 W.

The plat, in two sheets, representing the supplemental plat of secs. 21, 26, 27, 28, 29, and 30, showing the amended lottings, Township 154 North, Range 96 West, Fifth Principal Meridian, North Dakota, was accepted May 8, 2014.

We will place a copy of the plats, in eight 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. Chapter 3.

Josh Alexander,

Chief, Branch of Cadastral Survey, Division of Energy, Minerals and Realty.

[FR Doc. 2014–15838 Filed 7–7–14; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–L19100000.BJ0000–LRCMP3B00R00]

Notice of Filing of Plats of Survey; Montana

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 August 7, 2014.

DATES: Protests of the survey must be filed before August 7, 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: Thomas L. Laakso, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5125 or (406) 896–5007, *tlaakso@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 Regional Director, Rocky Mountain Region, Bureau of Indian Affairs, and was necessary to determine the boundaries of individual and tribal trust lands.

The lands we surveyed are:

Principal Meridian, Montana

T. 33 N., R. 12 E.

The plat, in two sheets, representing the dependent resurvey of Township 33 North, Range 12 East, Principal Meridian, Montana, was accepted May 29, 2014.

We will place a copy of the plat, in two sheets, and related field notes we described 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 this plat, in two 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 this plat, in two 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.

Joshua F. Alexander,

Chief, Branch of Cadastral Survey, Division of Energy, Minerals and Realty.

[FR Doc. 2014–15837 Filed 7–7–14; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A000 67F 134S180110; S2D2S SS08011000 SX066A00 33F 13xs501520]

Notice of Proposed Information Collection; Request for Comments for 1029–0063

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is announcing its intention to request renewed approval for the continued collection of information for the Abandoned Mine Reclamation Fund—Fee Collection and Coal Production Reporting and the form it implements, the OSM–1, Coal Reclamation Fee Report. This collection was previously approved by the Office of Management and Budget (OMB) and assigned control number 1029–0063.

DATES: Comments on the proposed information collection must be received by September 8, 2014, to be assured of consideration.

ADDRESSES: Comments may be mailed to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., Room 203—SIB, Washington, DC 20240. Comments may

also be submitted electronically to *jtrelease@osmre.gov*.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request contact John Trelease at (202) 208–2783 or via email at *jtrelease@osmre.gov*.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies an information collection that OSMRE will be submitting to OMB for extension. This collection is contained in 30 CFR Part 870—Abandoned Mine Reclamation Fund—Fee Collection and Coal Production Reporting, and the implementing form OSM–1—Coal Reclamation Fee Report. OSMRE will request a 3-year term of approval for this information collection activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection is 1029–0063. Responses are mandatory.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will be included in OSMRE's submission of the information collection request to OMB.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Title: 30 CFR Part 870—Abandoned Mine Reclamation Fund—Fee Collection and Coal Production Reporting.

OMB Control Number: 1029–0063.

Summary: The information is used to maintain a record of coal produced for sale, transfer, or use nationwide each calendar quarter, the method of coal removal and the type of coal, and the basis for coal tonnage reporting in compliance with 30 CFR Part 870 and section 401 of Public Law 95–87. Individual reclamation fee payment liability is based on this information. Without the collection of information OSMRE could not implement its regulatory responsibilities and collect the fee.

Bureau Form Number: OSM–1.

Frequency of Collection: Quarterly.

Description of Respondents: Coal mine permittees.

Total Annual Responses: 8,792.

Total Annual Burden Hours: 810.

Dated: July 2, 2014.

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2014–15928 Filed 7–7–14; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: S & B PHARMA, INC.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before September 8, 2014.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, and dispensers of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to sec. 7(g) of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.33(a), this is notice that on December 10, 2013, S & B Pharma, Inc., DBA Norac Pharma, 405 South Motor Avenue, Azusa, California 91702–3232, applied to be registered as a bulk manufacturer of the following basic classes of narcotic or nonnarcotic controlled substances:

Controlled substance	Schedule
Gamma Hydroxybutyric (2010)	I
Tetrahydrocannabinols (7370)	I
Methamphetamine (1105)	II
Pentobarbital (2270)	II
Nabilone (7379)	II
4-Anilino-N-phenethyl-4-piperidine (8333).	II
Tapentadol (9780)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for use in product development and for commercial sales to its customers.

Dated: July 1, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–15888 Filed 7–7–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Powered Platforms for Building Maintenance Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Powered Platforms for Building Maintenance Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 7, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/*

PRAViewICR?ref_nbr=201404-1218-004 (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Powered Platforms for Building Maintenance Standard information collection requirements codified in regulations 29 CFR 1910.66, which requires that a covered employer develop and implement a written emergency action plan for each type of powered platform operation. The plan must explain the emergency procedures that a worker is to follow upon encountering a disruption of the power supply, equipment failure, or other emergency. More specifically, the Standard requires the employer to develop and maintain a written emergency action plan and work plan for training; to affix a load rating plate to each suspended unit; to label each emergency electric operating device with instructions for its use; to attach a tag to one of the fastenings holding a suspension wire rope; to prepare and to maintain a written certification record of the inspection and testing of each building-support structure, component of a powered platform, powered platform facility, and suspension wire rope. Occupational Safety and Health Act section 8 authorizes this information collection. *See* 29 U.S.C. 657.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0121.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2014. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 18, 2014 (79 FR 9282).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0121. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Powered Platforms for Building Maintenance Standard.

OMB Control Number: 1218–0121.

Affected Public: Private Sector—business or other for-profits.

Total Estimated Number of Respondents: 900.

Total Estimated Number of Responses: 181,625.

Total Estimated Annual Time Burden: 130,764 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: July 1, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–15925 Filed 7–7–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO): Meeting

AGENCY: Veterans' Employment and Training Service (VETS), Department of Labor.

ACTION: Notice of Open Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the ACVETEO. The ACVETEO will discuss the VETS core programs and services regarding efforts that assist veterans seeking employment and raise employer awareness as to the advantages of hiring veterans. There will be an opportunity for persons or organizations to address the committee. Any individual or organization that wishes to do so should contact Mr. Anthony Camilli at 202–693–4708. Time constraints may limit the number of outside participants/presentations.

Individuals who will need accommodations for a disability in order to attend the meeting (e.g., interpreting services, assistive listening devices, and/or materials in alternative format) should notify the Advisory Committee no later than Thursday, July 24, 2014 by contacting Mr. Gregory Green at 202–693–4734. Requests made after this date will be reviewed, but availability of the requested accommodations cannot be guaranteed. The meeting site is accessible to individuals with disabilities. This Notice also describes the functions of the ACVETEO. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

DATE AND TIME: Thursday, July 31, 2014 beginning at 9 a.m. and ending at approximately 5:00 p.m. (E.S.T.).

ADDRESSES: The meeting will take place at the U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue NW., Washington, DC 20210, Room C–5521. Members of the public are encouraged to arrive early to allow for security clearance into the Frances Perkins Building.

Security Instructions: Meeting participants should use the visitors' entrance to access the Frances Perkins Building, one block north of Constitution Avenue at 3rd and C Streets NW. For security purposes meeting participants must:

1. Present a valid photo ID to receive a visitor badge.

2. Know the name of the event you are attending: The meeting event is the Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO).

3. Visitor badges are issued by the security officer at the Visitor Entrance located at 3rd and C Streets NW. When receiving a visitor badge, the security officer will retain the visitor's photo ID until the visitor badge is returned to the security desk.

4. Laptops and other electronic devices may be inspected and logged for identification purposes.

5. Due to limited parking options, Metro is the easiest way to access the Frances Perkins Building.

Notice Of Intent To Attend The Meeting: All meeting participants are being asked to submit a notice of intent to attend by Thursday, July 24, 2014, via email to Mr. Anthony Camilli at *camilli.anthony@dol.gov,* subject line ''July 2014 ACVETEO Meeting.''

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Camilli, Alternate Designated Federal Official for the ACVETEO, (202) 693–4708.

SUPPLEMENTARY INFORMATION: The ACVETEO is a Congressionally mandated Advisory Committee authorized under Title 38, U.S. Code, Section 4110 and subject to the Federal Advisory Committee Act, 5 U.S.C. App. 2, as amended. The ACVETEO is responsible for: Assessing employment and training needs of veterans; determining the extent to which the programs and activities of the U.S. Department of Labor meet these needs; assisting to conduct outreach to employers seeking to hire veterans; making recommendations to the Secretary, through the Assistant Secretary of Labor for Veterans' Employment and Training with respect to outreach activities and employment and training needs of Veterans; and carrying out such other activities necessary to make required reports and recommendations. The ACVETEO meets at least quarterly.

Agenda

9:00 a.m. Welcome and remarks, Keith Kelly, Assistant Secretary of Labor for Veterans' Employment and Training

9:05 a.m. Administrative Business, Anthony Camilli, Alternate Designated Federal Official

9:10 a.m. Presentation on veterans outreach pilot, Lt Col Jeffrey Holland, USAF, Harvard University, JFK School of Government

9:50 a.m. Break

10:00 a.m. Outreach Subcommittee Briefing and Discussion

10:50 a.m. Break

11:00 a.m. Focused Populations Subcommittee Briefing and Discussion

12:00 p.m. Lunch

1:00 p.m. Transition Subcommittee Briefing and Discussion

1:50 p.m. Break

2:00 p.m. Discussion and work on Fiscal Year 2014 Report, J. Michael Haynie, ACVETEO Chairman

4:45 p.m. Public Forum, Anthony Camilli, Alternate Designated Federal Official

5:00 p.m. Adjourn

Signed in Washington, DC, this 1st day of July 2014.

Keith Kelly,

Assistant Secretary of Labor for Veterans' Employment and Training.

[FR Doc. 2014–15904 Filed 7–7–14; 8:45 am]

BILLING CODE 4510–79–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,145, TA–W–82,145A, TA–W–82,145B, TA–W–82,145C, TA–W–82,145D]

Hutchinson Technology Incorporated Eau Claire, Wisconsin; Hutchinson Technology Incorporated Including On-Site Leased Workers From Atterro Plymouth, Minnesota; Express Employment Professionals Working On-Site at Hutchinson Technology Incorporated Eau Claire, Wisconsin; Doherty Staffing Solutions Working On-Site at Hutchinson Technology Incorporated Eau Claire, Wisconsin; Hutchinson Technology Incorporated Including On-Site Leased Workers From Doherty Staffing Solutions Hutchinson, Minnesota; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 11, 2012, applicable to workers of Hutchinson Technology Incorporated, Eau Claire, Wisconsin (TA–W–82,145), Hutchinson Technology Incorporated, including on-site leased workers from Atterro, Plymouth, Minnesota (TA–W–82,145A), Express Employment Professionals, working on-site at Hutchinson Technology Incorporated, Eau Claire, Wisconsin (TA–W–82,145B), and Doherty Staffing Solutions, working on-site at Hutchinson Technology Incorporated, Eau Claire, Wisconsin (TA–W–82,145C). The Department's notice of determination was published in the **Federal Register** on January 4, 2013 (78 FR 770).

At the request of State Workforce Office, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the production of suspension arms for hard disk drives.

The state workforce office reports that workers from Hutchinson Technology Incorporated, Hutchinson, Minnesota are being affected by the same shift in production of suspension arms for hard disk drives to a foreign country that was the cause of the separations for the subject certification. The worker group includes on-site leased workers from Doherty Staffing.

Workers of Hutchinson Technology Incorporated, Hutchinson, Minnesota were previously certified under petition

number TA–W–80,363 that expired on September 7, 2013.

The amended notice applicable to TA–W–82,145, is hereby issued as follows:

All workers of Hutchinson Technology Incorporated, Eau Claire, Wisconsin (TA–W–82,145), who became totally or partially separated from employment on or after April 16, 2012 through December 11, 2014, and all workers in the group threatened with total or partial separation from employment on the date of certification through December 11, 2014, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended;

AND

All workers of Hutchinson Technology Incorporated, including on-site leased workers from Atterro, Plymouth, Minnesota (TA–W–82,145A), Express Employment Professionals, working on-site at Hutchinson Technology Incorporated, Eau Claire, Wisconsin (TA–W–82,145B), and Doherty Staffing Solutions, working on-site at Hutchinson Technology Incorporated, Eau Claire, Wisconsin (TA–W–82,145C), who became totally or partially separated from employment on or after November 9, 2011 through December 11, 2014, and all workers in the group threatened with total or partial separation from employment on the date of certification through December 11, 2014, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

AND

All workers of Hutchinson Technology Incorporated, including on-site leased workers from Doherty Staffing Solutions, Hutchinson, Minnesota, who became totally or partially separated from employment on or after September 8, 2013 through December 11, 2014, and all workers in the group threatened with total or partial separation from employment on the date of certification through December 11, 2014, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 20th day of June, 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–15851 Filed 7–7–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–85,066]

SunEdison, Inc., STP Manufacturing Plant, St. Peters, Missouri; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated June 3, 2014, a company official requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for worker adjustment assistance applicable to workers and former workers of SunEdison, Inc., STP Manufacturing Plant, St. Peters, Missouri (subject firm). The determination was issued on May 6, 2014 and the Notice of determination has not yet been published in the **Federal Register**.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The negative determination was based on the Department of Labor's findings that the subject firm did not shift production of articles like or directly competitive with those produced by the workers to a foreign country during the relevant time period; the subject firm did not increase imports of such articles during the relevant time period; and the subject firm is not a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Trade Act of 1974, as amended (the Act).

The request for reconsideration includes information not previously considered regarding the subject firm's operations and customers.

The Department has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Act.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 24th day of June 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–15852 Filed 7–7–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 18, 2014.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 18, 2014.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 26th day of June 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[11 TAA petitions instituted between 6/16/14 and 6/20/14]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
85376	Radio Research (Workers)	Waterbury, CT	06/16/14	06/16/14
85377	Chemtrade Logistics, Inc. (State/One-Stop)	Parsippany, NJ	06/16/14	06/13/14
85378	Silvex Inc. (State/One-Stop)	Westbrook, ME	06/17/14	06/16/14
85379	Technical Needs (Company)	Salem, NH	06/17/14	06/05/14
85380	New Savageworks—Clayburn (State/One-Stop)	Grantsville, MD	06/17/14	06/17/14
85381	GameStop Corporate (Workers)	Grapevine, TX	06/19/14	06/18/14
85382	Baldor Electric Co. (Workers)	Fort Smith, AR	06/19/14	06/18/14
85383	Knowledge Universe, LLC (Workers)	Portland, OR	06/19/14	06/18/14
85384	Verizon Livesource, Verizon Service Fulfillment (State/One-Stop).	Long Beach, CA	06/19/14	06/18/14
85385	Microsemi Corp (State/One-Stop)	Lawrence, MA	06/19/14	06/18/14
85386	Covidien LP (Company)	Mansfield, MA	06/20/14	06/19/14

[FR Doc. 2014–15853 Filed 7–7–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of *June 16, 2014 through June 20, 2014.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. the sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. there has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. the country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company

name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

85,227, The Fenton Art Glass Company, Williamstown, West Virginia. June 3, 2013.

85,227A, Professional Services of America, Williamstown, West Virginia. April 11, 2013.

85,307, TDY Industries LLC, LaPorte, Indiana. May 13, 2013.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

85,294, Pitney Bowes Inc., Spokane, Washington.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

85,351, Gold Inc., D/B/A Goldbug, Inc., Aurora, Colorado.

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

85,124, West Linn Paper Company, West Linn, Oregon.

85,124A, Columbia River Logistics, Vancouver, Washington.

85,306, Osram Sylvania, York, Pennsylvania.

85,335, Textplus Inc., Marina Del Rey, California.

85,344, HR Plus/Sterling Infosystems Inc., Chicago, Illinois.

I hereby certify that the aforementioned determinations were issued during the period of *June 16, 2014 through June 20, 2014*. These determinations are available on the Department's Web site *www.doleta.gov/tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 26th day of June 2014.

Del Min Amy Chen

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–15854 Filed 7–7–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before August 7, 2014.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, Attention: Sheila McConnell, Acting Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21st floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2014–020–C.

Petitioner: McElroy Coal Company, 57 Goshorn Woods Rd., Cameron, West Virginia 26033.

Mine: McElroy Mine, MSHA I.D. No. 46–01437, located in Marshall County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance with the standard with respect to vertical Coal Bed Methane (CBM) degasification wells with horizontal laterals into the underground coal seam. The petitioner proposes to plug vertically drilled CBM degasification wells before mining through the wells.

The petitioner states that MSHA Policy Information Bulletin (PIB) No.

P08–20 regarding ''Surface Drilled Coalbed Methane Wells with Horizontal Branches in the Coal Seam'' supports and encourages CBM extraction because it can significantly reduce methane emissions in coal mines and has been proved to decrease the incidence of face ignitions in gassy coal mines. The PIB recognizes that procedures to address the potential hazards presented by CBM wells must be developed and implemented to protect the coal miners who will be exposed to these wells.

a. The petitioner proposes to use the following plugging procedures:

(1) Prior to the anticipated mine-through, the borehole will be filled with cementitious grout, polyurethane grout, silica gel, flexible gel, or another material approved by the District Manager (DM).

(2) A packer will be installed at a location in the borehole to ensure that an appropriate amount of the borehole is filled with the plugging material.

(3) Any water present in the borehole will be tested for chlorides prior to plugging.

(4) A pump will be used to pump 1.75 times the calculated hole-volume of the plugging material into the borehole. The calculated volume of the plugging material will be pumped until the volume of the plugging material is depleted, 100–140 pounds per square inch (psi) pressure is realized, or until leakage is observed underground. The plugging material will be pumped through a packer equipped with a one-way check valve. The one-way check valve will prevent the plugging material from flowing back.

(5) The volume of fill material required will be calculated and 1.75 times that amount will be pumped unless the 100–140 psi pressure is reached.

(6) A directional deviation survey completed during the drilling of the borehole will be used to determine the location of the borehole within the coal seam.

(7) Where suitable plugging procedures have not been developed or are impractical, water infusion and ventilation of vertical CBM wells with horizontal laterals may be used in lieu of plugging.

b. The petitioner proposes to use the following procedures when using water and ventilation to mine through CBM wells with horizontal laterals:

(1) At least 2 days before intersecting the well, the well will be filled with water to at least 100 feet above the coal seam in which the CBM well with horizontal laterals is located. This level will be maintained until the well is intersected. As an alternative, after an in-mine horizontal borehole has been drilled in close proximity to the well, the mine supply water system will be connected to the in-mine horizontal borehole and the in-mine borehole will be pressurized.

(2) When a CBM well or lateral is intersected and the area deemed safe, the mining will proceed far enough to establish roof support in the area of the cut-through, and packers of appropriate pressure rating will be inserted into both sides of the cut-through. After the packers are inserted they will be inflated and all valves will be closed.

(3) After the well is intersected and the water is drained from the wellbore, a vacuum pump will be attached to the well head on the surface and started to provide negative pressure to the well head side of the cut-through. The adjacent side of the cut-through will be put on negative pressure by use of a vacuum pump on the surface attached to the underground degas system that was drilled in close proximity of the CBM. Should the intersected CBM build pressure later, the packers will be attached to the underground degas system and vented to the surface until this portion of the hole is plugged.

(4) If the hole can continue to be ventilated with mine atmosphere to the surface via a vacuum pump on the surface, plugging will not be necessary. If no system is in place underground to carry the gas to the surface, the holes will be plugged as soon as the continuous mining equipment is moved to the next portion of the cycle and no longer interferes with the plugging process.

(5) If mining continues parallel to the intersected hole or the hole continues to be intersected by the longwall, the hole will be plugged with cement grout, flexible gel or other method approved by the DM, or if mining down dip, the hole will be filled with water.

c. The petitioner proposes to use the following procedures for mining through a CBM degasification well with horizontal laterals:

(1) The operator will notify the DM or designee prior to mining within 300 feet of the well and when a specific plan is developed for mining through each well.

(2) The DM or designee, representative of the miners, and the appropriate State agency will be notified by the operator in sufficient time prior to the mining-through operation to have an opportunity to have representatives present.

(3) When using the continuous mining method, drivage sights will be installed at the last open crosscut near the place to be mined to ensure intersection of the well. The drivage sights will not be more than 250 feet from the well. When using the longwall mining method, drivage sights will be installed on 10-foot centers 50 feet in advance of the initial anticipated intersection of the well. The drivage sights will be installed in both the headgate and tailgate entry.

(4) Firefighting equipment, including fire extinguishers, rock dust and enough fire hose to reach the well location on the working face will be available near the working place.

(5) Sufficient supplies of roof support and ventilation materials will be available near the working place.

(6) The quantity of air required by the approved ventilation system and methane and dust control plan will be used to ventilate the working face or the longwall face during the mining-through operation.

(7) Equipment will be checked for permissibility and serviced on the shift prior to mining through the well.

(8) The methane monitor on the longwall or continuous mining machine will be calibrated on the shift prior to mining through the well.

(9) When mining is in progress, tests for methane will be made with a hand-held methane detector at least every 10 minutes from the time mining with the continuous mining machine is within 30 feet of the well until the well is intersected and immediately prior to mining through or the resumption of mining after a well is intersected. When mining with longwall mining equipment, the tests for methane will be made at least every 10 minutes when the longwall face is within 10 feet of the well.

(10) When using continuous mining methods, the working place will be free from accumulations of coal dust and coal spillages, and rock dust will be placed on the roof and rib to within 20 feet of the face when mining through the well.

(11) When the wellbore is intersected, all equipment will be deenergized and the place thoroughly examined and determined safe before mining is resumed. Any well casing will be removed and no open flame will be permitted in the area until adequate ventilation has been established around the wellbore.

(12) After a well has been intersected and the working place determined safe, mining will continue inby the well at a sufficient distance to permit adequate ventilation around the area of the wellbore.

(13) No person will be permitted in the area of the mining-through operation, inby the last open crosscut

except those actually engaged in the operation, company personnel, representatives of the miners, MSHA personnel and personnel from the appropriate State agency.

(14) The mining-through operation will be under the direct supervision of a certified official. Instructions concerning the mining-through operation will be issued only by the certified official in charge.

The petitioner asserts that the proposed alternative method will provide the same measure of protection as that afforded by the existing standard.

Docket Number: M–2014–021–C.

Petitioner: Consolidation Coal Company, RD 1 Box 62A, Dallas, West Virginia 26036.

Mine: Shoemaker Mine, MSHA I.D. No. 46–01436, located in Marshall County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance with the standard with respect to vertical Coal Bed Methane (CBM) degasification well with horizontal laterals into the underground coal seam. The petitioner proposes to plug vertically drilled CBM degasification wells to mine through them.

The petitioner states that MSHA Policy Information Bulletin (PIB) No. P08–20 regarding ''Surface Drilled Coalbed Methane Wells with Horizontal Branches in the Coal Seam'' supports and encourages CBM extraction because it can significantly reduce methane emissions in coal mines and has been proved to decrease the incidence of face ignitions in gassy coal mines. The PIB recognizes that procedures to address the potential hazards presented by CBM wells must be developed and implemented to protect the coal miners who will be exposed to these wells.

a. The petitioner proposes to use the following plugging procedures:

(1) Prior to the anticipated mine-through, the borehole will be filled with cementitious grout, polyurethane grout, silica gel, flexible gel, or another material approved by the District Manager (DM).

(2) A packer will be installed at a location in the borehole to ensure that an appropriate amount of the borehole is filled with the plugging material.

(3) Any water present in the borehole will be tested for chlorides prior to plugging.

(4) A pump will be used to pump 1.75 times the calculated hole-volume of the plugging material into the borehole. The calculated volume of the plugging material will be pumped until the volume of the plugging material is depleted, 100–140 pounds per square inch (psi) pressure is realized, or until leakage is observed underground. The plugging material will be pumped through a packer equipped with a one-way check valve. The one-way check valve will prevent the plugging material from flowing back.

(5) The volume of fill material required will be calculated and 1.75 times that amount will be pumped unless the 100–140 psi pressure is reached.

(6) A directional deviation survey completed during the drilling of the borehole will be used to determine the location of the borehole within the coal seam.

(7) Where suitable plugging procedures have not been developed or are impractical, water infusion and ventilation of vertical CBM wells with horizontal laterals may be used in lieu of plugging.

b. The petitioner proposes to use the following procedures when using water and ventilation to mine through CBM wells with horizontal laterals:

(1) At least 2 days before intersecting the well, the well will be filled with water to at least 100 feet above the coal seam in which the CBM well with horizontal laterals is located. This level will be maintained until the well is intersected. As an alternative, after an in-mine horizontal borehole has been drilled in close proximity to the well, the mine supply water system will be connected to the in-mine horizontal borehole and the in-mine borehole will be pressurized.

(2) When a CBM well or lateral is intersected and the area deemed safe, the mining will proceed far enough to establish roof support in the area of the cut-through, and packers of appropriate pressure rating will be inserted into both sides of the cut-through. After the packers are inserted they will be inflated and all valves will be closed.

(3) After the well is intersected and the water is drained from the wellbore, a vacuum pump will be attached to the well head on the surface and started to provide negative pressure to the well head side of the cut-through. The adjacent side of the cut-through will be put on negative pressure by use of a vacuum pump on the surface attached to the underground degas system that was drilled in close proximity of the CBM. Should the intersected CBM build pressure later, the packers will be attached to the underground degas system and vented to the surface until this portion of the hole is plugged.

(4) If the hole can continue to be ventilated with mine atmosphere to the surface via a vacuum pump on the surface, plugging will not be necessary. If no system is in place underground to carry the gas to the surface, the holes will be plugged as soon as the continuous mining equipment is moved to the next portion of the cycle and no longer interferes with the plugging process.

(5) If mining continues parallel to the intersected hole or the hole continues to be intersected by the longwall, the hole will be plugged with cement grout, flexible gel or other method approved by the DM, or if mining down dip, the hole will be filled with water.

c. The petitioner proposes to use the following procedures for mining through a CBM degasification well with horizontal laterals:

(1) The operator will notify the DM or designee prior to mining within 300 feet of the well and when a specific plan is developed for mining through each well.

(2) The DM or designee, representative of the miners, and the appropriate State agency will be notified by the operator in sufficient time prior to the mining-through operation to have an opportunity to have representatives present.

(3) When using the continuous mining method, drivage sights will be installed at the last open crosscut near the place to be mined to ensure intersection of the well. The drivage sights will not be more than 250 feet from the well. When using the longwall mining method, drivage sights will be installed on 10-foot centers 50 feet in advance of the initial anticipated intersection of the well. The drivage sights will be installed in both the headgate and tailgate entry.

(4) Firefighting equipment, including fire extinguishers, rock dust and enough fire hose to reach the well location on the working face will be available near the working place.

(5) Sufficient supplies of roof support and ventilation materials will be available near the working place.

(6) The quantity of air required by the approved ventilation system and methane and dust control plan will be used to ventilate the working face or the longwall face during the mining-through operation.

(7) Equipment will be checked for permissibility and serviced on the shift prior to mining through the well.

(8) The methane monitor on the longwall or continuous mining machine will be calibrated on the shift prior to mining through the well.

(9) When mining is in progress, tests for methane will be made with a hand-held methane detector at least every 10 minutes from the time mining with the continuous mining machine is within 30 feet of the well until the well is intersected and immediately prior to mining through or the resumption of mining after a well is intersected. When mining with longwall mining equipment, the tests for methane will be made at least every 10 minutes when the longwall face is within 10 feet of the well.

(10) When using continuous mining methods, the working place will be free from accumulations of coal dust and coal spillages, and rock dust will be placed on the roof and rib to within 20 feet of the face when mining through the well.

(11) When the wellbore is intersected, all equipment will be deenergized and the place thoroughly examined and determined safe before mining is resumed. Any well casing will be removed and no open flame will be permitted in the area until adequate ventilation has been established around the wellbore.

(12) After a well has been intersected and the working place determined safe, mining will continue inby the well at a sufficient distance to permit adequate ventilation around the area of the wellbore.

(13) No person will be permitted in the area of the mining-through operation, inby the last open crosscut except those actually engaged in the operation, company personnel, representatives of the miners, MSHA personnel and personnel from the appropriate State agency.

(14) The mining-through operation will be under the direct supervision of a certified official. Instructions concerning the mining-through operation will be issued only by the certified official in charge.

The petitioner asserts that the proposed alternative method will provide the same measure of protection as that afforded by the existing standard.

Sheila McConnell,

Acting Director, Office of Standards, Regulations and Variances.

[FR Doc. 2014–15860 Filed 7–7–14; 8:45 am]

BILLING CODE 4510–43–P

MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION

Sunshine Act Meetings

TIME AND DATE: Electronic Board Meeting to be held via email exchanges Thursday, July 10, 2014, 8 a.m. (PDT), through Wednesday, July 16, 2014.

PLACE: Board Meeting held via email.

STATUS: This special meeting of the Board of Trustees, to be held Electronically (in accordance with Foundation Operating Procedures), is open to the public. Members of the public who would like to see the text of the resolution to be considered and/or the email votes regarding the resolution should email Elizabeth E. Monroe, Executive Assistant, Morris K. Udall and Stewart L. Udall Foundation, at *monroe@udall.gov*.

MATTERS TO BE CONSIDERED: Resolution regarding transfer of funds to the Native Nations Institute for Leadership, Management, and Policy.

CONTACT PERSON FOR MORE INFORMATION: Philip J. Lemanski, Executive Director, 130 South Scott Avenue, Tucson, AZ 85701, (520) 901–8500.

Dated: June 25, 2014.

Philip J. Lemanski,

Executive Director, Morris K. Udall and Stewart L. Udall Foundation, and Federal Register Liaison Officer.

[FR Doc. 2014–15502 Filed 7–7–14; 8:45 am]

BILLING CODE P

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meetings

TIME AND DATES: The Members of the National Council on Disability (NCD) will hold a quarterly meeting on Thursday, July 24, 2014, 1:30 p.m. to 4:30 p.m. (Eastern Daylight Time). On July 25, 2014, from 9:30 a.m. to 12 p.m., the Council will host a congressional forum on the topic of the rights of parents with disabilities and their children that is also open to the public.

PLACE: The Thursday quarterly business meeting will occur in Washington, DC, at the Access Board Conference Room, 1331 F Street NW., Suite 800, Washington, DC. Interested parties may join the meeting in person or by phone in a listening-only capacity (with the exception of the public comment period) using the following call-in number: 1–888–378–0320; Conference ID: 5251555; Conference Title: NCD Meeting; Host Name: Jeff Rosen. The Friday congressional forum will occur on a location on Capitol Hill, room to be determined. Please check NCD's Web site for the room location, which, once confirmed, will be posted at *http://www.ncd.gov/events/OtherEvents/06302014/*.

MATTERS TO BE CONSIDERED: The Council will receive reports from its standing committees and updates on policy projects underway; hear from a panel of policy thinkers to help map out disability policy priorities and trends for the Council's consideration; discuss the Council's scope of work for FY15 and beyond; and receive an update on its Medicaid Managed Care forums around the country.

AGENDA: The times provided below are approximations for when each agenda item is anticipated to be discussed (all times EDT):

9:30–10 a.m.—Call to Order, Standing Committee Reports
10–11 a.m.—NCD Policy Project Report Outs (Social Security; Affordable Care Act; annual Progress Report; Transportation; Home- and Community-Based Services reports)
11–11:15 a.m.—Break
11:15–11:45 a.m.—Preparation for Congressional Forum on Parents with Disabilities (to be hosted Friday on Capitol Hill)
11:45 a.m.–12:15 p.m.—Public Comment
12:15–1:30 p.m.—Lunch
1:30–2:30 p.m.—New Directions in Disability Policy
2:30–3:15 p.m.—Next Generation NCD (Council's scope of work FY15 and beyond)
3:15–3:30 p.m.—Break
3:30–4 p.m.—Continued Discussion on Next Generation NCD
4–4:30 p.m.—Medicaid Managed Care Forums Update
4:30 p.m.—Adjournment

PUBLIC COMMENT: To better facilitate NCD's public comment periods, any individual interested in providing public comment will be asked to register their intent to provide comment in advance by sending an email to *PublicComment@ncd.gov* with the subject line ''Registration'' with your name, organization, state, and topic of comment included in the body of your email. Full-length written public comments may also be sent to that email address. All emails to register for public comment at the July 24 quarterly meeting must be received by Monday, July 21, 2014. Priority will be given to those individuals who are in-person to provide their comments. Those commenters on the phone will be called on according to the list of those registered via email. Due to time constraints, NCD asks all commenters to limit their comments to three minutes.

CONTACT PERSON FOR MORE INFORMATION: Anne Sommers, NCD, 1331 F Street NW., Suite 850, Washington, DC 20004; 202–272–2004 (V), 202–272–2074 (TTY).

ACCOMMODATIONS: A CART streamtext link has been arranged for the Thursday

NCD quarterly business meeting. The web link to access CART is: *http://www.streamtext.net/text.aspx?event=072414NCD930am.* Those who plan to attend the meeting in-person and require accommodations should notify NCD as soon as possible to allow time to make arrangements. CART and sign language interpreters will also be present for the congressional forum on the rights of parents with disabilities on Friday, July 25, 2014. Please note: To help reduce exposure to fragrances for those with multiple chemical sensitivities, NCD requests that all those attending the meeting in person please refrain from wearing scented personal care products such as perfumes, hairsprays, colognes, and deodorants.

Dated: July 2, 2014.

Rebecca Cokley,

Executive Director.

[FR Doc. 2014–15946 Filed 7–3–14; 11:15 am]

BILLING CODE 8421–02–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–3098–MLA]

In the Matter of Shaw Areva Mox Services, LLC (Mixed Oxide Fuel Fabrication Facility); Notice of Appointment of Adjudicatory Employees

Pursuant to 10 CFR 2.4, notice is hereby given that Larry Harris, Senior Materials Program Manager, Office of Nuclear Security and Incident Response, and John Rycyna, Senior Security Specialist, Office of Nuclear Security and Incident Response, have been appointed as Commission adjudicatory employees to advise the Commission regarding issues relating to review of the Licensing Board's Initial Decision, LBP–14–1. Mr. Harris and Mr. Rycyna have not previously performed any investigative or litigating function in connection with this proceeding.

Until such time as a final decision is issued in this matter, interested persons outside the agency and agency employees performing investigative or litigating functions in this proceeding are required to observe the restrictions of 10 CFR 2.347 and 2.348 in their communications with Mr. Harris and Mr. Rycyna.

It is so ordered.

For the Commission.

Dated at Rockville, Maryland, this 1st day of July, 2014.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2014–15942 Filed 7–7–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0138]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to comment, request a hearing, and petition for leave to intervene; order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of 11 amendment requests. The amendment requests are for River Bend Station, Unit 1; Grand Gulf Nuclear Station, Unit 1; Dresden Nuclear Power Station, Units 2 and 3; Quad Cities Nuclear Power Station, Units 1 and 2 (two amendment requests); Donald C. Cook Nuclear Plant, Units 1 and 2; Cooper Nuclear Station; Point Beach Nuclear Plant, Units 1 and 2; Watts Bar Nuclear Plant, Unit 1; Browns Ferry Nuclear Plant, Units 1, 2, and 3; and Sequoyah Nuclear Plant, Units 1 and 2. For each amendment request, the NRC proposes to determine that they involve no significant hazards consideration. In addition, each amendment request contains sensitive unclassified non-safeguards information (SUNSI).

DATES: Comments must be filed by August 7, 2014. A request for a hearing must be filed by September 8, 2014. Any potential party as defined in § 2.4 of Title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must request document access by July 18, 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–2014–0138. 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–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Angela M. 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. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0138 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0138.
- *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 or 301–415–4737 or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *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–2014–0138 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 your 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. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this 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 notice includes notices of amendments containing SUNSI.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, 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 within 60 days, 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 set forth 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, and the Commission has not made a final determination on the issue of no significant hazards consideration, 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 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/getting-started.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 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, 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 this amendment action, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209 or 301–415–4737 or by email to *pdr.resource@nrc.gov.*

Entergy Gulf States Louisiana, LLC, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station (RBS), Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: February 25, 2014. A publicly-available version is in ADAMS under Accession No. ML14064A349.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would change the RBS Cyber Security Plan (CSP) Implementation Schedule Milestone 8 full implementation date and revise the existing operating license physical protection license condition.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review 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 NRC staff has concluded that the proposed change (1) 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; (2) 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 (3) has no impact on the probability or consequences of an accident previously evaluated. In addition, the NRC staff has concluded that the proposed change to the CSP Implementation Schedule is administrative in nature.

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 NRC staff has concluded the proposed change (1) 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; and (2) 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. In addition, the NRC staff has concluded that the proposed change to the CSP Implementation Schedule is administrative in nature.

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 delay of the full implementation date for the CSP has no substantive impact because other measures have been taken which provide adequate protection for the plant during this period of time. Therefore, the NRC staff has concluded that there is no change to established safety margins as a result of this change. In addition, the NRC staff has concluded that the proposed change to the CSP Implementation Schedule is administrative in nature.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Council—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Douglas A. Broaddus.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station (GGNS), Unit 1, Claiborne County, Mississippi

Date of amendment request: December 19, 2013. A publicly-available version is in ADAMS under Accession No. ML14008A081.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would change the GGNS Cyber Security Plan (CSP) Implementation Schedule Milestone 8 full implementation date and revise the existing operating license physical protection license condition.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review 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 NRC staff has concluded that the proposed change (1) 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; (2) 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 (3) has no impact on the probability or consequences of an accident previously evaluated. In addition, the NRC staff has concluded that the proposed change to the CSP Implementation Schedule is administrative in nature.

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 NRC staff has concluded that the proposed change (1) 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; and (2) 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. In addition, the NRC staff has concluded that the proposed change to the CSP Implementation Schedule is administrative in nature.

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 delay of the full implementation date for the CSP has no substantive impact because other measures have been taken which provide adequate protection for the plant during this period of time. Therefore, the NRC staff has concluded that there is no change to established safety margins as a result of this change. In addition, the NRC staff has concluded that the proposed change to the CSP Implementation Schedule is administrative in nature.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Council—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, Louisiana 70113.

NRC Branch Chief: Douglas A. Broaddus.

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station (DNPS), Units 2 and 3, Grundy County, Illinois

Date of amendment request: December 19, 2013. A publicly-available version is in ADAMS under Accession No. ML13354C045.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendments would revise Technical Specifications (TS) 5.6.5, ''Core Operating Limits Report (COLR),'' to add an NRC approved topical report reference to the list of analytical methods that are used to determine the core operating limits for DNPS, Units 2 and 3. Specifically, the proposed change adds a reference to Westinghouse topical report WCAP–16865–P–A, ''Westinghouse BWR ECCS Evaluation Model Updates: Supplement 4 to Code Description. Qualification and Application, Revision 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, with NRC staff revisions provided in [brackets], 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.

TS Section 5.6.5 lists NRC approved analytical methods used at DNPS [Dresden Nuclear Power Station] and QCNPS [Quad Cities Nuclear Power Station] to determine core operating limits. The proposed change adds an NRC approved topical report reference to the list of analytical methods in TS Section 5.6.5.

The proposed change to TS Section 5.6.5 will add a Westinghouse methodology to determine the end of lower plenum flashing for analysis of a BWR LOCA [boiling-water reactor loss-of-coolant accident]. The proposed change will allow DNPS and QCNPS to use the most current Westinghouse methodology for determination of the APLHGR limits associated with TS 3.2.1, ''Average Planar Linear Heat Generation Rate (APLHGR).''

The addition of an approved analytical method in TS Section 5.6.5 has no effect on any accident initiator or precursor previously evaluated and does not change the manner in which the core is operated. The NRC approved method ensures that the analysis output accurately models the predicted core behavior, has no effect on the type or amount of radiation released, and has no effect on predicted offsite doses in the event of an accident. Additionally, the NRC approved method does not change any key core parameters that influence any accident consequences. Thus, the proposed change does not affect the probability of an accident previously evaluated.

The methodology conservatively establishes acceptable core operating limits such that the consequences of previously analyzed events are not increased.

The proposed change in the list of analytical methods does not affect the ability of DNPS and QCNPS to successfully respond to previously evaluated accidents and does not affect the radiological assumptions used in the evaluations. Thus, the radiological consequences of any accident previously evaluated are not increased.

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 TS Section 5.6.5 does not affect the performance of any DNPS and QCNPS structure, system or component credited for mitigating any accident previously evaluated. The NRC approved analytical methodology for evaluating the APLHGR limits will not affect the control parameters governing unit operation or the response of the plant equipment to transient conditions. The proposed change does not introduce any new accident precursors, modes of system operation, or failure mechanisms.

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.

The proposed change will add a reference to the list of analytical methods in TS Section 5.6.5 that can be used to determine core operating limits. The new methodology has been previously approved by the NRC and accurately establishes the appropriate APLHGR limits. The proposed change does not modify the safety limits or setpoints at which protective actions are initiated and does not change the requirements governing operation or availability of safety equipment assumed to operate to preserve the margin of safety. Therefore, the proposed change does not impact the level of protection currently provided.

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 requested amendments involve no significant hazards consideration.

Attorney for licensee: Bradley J. Fewell, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, Illinois 60555.

NRC Branch Chief: Travis L. Tate.

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station (QCNPS), Units 1 and 2, Rock Island County, Illinois

Date of amendment request: July 16, 2013. A publicly-available version is in ADAMS under Accession No. ML13199A037.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendments would revise technical specifications (TS) 4.3.1 to include the use of neutron absorbing spent fuel pool

rack inserts (i.e., NETCO–SNAP–IN® rack inserts) for the purpose of criticality control in the spent fuel pools (SFPs) at QCNPS, Units 1 and 2. This change is being requested due to degradation of the Boraflex neutron absorbing material currently being used in the QCNPS SFPs.

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 revises Technical Specification (TS) 4.3.1 to permit installation of NETCO–SNAP–IN® rack inserts in spent fuel pool storage rack cells. The change is necessary to ensure that, with continued Boraflex degradation over time, the effective neutron multiplication factor, k_{eff}, is less than or equal to 0.95, if the spent fuel pool is fully flooded with unborated water as required by 10 CFR 50.68, ''Criticality accident requirements.'' Because the proposed change pertains only to the spent fuel pool, only those accidents that are related to movement and storage of fuel assemblies in the spent fuel pool could potentially be affected by the proposed change.

The installation of NETCO–SNAP–IN® rack inserts does not result in a significant increase in the probability of an accident previously analyzed because there are no changes in the manner in which spent fuel is handled, moved, or stored in the rack cells. The probability that a fuel assembly would be dropped is unchanged by the installation of the rack inserts. These events involve failures of administrative controls, human performance, and equipment failures that are unaffected by the presence or absence of Boraflex and the rack inserts.

The installation of NETCO–SNAP–IN® rack inserts does not result in a significant increase in the consequences of an accident previously analyzed because there is no change to the fuel assemblies that provide the source term used in calculating the radiological consequences of a fuel handling accident. In addition, consistent with the current design, only one fuel assembly will be moved at a time. Thus, the consequences of dropping a fuel assembly onto any other fuel assembly or other structure remain bounded by the previously analyzed fuel handling accident. The proposed change does not affect the effectiveness of the other engineered design features, such as filtration systems, that limit the offsite dose consequences of a fuel handling accident.

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.

Onsite storage of spent fuel assemblies in the QCNPS, Units 1 and 2 spent fuel pools is a normal activity for which QCNPS has been designed and licensed. As part of assuring that this normal activity can be performed without endangering the public health and safety, the ability to safely accommodate different possible accidents in the spent fuel pool have been previously analyzed. These analyses address accidents such as radiological releases due to dropping a fuel assembly; and potential inadvertent criticality due to misloading a fuel assembly. The proposed spent fuel storage configuration utilizing the NETCO–SNAP–IN® rack inserts does not change the method of fuel movement or spent fuel storage and does not create the potential for a new accident. The proposed change also allows for the continued use of spent fuel pool storage rack cells with degraded Boraflex within those spent fuel pool storage rack cells; however, no credit is taken for the Boraflex.

The rack inserts are passive devices. These devices, when inside a spent fuel storage rack cell, perform the same function as the previously licensed Boraflex neutron absorber panels in that cell. The NETCO–SNAP–IN® rack inserts do not add any limiting structural loads or adversely affect the removal of decay heat from the assemblies. No change in total heat load in the spent fuel pool is being made. The insert devices will maintain their design function over the life of the spent fuel pool. The existing fuel handling accident, which assumes the drop of a fuel assembly and refueling mast, bounds the drop of a rack insert and/or rack insert installation tool. This proposed change does not create the possibility of misloading an assembly into a spent fuel storage rack cell.

Based on the above information, 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.

The NETCO–SNAP–IN® rack inserts are being installed to restore the spent fuel pool criticality margin, compensating for the degraded Boraflex neutron absorber. The NETCO–SNAP–IN® rack inserts, once approved and credited, will replace the existing Boraflex as the credited neutron absorber for controlling spent fuel pool reactivity, even though the Boraflex absorber will remain in place.

QCNPS TS 4.3, ''Fuel Storage,'' Specification 4.3.1.1.a requires the spent fuel storage racks to maintain the effective neutron multiplication factor, k_{eff}, less than or equal to 0.95 when fully flooded with unborated water, which includes an allowance for uncertainties. Therefore, for spent fuel pool criticality considerations, the required safety margin is 5 percent.

The proposed change ensures, as verified by the associated criticality analysis, that k_{eff} continues to be less than or equal to 0.95, thus preserving the required safety margin of 5 percent.

In addition, the radiological consequences of a dropped fuel assembly, considering the installed NETCO–SNAP–IN® rack inserts, remain unchanged as the anticipated fuel damage due to a fuel handling accident is unaffected by the addition of the inserts in the spent fuel pool storage cells. The proposed change also does not increase the capacity of the Unit 1 and Unit 2 spent fuel pools beyond the current capacity of 3,657 and 3,897 fuel assemblies respectively.

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 requested amendments involve no significant hazards consideration.

Attorney for licensee: Bradley J. Fewell, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, Illinois 60555.

NRC Branch Chief: Travis L. Tate.

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station (QCNPS), Units 1 and 2, Rock Island County, Illinois

Date of amendment request: December 19, 2013. A publicly-available version is in ADAMS under Accession No. ML13354C045.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendments would revise Technical Specifications (TS) 5.6.5, ''Core Operating Limits Report (COLR),'' to add an NRC approved topical report reference to the list of analytical methods that are used to determine the core operating limits for QCNPS, Units 1 and 2. Specifically, the proposed change adds a reference to Westinghouse topical report WCAP–16865–P–A, ''Westinghouse BWR ECCS [boiling-water reactor emergency core cooling system] Evaluation Model Updates: Supplement 4 to Code Description. Qualification and Application, Revision 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, with NRC staff revisions provided in [brackets], 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.

TS Section 5.6.5 lists NRC approved analytical methods used at DNPS [Dresden Nuclear Power Station] and QCNPS to determine core operating limits. The proposed change adds an NRC approved topical report reference to the list of analytical methods in TS Section 5.6.5.

The proposed change to TS Section 5.6.5 will add a Westinghouse methodology to determine the end of lower plenum flashing for analysis of a BWR LOCA [boiling-water reactor loss-of-coolant accident]. The proposed change will allow DNPS and QCNPS to use the most current Westinghouse methodology for determination of the APLHGR limits associated with TS 3.2.1, ''Average Planar Linear Heat Generation Rate (APLHGR).''

The addition of an approved analytical method in TS Section 5.6.5 has no effect on any accident initiator or precursor previously evaluated and does not change the manner in which the core is operated. The NRC approved method ensures that the analysis output accurately models the predicted core behavior, has no effect on the type or amount of radiation released, and has no effect on predicted offsite doses in the event of an accident. Additionally, the NRC approved method does not change any key core parameters that influence any accident consequences. Thus, the proposed change does not affect the probability of an accident previously evaluated.

The methodology conservatively establishes acceptable core operating limits such that the consequences of previously analyzed events are not increased.

The proposed change in the list of analytical methods does not affect the ability of DNPS and QCNPS to successfully respond to previously evaluated accidents and does not affect the radiological assumptions used in the evaluations. Thus, the radiological consequences of any accident previously evaluated are not increased.

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 TS Section 5.6.5 does not affect the performance of any DNPS and QCNPS structure, system or component credited for mitigating any accident previously evaluated. The NRC approved analytical methodology for evaluating the APLHGR limits will not affect the control parameters governing unit operation or the response of the plant equipment to transient conditions. The proposed change does not introduce any new accident precursors, modes of system operation, or failure mechanisms.

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.

The proposed change will add a reference to the list of analytical methods in TS Section 5.6.5 that can be used to determine core operating limits. The new methodology has been previously approved by the NRC and accurately establishes the appropriate APLHGR limits. The proposed change does not modify the safety limits or setpoints at which protective actions are initiated and does not change the requirements governing operation or availability of safety equipment assumed to operate to preserve the margin of safety. Therefore, the proposed change does not impact the level of protection currently provided.

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 requested amendments involve no significant hazards consideration.

Attorney for licensee: Bradley J. Fewell, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, Illinois 60555.

NRC Branch Chief: Travis L. Tate.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant (CNP), Units 1 and 2, Berrier County, Michigan

Date of amendment request: January 10, 2014. A publicly-available version is in ADAMS under Accession No. ML14015A142.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendments would revise the CNP, Units 1 and 2, Cyber Security Plan (CSP) Milestone 8 full implementation date as set forth in the CNP CSP Implementation Schedule. It would also revise the existing operating license physical protection license condition.

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 of occurrence or consequences of an accident previously evaluated?

Response: No.

The amendment proposes a change to the CNP Unit 1 and Unit 2 CSPs Milestone 8 full implementation date as set forth in the CNP CSP Implementation Schedule. The revision of the full implementation date for the CNP CSP does not involve modifications to any safety-related structures, systems or components (SSCs). Rather, the implementation schedule provides a timetable for fully implementing the CNP CSP. The CSP describes how the requirements of 10 CFR 73.54 are to be implemented to identify, evaluate, and mitigate cyber attacks up to and including the design basis cyber attack threat, thereby achieving high assurance that the facility's digital computer and communications systems and networks are adequately protected from cyber attacks. The revision of the CNP CSP Implementation Schedule will not alter previously evaluated design basis accident analysis assumptions, add any accident initiators, modify the function of the plant safety-related SSCs, or affect how any plant safetyrelated SSCs are operated, maintained, modified, tested, or inspected.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

A revision to the CSP Implementation Schedule does not require any plant modifications. The proposed revision to the CSP Implementation Schedule does not alter the plant configuration, require new plant equipment to be installed, 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. Revision of the CNP CSP Implementation Schedule does not introduce new equipment that could create a new or different kind of accident, and no new equipment failure modes are created. No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of this proposed amendment.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. The proposed amendment does not alter the way any safety-related SSC functions and does not alter the way the plant is operated. The CSP, as implemented by milestones 1–7, provides assurance that safety-related SSCs are protected from cyber attacks. The proposed amendment does not introduce any new uncertainties or change any existing uncertainties associated with any safety limit. The proposed amendment has no effect on the structural integrity of the fuel cladding, reactor coolant pressure boundary, or containment structure.

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: Robert B. Haemer, Senior Nuclear Counsel, One Cook Place, Bridgman, Michigan 49106.

NRC Branch Chief: Robert D. Carlson.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station (CNS), Nemaha County, Nebraska

Date of amendment request: March 14, 2014. A publicly-available version is in ADAMS under Accession No. ML14078A039.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise CNS Cyber Security Plan (CSP) Milestone 8 full implementation date as set forth in the CSP Implementation Schedule. It would also revise the existing operating license physical protection license condition.

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. The revision of the CNS CSP Implementation Schedule does not alter any previously evaluated design basis accident analysis assumptions, add any accident initiators, modify the function of plant safety-related structures, systems, or components (SSCs), or affect how any plant safety-related SSCs are operated, maintained, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of SSCs 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. Do the proposed changes 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. The revision of the CNS CSP Implementation Schedule does not introduce new equipment that could create a new or different kind of accident, and no new equipment failure modes are created. No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of this proposed amendment.

Therefore, the proposed change does 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 margin of safety is associated with the ability of the fission product barriers (i.e., fuel cladding, reactor coolant pressure boundary, and containment structure) to limit the level of radiation to the public. The proposed amendment does not alter the way any safety-related SSC functions and does not alter the way the plant is operated. The proposed amendment does not introduce any new uncertainties or change any existing uncertainties associated with any safety limit. The proposed amendment has no effect on the structural integrity of the fuel cladding, reactor coolant pressure boundary, or containment structure. Based on the above considerations, the proposed amendment will not degrade the ability of the fission product barriers to limit the level of radiation to the public.

Therefore, the proposed change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: John C. McClure, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68602–0499.

NRC Branch Chief: Michael T. Markley.

NextEra Energy Point Beach, LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant (PBNP), Units 1 and 2, Manitowac County, Wisconsin

Date of amendment request: June 26, 2013, as supplemented by letter dated September 16, 2013. Publicly-available versions are in ADAMS under Accession Nos. ML131820453 and ML13259A273, respectively.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendment would provide the NRC's approval for adoption of a new fire protection licensing basis which complies with the requirements in 10 CFR 50.48(a), (c), and the guidance in Regulatory Guide (RG) 1.205, Revision 1, ''Risk-Informed, Performance Based Fire Protection for Existing Light-Water Nuclear Power Plants'' (ADAMS Accession No. ML092730314). This amendment request also follows the guidance in Nuclear Energy Institute (NEI) 04–02, Revision 2, ''Guidance for Implementing a Risk-Informed, Performance-Based Fire Protection Program Under 10 CFR 50.48(c).'' Upon approval, the PBNP fire protection program will transition to a new Risk-Informed, Performance-Based (RI–PB) alternative in accordance with 10 CFR 50.48(c), which incorporates by reference National Fire Protection Association Standard 805 (NFPA 805). The NFPA 805 fire protection program will supersede the current fire protection program licensing basis in accordance with 10 CFR Part 50, Appendix R.

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, with NRC staff revisions provided in [brackets], 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.

Operation of PBNP [Point Beach Nuclear Plant] in accordance with the proposed amendment does not increase the probability or consequences of accidents previously evaluated. The PBNP Updated Final Safety Analysis Report (UFSAR) documents the analyses of design basis accidents (DBAs) and design basis events (DBEs) at PBNP. The proposed amendment does not adversely affect accident initiators nor alter design assumptions, conditions, or configuration of the facility and does not adversely affect the ability of structures, systems, or components (SSCs) to perform their design function. SSCs required to mitigate DBAs and DBEs and to safely shut down the reactor and to maintain it in a safe shutdown condition will remain capable of performing their design functions.

The purpose of the proposed amendment is to permit PPBNP to adopt a new fire protection licensing basis, which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of Regulatory Guide (RG) 1.205. As endorsed in NRC regulation 10 CFR 50.48(c) and RG 1.205, the NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify [fire] protection systems and features that are an acceptable alternative to the 10 CFR 50, Appendix R, fire protection features (69 FR 33536, June 16, 2004). Engineering analyses, in accordance with NFPA 805 and Revision 2 of NEI 04–02, have been performed to demonstrate that the risk-informed, performance-based (RI–PB) requirements of NFPA 805 have been met.

NFPA 805, taken as a whole, provides an acceptable alternative to 10 CFR 50.48(b), satisfies 10 CFR 50.48(a) and General Design Criterion (GDC) 3 of Appendix A to 10 CFR 50, meets the underlying intent of the NRC's existing fire protection regulations and guidance, achieves defense-in-depth (DID), and meets the goals, performance objectives, and performance criteria in Chapter 1 of the

standard. The small increase in the net CDF [core damage frequency] associated with this LAR submittal is consistent with the [intent of] the Commission's Safety Goal Policy. Additionally, 10 CFR 50.48(c) allows self-approval of fire protection changes post-transition. If there are any increases post-transition in CDF or risk, the increase will be small and consistent with the intent of the Commission's Safety Goal Policy.

Based on this, the implementation of this [proposed] amendment does not significantly increase the probability of any accident previously evaluated. Equipment required to mitigate DBAs or DBEs remain capable of performing their assumed function. Therefore, the consequences of any accident or event previously evaluated are not significantly increased with the implementation of this [proposed] amendment.

The probability of these accidents and events was not impacted by this proposed transition. The radiological consequences were evaluated as documented in Section 4.4, Radioactive Release Performance Criteria, and Attachment E, NEI 04–02 Radioactive Release Transition, which demonstrates that the radiological consequences of these accidents and events were not significantly increased.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Operation of PBNP in accordance with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Any scenario or previously analyzed design basis accidents or events with potential offsite radiological consequences were included in the evaluations documented in the UFSAR. The proposed change does not alter the requirements or functions for systems required during design basis accidents or events. Implementation of the proposed new fire protection licensing basis, which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of RG 1.205, will not result in new or different accidents.

The proposed amendment does not adversely affect accident initiators nor alter design assumptions, conditions, or configurations of the PBNP facility. The proposed amendment does not adversely affect the ability of SSCs to perform their design function. SSCs required to mitigate DBAs and DBEs and to safely shut down the reactor and maintain it in a safe shutdown condition remain capable of performing their design functions.

The purpose of the proposed amendment is to permit PBNP to adopt a new fire protection licensing basis, which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of Regulatory Guide (RG) 1.205. As endorsed in NRC regulation 10 CFR 50.48(c) and RG 1.205, the NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify [fire] protection systems and features that are an acceptable alternative to the 10 CFR 50, Appendix R, fire protection features (69 FR 33536, June 16, 2004). Engineering analyses, in accordance with NFPA 805 and Revision 2 of NEI 04–02, have been performed to demonstrate that the risk-informed, performance-based (RI–PB) requirements of NFPA 805 have been met.

The requirements in NFPA 805 address only fire protection and the impacts of fire on the plant that have already been evaluated. Based on this, the implementation of the proposed amendment does not create the possibility of a new or different kind of accident from any kind of accident previously evaluated. The proposed changes do not involve new failure mechanisms or malfunctions that can initiate a new accident.

Therefore, the possibility of a new or different kind of accident from any kind of accident previously evaluated is not created with the implementation of this proposed amendment.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

Operation of PBNP in accordance with the proposed amendment does not involve a significant reduction in the margin of safety. The proposed amendment does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The safety analyses acceptance criteria are not affected by this change. The proposed amendment does not adversely affect existing plant safety margins or the reliability of equipment assumed to mitigate DBAs or DBEs in the UFSAR. The proposed amendment does not adversely affect the ability of SSCs to perform their design function. SSCs required to safely shut down the reactor and to maintain it in a safe shutdown condition remain capable of performing their design function.

The purpose of this amendment is to permit PBNP to adopt a new fire protection licensing basis, which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of Regulatory Guide (RG) 1.205. As endorsed in NRC regulation 10 CFR 50.48(c) and RG 1.205, the NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify [fire] protection systems and features that are an acceptable alternative to the 10 CFR 50, Appendix R, fire protection features (69 FR 33536, June 16, 2004). Engineering analyses, in accordance with NFPA 805 and Revision 2 of NEI 04–02, have been performed, including probabilistic risk assessments and fire modeling calculations, to demonstrate that the performance-based methods do not result in a significant reduction in the margin of safety. NFPA 805 continues to protect public health and safety and the common defense and security because the overall approach of NFPA 805 is consistent with key principles for evaluating license basis changes, as described in RG 1.174, is consistent with the defense-in-depth philosophy, and maintains sufficient safety margins.

Based on this, the implementation of this proposed amendment does not significantly reduce the margin of safety. The proposed changes are evaluated to ensure that the risk and safety margins are kept within acceptable limits.

Therefore, the transition does 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: William Blair, Senior Attorney, NextEra Energy Point Beach, LLC., P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Branch Chief: Robert D. Carlson.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: April 29, 2014, as supplemented by letter dated May 27, 2014. Publicly-available versions are in ADAMS under Accession Nos. ML14133A413 and ML14149A318, respectively.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise the Cyber Security Plan (CSP) implementation schedule to change the completion date for Milestone 8. Milestone 8 pertains to the date that full implementation of the CSP for all safety, security, and emergency preparedness functions will be achieved. It would also revise the existing operating license physical protection license condition.

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 revises the CSP Milestone 8 implementation date. 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 is an extension to the completion date of implementation Milestone 8, that in itself 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 have 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 revises the CSP Implementation Schedule. This proposed change to extend the completion date of implementation Milestone 8 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. This change also 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 extends the CSP implementation schedule. Because there is no change to these established safety margins as 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: Ralph E. Rodgers, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Dr., 6A West Tower, Knoxville, Tennessee 37902.

NRC Branch Chief: Jessie F. Quichocho.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260, and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: April 29, 2014, as supplemented by letter dated May 27, 2014. Publicly-available versions are in ADAMS under Accession Nos. ML14133A472 and ML14149A316, respectively.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise the Cyber Security Plan (CSP) implementation schedule to change the completion date for Milestone 8. Milestone 8 pertains to the date that full implementation of the CSP for all safety, security, and emergency preparedness functions will be achieved. It would also revise the existing operating license physical protection license condition.

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 change revises the CSP Milestone 8 implementation date. 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 is an extension to the completion date of implementation Milestone 8, that in itself 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 have 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 amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change revises the CSP Implementation Schedule. This proposed change to extend the completion date of implementation Milestone 8 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. This change also 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 amendment 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 extends the CSP implementation schedule. Because there is no change to these established safety margins as 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: Ralph E. Rodgers, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Dr., 6A West Tower, Knoxville, Tennessee 37902.

NRC Acting Branch Chief: Lisa M. Regner.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: April 29, 2014, as supplemented by letter dated May 27, 2014. Publicly-available versions are available in ADAMS under Accession Nos. ML14133A415 and ML14149A317, respectively.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise the Cyber Security Plan (CSP) implementation schedule to change the completion date for Milestone 8. Milestone 8 pertains to the date that full implementation of the CSP for all safety, security, and emergency preparedness functions will be achieved. It would also revise the existing operating license physical protection license condition.

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 change revises the CSP Milestone 8 implementation date. 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 is an extension to the completion date of implementation Milestone 8, that in itself 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 have 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 amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change revises the CSP Implementation Schedule. This proposed change to extend the completion date of implementation Milestone 8 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. This change also 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 amendment 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 extends the CSP implementation schedule. Because there is no change to these established safety margins as 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: Ralph E. Rodgers, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Dr., 6A West Tower, Knoxville, Tennessee 37902.

NRC Acting Branch Chief: Lisa M. Regner.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Entergy Gulf States Louisiana, LLC, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrier County, Michigan

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

NextEra Energy Point Beach, LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Manitowac County, Wisconsin

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Tennessee Valley Authority, Docket Nos. 50–259, 50–260, and 50–296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline. This provision does not extend the time for filing a request for a hearing and petition to intervene, which must comply with the requirements of 10 CFR 2.309.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) officer if that officer has been designated to rule on information access issues.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 18th day of June, 2014.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/Activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

Day	Event/Activity
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2014–14880 Filed 7–7–14; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[NRC–2014–0159]

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 June 12, to June 25, 2014. The last biweekly notice was published on June 24, 2014.

DATES: Comments must be filed by August 7, 2014. A request for a hearing must be filed by September 8, 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–2014–0159. 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–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Sandra Figueroa, Office, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1262, email: *Sandra.Figueroa@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0159 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0159.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select *''ADAMS Public Documents''* and then select *''Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

• *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–2014–0159 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 in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter 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 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 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/getting-started.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 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, 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 obtaining information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Entergy Nuclear Operations, Inc., Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: February 4, 2014. A publicly available version is in ADAMS under Accession No. ML14050A383.

Description of amendment request: The amendment would revise Technical Specification 5.5.15, ''Containment Leakage Rate Testing Program,'' to extend the frequency of the Type A, or the Containment Integrated Leak Rate Test, from 10 to 15 years on a permanent basis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment involves changes to the IP3 [Indian Point Unit No. 3] containment leakage rate testing program. The proposed amendment does not involve a physical change to the plant or a change in the manner in which the plant is operated or controlled. The primary containment function is to provide an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. As such, the containment itself and the testing requirements to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident do not involve any accident precursors or initiators.

Therefore, the probability of occurrence of an accident previously evaluated is not significantly increased by the proposed amendment.

The proposed amendment adopts the NRC [Nuclear Regulatory Commission] accepted guidelines of [Nuclear Energy Institute] NEI 94–01, Revision 3–A, for development of the IP3 performance-based testing program for the Type A testing. Implementation of these guidelines continues to provide adequate assurance that during design basis accidents, the primary containment and its components would limit leakage rates to less than the

values assumed in the plant safety analyses. The potential consequences of extending the ILRT [integrated leak rate test] interval to 15 years have been evaluated by analyzing the resulting changes in risk. The increase in risk in terms of person-rem per year within 50 miles resulting from design basis accidents was estimated to be acceptably small and determined to be within the guidelines published in [Regulatory Guide] RG 1.174. Additionally, the proposed change maintains defense-in-depth by preserving a reasonable balance among prevention of core damage, prevention of containment failure, and consequence mitigation. Entergy has determined that the increase in conditional containment failure probability due to the proposed change would be very small.

Therefore, it is concluded that the proposed amendment does not significantly increase the consequences of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment adopts the NRC-accepted guidelines of NEI 94–01, Revision 3–A, for the development of the IP3 performance-based leakage testing program, and establishes a 15-year interval for the performance of the containment ILRT. The containment and the testing requirements to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident do not involve any accident precursors or initiators. The proposed change does not involve a physical change to the plant (i.e., no new or different type of equipment will be installed) or a change to the manner in which the plant is operated or controlled.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

The proposed amendment adopts the NRC-accepted guidelines of NEI 94–01, Revision 3–A, for the development of the IP3 performance-based leakage testing program, and establishes a 15-year interval for the performance of the containment ILRT. This amendment does not alter the manner in which safety limits, limiting safety system setpoints, or limiting conditions for operation are determined. The specific requirements and conditions of the containment leakage rate testing program, as defined in the TS [technical specifications], ensure that the degree of primary containment structural integrity and leak-tightness that is considered in the plant's safety analysis is maintained. The overall containment leakage rate limit specified by the TS is maintained, and the Type A, Type B, and Type C containment leakage tests would be performed at the frequencies established in accordance with the NRC-accepted guidelines of NEI 94–01, Revision 3–A.

Containment inspections performed in accordance with other plant programs serve to provide a high degree of assurance that the containment would not degrade in a manner that is not detectable by an ILRT. A risk assessment using the current IP3 PSA [probabilistic safety assessment] model concluded that extending the ILRT test interval from ten years to 15 years results in a very small change to the risk profile.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. 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 Nos. 50–247 and 50–286, Indian Point Nuclear Generating Unit Nos. 2 and 3, Westchester County, New York

Date of amendment request: April 1, 2014. A publicly-available version is in ADAMS under Accession No. ML14099A227.

Description of amendment request: The amendments would revise the technical specifications by implementing Technical Specification Task Force Traveler 510, Revision 2, ''Revision to Steam Generator Program Inspection Frequencies and Tube Sample Selection.''

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 change revises the Steam Generator (SG) Program to modify the frequency of verification of SG tube integrity and SG tube sample selection. A steam generator tube rupture (SGTR) event is one of the design basis accidents that are analyzed as part of a plant's licensing basis. The proposed SG tube inspection frequency and sample selection criteria will continue to ensure that the SG tubes are inspected such that the probability of a SGTR is not increased. The consequences of a SGTR are bounded by the conservative assumptions in the design basis accident analysis. The proposed change will not cause the consequences of a SGTR to exceed those assumptions. The proposed change to reporting requirements and clarifications of the existing requirements have no affect on the probability or consequences of a SGTR.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to the SG Program will not introduce any adverse changes to the plant design basis or postulated accidents resulting from potential tube degradation. The proposed changes do not affect the design of the SGs or their method of operation. In addition, the proposed changes do not impact any other plant system or component.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The SG tubes in pressurized water reactors are an integral part of the reactor coolant pressure boundary and, as such, are relied upon to maintain the primary system's pressure and inventory. As part of the reactor coolant pressure boundary, the SG tubes are unique in that they are also relied upon as a heat transfer surface between the primary and secondary systems such that residual heat can be removed from the primary system. In addition, the SG tubes also isolate the radioactive fission products in the primary coolant from the secondary system. In summary, the safety function of a SG is maintained by ensuring the integrity of its tubes.

Steam generator tube integrity is a function of the design, environment, and the physical condition of the tube. The proposed change does not affect tube design or operating environment. The proposed change will continue to require monitoring of the physical condition of the SG tubes such that there will not be a reduction in the margin of safety compared to the current requirements.

Changes associated with inspection frequency and tube selection criteria are consistent with TSTF–510 Revision 2 and are based on recent industry experience and are more effective in managing the frequency of verification of tube integrity and sample selection than those required by current TSs [technical specifications].

Therefore, the proposed change does not involve a significant reduction in any 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: Ms. 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. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: October 8, 2013. A publicly-available version is in ADAMS under Accession No. ML13282A559.

Description of amendment request: The proposed amendment would revise the Technical Specification (TS) requirements to reduce the reactor pressure associated with the Reactor Core Safety Limit from 785 psig to 685 psig in TS 2.1.1.1 and TS 2.1.1.2. The proposed amendment would address the potential to not meet the lower pressure TS safety limit associated with a Pressure Regulator Failure-Maximum Demand (Open) (PRFO) transient reported by General Electric (GE) in their 10 CFR Part 21 Communication, Potential to Exceed Low Pressure Technical Specification Safety Limit, SC05–03, dated March 29, 2005.

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.

Decreasing the reactor pressure in TS Safety Limit 2.1.1.1 or 2.1.1.2 for reactor rated thermal power ranges effectively expands the validity range for GEXL correlation and the calculation of Minimum Critical Power Ratio Safety Limit (MCPR). The [critical power ratio] CPR rises during the pressure reduction following the scram that terminates the PRFO transient. Since the change does not involve a modification of any plant hardware, the probability and consequence of the PRFO transient are essentially unchanged. The reduction in the reactor dome pressure value in the safety limit from 800 psia (785 psig) to 700 psia (685 psig) provides greater margin to accommodate the pressure reduction during the transient within the revised TS limit.

The proposed change will continue to support the validity range for GEXL correlation and the calculation of MCPR as approved. The proposed TS revision involves no significant changes to the operation of any systems or components in normal or accident or transient operating conditions.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed reduction in the reactor pressure value in the safety limit from 800 psia (785 psig) to 700 psia (685 psig) reflects a wider range of applicability for the GEXL correlation for fuels in use at JAF and does not involve changes to the plant hardware or its operating characteristics. As a result, no new failure modes are being introduced.

Therefore, the change does not introduce a new or different kind of accident from those previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The margin of safety is established through the design of the plant structures, systems, and components, and through the parameters for safe operation and setpoints for the actuation of equipment relied upon to respond to transients and design basis accidents. The proposed change in the reactor pressure safety limit enhances the safety margin, which protects the fuel cladding integrity during a depressurization transient, but does not change the requirements governing operation or availability of safety equipment assumed to operate to preserve the margin of safety. The change does not alter the behavior of plant equipment, which remains unchanged. The available pressure range is expanded by the change, thus offering greater margin for pressure reduction during the transient.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

Based on the above, Entergy concludes that the proposed amendment presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Jeanne Cho, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Benjamin G. Beasley.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: January 29, 2014. A publicly-available version is in ADAMS under Accession No. ML14029A438.

Description of amendment request: The amendment would revise the facility operating license and technical specifications to reflect adoption of a new fire protection licensing basis which complies with the requirements in 10 CFR 50.48(a), 10 CFR 50.48(c), and the guidance in NRC Regulatory Guide (RG) 1.205, Revision 1, ''Risk-Informed Performance-Based Fire Protection for Existing Light-Water Nuclear Power Plants,'' December 2009 (ADAMS Accession No. ML092730314). The license amendment request follows Nuclear Energy Institute (NEI) 04–02, Revision 2, ''Guidance for Implementing a Risk-Informed, Performance-Based Fire Protection Program under 10 CFR 50.48(c),'' April 2008. The submittal describes the methodology used to demonstrate compliance with, and transition to, National Fire Protection Association (NFPA) 805, and includes regulatory evaluations, probabilistic risk assessment, change evaluations, proposed modifications for non-compliances, and supporting attachments.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1: The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

Operation of Arkansas Nuclear One, Unit 1 (ANO–1) in accordance with the proposed amendment does not result in a significant increase in the probability or consequences of accidents previously evaluated. The proposed amendment does not affect accident initiators or precursors as described in the ANO–1 Safety Analysis Report (SAR), nor does it adversely alter design assumptions, conditions, or configurations of the facility, and it does not adversely impact the ability of structures, systems, or components (SSCs) to perform their intended function to mitigate the consequences of accidents described and evaluated in the SAR. The proposed changes do not physically alter safety-related systems nor affect the way in which safety-related systems perform their functions as required by the accident analysis. The SSCs required to safely shut down the reactor and to maintain it in a safe shutdown condition will remain capable of performing their design functions.

The purpose of this amendment is to permit ANO–1 to adopt a new risk-informed, performance-based fire protection licensing basis that complies with the requirements in 10 CFR 50.48(a) and 10 CFR 50.48(c), as well as the guidance contained in Regulatory Guide (RG) 1.205. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection requirements that are an acceptable

alternative to the 10 CFR Part 50, Appendix R, fire protection features (69 FR 33536; June 16, 2004).

The purpose of the fire protection program is to provide assurance, through defense-in-depth, that the NRC's fire protection objectives are satisfied. These objectives are: (1) preventing fires from starting; (2) rapidly detecting and controlling fires and promptly extinguishing those fires that do occur, thereby limiting fire damage; (3) providing an adequate level of fire protection for SSCs important to safety, so that a fire that is not promptly extinguished will not prevent essential plant safety functions from being performed; and (4) ensuring that fires will not significantly increase the risk of radioactive releases to the environment. In addition, fire protection systems must be designed such that their failure or inadvertent operation does not adversely impact the ability of the SSCs important to safety to perform their safety-related functions.

NFPA 805, taken as a whole, provides an acceptable alternative for satisfying General Design Criterion 3 (GDC 3) of Appendix A to 10 CFR Part 50, meets the underlying intent of the NRC's existing fire protection regulations and guidance, and achieves defense-in-depth along with the goals, performance objectives, and performance criteria specified in NFPA 805, Chapter 1. In addition, if there are any increases in core damage frequency (CDF) or risk as a result of the transition to NFPA 805, the increase will be small, bounded by the delta risk requirements of NFPA 805, and consistent with the intent of the Commission's Safety Goal Policy.

Engineering analyses, which may include engineering evaluations, probabilistic risk assessments, and fire modeling calculations, have been performed to demonstrate that the performance-based requirements of NFPA 805 have been met. The SAR documents the analyses of design basis accidents (DBAs) at ANO–1. All accident analysis acceptance criteria will continue to be met with the proposed amendment. The proposed changes will not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of any accident previously evaluated. The proposed changes will not alter any assumptions or change any mitigation actions for the radiological consequence evaluations in the ANO–1 SAR. In addition, the applicable radiological dose acceptance criteria will continue to be met.

Based on the above, the implementation of this amendment to transition the Fire Protection Plan (FPP) at ANO–1 to one based on NFPA 805, in accordance with 10 CFR 50.48(c), does not result in a significant increase in the probability of any accident previously evaluated. In addition, all equipment required to mitigate an accident remains capable of performing the assumed function. Therefore, the consequences of any accident previously evaluated are not significantly increased with the implementation of this amendment.

Criterion 2: The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from Any Accident Previously Evaluated

Operation of ANO–1 in accordance with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Previously analyzed accidents with potential offsite dose consequences were included in the evaluation of the transition to NFPA 805. The proposed amendment does not impact these accident analyses. The proposed change does not alter the requirements or functions for systems required during accident conditions as assumed in the licensing basis analyses and/or DBA radiological consequences evaluations.

Implementation of the new risk-informed, performance-based fire protection licensing basis, which complies with the requirements in 10 CFR 50.48(a) and 10 CFR 50.48(c), as well as the guidance contained in RG 1.205, will not result in new or different kinds of accidents. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection systems and features that are an acceptable alternative to the 10 CFR 50, Appendix R fire protection features (69 FR 33536, June 16, 2004). No new modes of operation are introduced by the proposed amendment, nor will it create any failure mode not bounded by previously evaluated accidents. Further, the impacts of the proposed change are not directly assumed in any safety analysis to initiate an accident sequence.

The requirements in NFPA 805 address only fire protection and the impacts of fire effects on the plant have been evaluated. The proposed fire protection program changes do not involve new failure mechanisms or malfunctions that could initiate a new or different kind of accident beyond those already analyzed in the SAR. Based on this, as well as the discussion above, the implementation of this amendment to transition the FPP at ANO–1 to one based on NFPA 805, in accordance with 10 CFR 50.48(c), does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3: The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety

Operation of ANO–1 in accordance with the proposed amendment does not involve a significant reduction in a margin of safety. The transition to a new risk-informed, performance-based fire protection licensing basis that complies with the requirements in 10 CFR 50.48(a) and 10 CFR 50.48(c) does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed amendment does not adversely affect existing plant safety margins or the reliability of equipment assumed in the SAR to mitigate accidents. The proposed change does not adversely impact systems that respond to safely shut down the plant and maintain the plant in a safe shutdown condition. In addition, the proposed amendment will not result in plant operation in a configuration outside the design basis for an unacceptable period of time without implementation of appropriate compensatory measures.

The risk evaluations for plant changes, in part as they relate to the potential for reducing a safety margin, were measured quantitatively for acceptability using the delta risk (i.e., ΔCDF and ΔLERF [large early release frequency]) criteria from Section 5.3.5, ''Acceptance Criteria,'' of NEI 04–02, as well as the guidance contained in RG 1.205. Engineering analyses, which may include engineering evaluations, probabilistic safety assessments, and fire modeling calculations, have been performed to demonstrate that the performance-based methods of NFPA 805 do not result in a significant reduction in the margin of safety. As such, the proposed changes are evaluated to ensure that risk and safety margins are kept within acceptable limits. Based on the above, the implementation of this amendment to transition the FPP at ANO–1 to one based on NFPA 805, in accordance with 10 CFR 50.48(c), will not significantly reduce a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Joseph A. Aluise, Associate General Council—Nuclear, Entergy Services, Inc., 639 Loyola Avenue, New Orleans, LA 70113.

NRC Branch Chief: Michael T. Markley.

Exelon Generation Company, LLC, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: April 30, 2014. A publicly-available version is in ADAMS under Accession No. ML14127A435.

Description of amendment request: The proposed amendment would revise Oyster Creek Nuclear Generating Station (OCNGS) Technical Specification (TS) 4.5 M., ''Shock Suppressors (Snubbers),'' to conform the TS to the revised OCNGS Snubber Inspection Program.

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 changes would revise TS 4.5.M to conform the TS to the revised Snubber Inspection Program. Snubber examination, testing and service life

monitoring will continue to meet the requirements of 10 CFR 50.55a(g). Snubber examination, testing and service life monitoring is not an initiator of any accident previously evaluated.

Therefore, the probability of an accident previously evaluated is not significantly increased.

Snubbers will continue to be demonstrated OPERABLE by performance of a program for examination, testing and service life monitoring in compliance with 10 CFR 50.55a or authorized alternatives. The proposed changes do not adversely affect plant operations, design functions or analyses that verify the capability of systems, structures, and components to perform their design functions.

Therefore, the consequences of accidents previously evaluated are not significantly increased.

Based on the above, these proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the amendment change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve any physical alteration of plant equipment. The proposed changes do not alter the method by which any safety-related system performs its function. As such, no new or different types of equipment will be installed, and the basic operation of installed equipment is unchanged. The methods governing plant operation and testing remain consistent with current safety analysis assumptions.

Therefore, it is concluded that these proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes ensure snubber examination, testing and service life monitoring will continue to meet the requirements of 10 CFR 50.55a(g). Snubbers will continue to be demonstrated OPERABLE by performance of a program for examination, testing and service life monitoring in compliance with 10 CFR 50.55a or authorized alternatives.

Therefore, it is concluded that 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, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, VP & Deputy General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Meena Khanna.

Indiana Michigan Power Company (IandM), Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment request: April 9, 2014. A publicly-available version is in ADAMS under Accession No. ML14101A367.

Description of amendment request: The proposed amendment would revise the Donald C. Cook Nuclear Plant, Units 1 and 2, technical specification (TS) 3.4.2, ''[Reactor Coolant System (RCS)] Pressure and Temperature (P/T) Limits,'' to address an issue regarding the applicability of TS Figures 3.4.3–1 ''Reactor Coolant System Pressure versus Temperature Limits—Heatup Limit, Criticality Limit, and Leak Test Limit (Applicable for service period up to 32 [Effective Full Power Years (EPFY)]'' and 3.4.3–2 ''Reactor Coolant System Pressure versus Temperature Limits—Various Cooldown Rates Limits (Applicable for service period up to 32 EFPY)'' during vacuum fill operations of the RCS.

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 TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. There are no physical changes to the plant being introduced by the proposed changes to the heatup and cooldown limitation curves. The proposed changes do not modify the RCS pressure boundary. That is, there are no changes in operating pressure, materials, or seismic loading. The proposed changes do not adversely affect the integrity of the RCS pressure boundary such that its function in the control of radiological consequences is affected.

Therefore, it is concluded that the proposed amendment does not involve a significant increase in the probability or the 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 TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. No new modes of operation are introduced by the proposed changes. The proposed changes will not create any failure mode not bounded by previously evaluated accidents. Further, the proposed changes to the heatup and cooldown limitation curves do not affect any activities or equipment other than the RCS pressure boundary and do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Consequently, the proposed changes do not create the possibility of a new or different kind of accident, from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed TS changes do not involve a significant reduction in the margin of safety. The revised heatup and cooldown limitation curves and low-temperature overpressure protection limits are established in accordance with current regulations and the [American Society of Mechanical Engineers Boiler and Pressure Vessel (ASME B&PV)] Code 1995 edition with 1996 Addenda. These proposed changes are acceptable because the ASME B&PV Code maintains the margin of safety required by [Title 10 of the *Code of Federal Regulations* (10 CFR)] 50.55(a). Because operation will be within these limits, the RCS materials will continue to behave in a non-brittle manner consistent with the original design bases.

Therefore, the proposed amendment does not involve a significant reduction in 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: Robert B. Haemer, Senior Nuclear Counsel, One Cook Place, Bridgman, MI 49106.

NRC Branch Chief: Robert D. Carlson.

Northern States Power Company—Minnesota (NSPM), Docket No. 50–263, Monticello Nuclear Generating Plant (MNGP), Wright County, Minnesota

Date of amendment request: October 4, 2013, as supplemented by letter dated April 29, 2014. Publicly-available versions are in ADAMS under Accession Nos. ML13281A826 and ML14122A044, respectively.

Description of amendment request: Following completion of an on-site staffing analysis of the Emergency Response Organization, NSPM determined that the Radwaste Operator is no longer required to augment plant staff for performing repairs and corrective actions as prescribed in the MNGP Emergency Plan. The amendment proposes to remove the Radwaste Operator position as a 60-minute responder credited within the MNGP Emergency Plan.

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 provided 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 Emergency Plan does not impact the function of plant structures, systems, or components (SSCs). The proposed change does not affect accident initiators or precursors, nor does it alter design assumptions. The proposed change does not alter or prevent the ability of the Emergency Response Organization to perform their intended functions to mitigate the consequences of an accident or event. This proposed change only removes a no longer credited position from the Emergency Plan.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not impact the accident analysis. The change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed), a change in the method of plant operation, or new operator actions. The proposed change does not introduce failure modes that could result in a new accident, and the change does not alter assumptions made in the safety analysis. This proposed change only removes a no longer credited position from the Emergency Plan. The proposed change, therefore, does not alter or prevent the ability of the Emergency Response Organization to perform their intended functions to mitigate the consequences of an accident or event.

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.

Margin of safety is associated with confidence in the ability of the fission product barriers (i.e., fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public. The proposed change is associated with the Emergency Plan staffing and does not impact operation of the plant or its response to transients or accidents. The change does not affect the Technical Specifications. The proposed change does not involve a change in the method of plant operation, and no accident analyses will be affected by the proposed change. Safety analysis acceptance criteria are not affected by this proposed change. The revised Emergency Plan will continue to provide the necessary response staff with the proposed change.

Therefore, the proposed change does 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: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: Robert D. Carlson.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: February 10, 2014, as supplemented by letter dated June 9, 2014. Publicly-available versions are in ADAMS under Accession Nos. ML14041A408 and ML14163A417, respectively.

Description of amendment request: The proposed amendment would revise the Technical Specification (TS) surveillance frequency for the pressurizer safety valves from a refueling frequency (i.e., 18 months +25 percent) to be consistent with the Inservice Testing Program. In addition, the proposed amendment would administratively change the format of the footnotes in TS Table 3–5, ''Minimum Frequencies for Equipment Tests.''

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 requested change revises the performance interval of one TS surveillance requirement to be consistent with the Inservice Testing Program as stated in 10 CFR 50.55a(g)(5). The performance of the surveillance, or the failure to perform the surveillance, is not a precursor to an accident. Performing the surveillance or failing to perform the surveillance does not affect the probability of an accident. Even with the requested extension, the period during which the plant is in Modes 1 or 2 and the valves are required to be operable will be no longer than a typical operating cycle. Also, the proposed interval between tests will be consistent with the interval for this type of valve specified by the American Society of Mechanical Engineers (ASME) Code for Operation and Maintenance of Nuclear Power Plants (OM Code), 1998 Edition, through 2000 Addenda, Appendix I, frequency requirements for testing of pressure relief valves.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not alter the physical design, safety limits, or safety analysis assumptions associated with the operation of the plant. Hence, the proposed change does not introduce any new accident initiators, nor does it reduce or adversely affect the capabilities of any plant structure or system in the performance of their safety function.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises the performance interval for one surveillance requirement to be consistent with the test interval for this type of valve specified by the ASME OM Code, 1998 Edition, through 2000 Addenda as required by 10 CFR 50.55a. This change does not alter any safety margins.

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: David A. Repka, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: Michael T. Markley.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: March 31, 2014. A publicly-available version is in ADAMS under Accession No. ML14090A417.

Description of amendment request: The proposed amendment would change Technical Specification 2.5, Auxiliary Feedwater (AFW) system to allow a 7-day completion time for the turbine-driven AFW pump if the inoperability occurs following a refueling outage and if MODE 2 had not been entered.

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 changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to Technical Specification (TS) 2.5 would allow a seven day Completion Time for the turbine-driven Auxiliary Feedwater (AFW) pump if the inoperability occurs following a refueling outage, and if MODE 2 had not been entered. The note currently in TS 2.5 Applicability addresses the issue of allowing additional time to perform necessary testing to prove the operability of the turbine driven AFW pump following refueling as approved by the NRC in TS Amendment 127. This note does not specifically state that it is only allowed following refueling and does not restrict the time the plant can be in this condition. The proposed change will be more restrictive than the current TS since it will specifically state when it is allowed (following refueling) and for how long it is allowed.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because: 1) the proposed amendment does not represent a change to the system design, 2) the proposed amendment does not prevent the safety function of the AFW system from being performed, since the other fully redundant essential train is required to be operable, 3) the proposed amendment does not alter, degrade, or prevent action described or assumed in any accident Updated Safety Analysis Report (USAR) from being performed since the other train of AFW is required to be operable, 4) the proposed amendment does not alter any assumptions previously made in evaluating radiological consequences, and 5) the proposed amendment does not affect the integrity of any fission product barrier. No other safety related equipment is affected by the proposed change.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not alter the physical design, safety limits, or safety analysis assumptions associated with the operation of the plant. Hence, the proposed change does not introduce any new accident initiators, nor does it reduce or adversely affect the capabilities of any plant structure or system in the performance of their safety function.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not involve a significant reduction in a margin of safety. The proposed change to TS 2.5 would restrict for the turbine-driven AFW pump inoperability to a seven day Completion Time if the inoperability occurs following a refueling outage and prior to MODE 2 being entered. The current Note in TS 2.5 Applicability does not require the turbine driven AFW pump to be operable until prior to entering MODE 2; therefore, the proposed change is more restrictive than current TS.

The proposed change does not involve a significant reduction in a margin of safety because: (1) during a return to power operations following a refueling outage, decay heat is at its lowest levels, (2) the other AFW train is required to be operable, and (3) the motor-driven AFW train can provide sufficient flow to remove decay heat and cool the unit to shutdown cooling system entry conditions from power operations. This change does not alter any safety margins.

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: David A. Repka, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: Michael T. Markley.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: April 25, 2014. A publicly-available version is in ADAMS under Accession No. ML14118A435.

Description of amendment request: The proposed amendment would revise Section 5.11, ''Structures Other Than Containment,'' and Appendix F, ''Classification of Structures and Equipment and Seismic Criteria,'' of the Fort Calhoun Station, Unit No. 1, Updated Safety Analysis Report. The changes would clarify the licensing and design basis to permit the use of seismic floor response spectra in analysis and design of seismic Class I structures and structural elements attached to structures.

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.

[T]his change to the Updated Safety Analysis Report (USAR) has no effect on the consequences of any accident, as it makes no physical changes to the plant. Since the Alternate Seismic Criteria and Methodologies (ASCM) floor response spectra (FRS) represent a refined version of the plant's original design basis, the design margins for any application utilizing the FRS will be maintained with respect to the design basis earthquake. Thus, the proposed amendment does not result in 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.

[T]he change to the USAR does not change any accident analyses, does not make any physical changes to the plant, and does not change the way the plant is operated. The only change is to permit the utilization of the ASCM curves in the design and evaluation of structural applications. The curves themselves are based on the same earthquake as the plant's original design. Thus, the proposed amendment 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.

[T]he ASCM FRS is based on the same earthquake as the plant's original design basis. The ASCM FRS are refined curves of the same design basis and thus, the design margins of any application or evaluation utilizing the ASCM FRS will be maintained with respect to the design basis earthquake. Thus, the proposed 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 A. Repka, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: Michael T. Markley.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: May 16, 2014. A publicly-available version is in ADAMS under Accession No. ML14143A370.

Description of amendment request: The proposed amendment would revise the Updated Safety Analysis Report (USAR) to allow pipe stress analysis of non-reactor coolant system safety-related piping to be performed in accordance with the American Society

of Mechanical Engineers (ASME) Boiler and Pressure Vessel (BPV) Code, Section III, 1980 Edition as an alternative to current Code of record.

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 change to the current licensing basis (CLB) allows the use of American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel (BPV) Code, Section III, 1980 Edition (no Addenda) as an alternative to the original Code of Record (i.e., United States of America Standards (USAS) B31.7 1968 (DRAFT) Edition) for the design and analysis of non-reactor coolant system (RCS) piping. The American National Standards Institute (ANSI) B31 Code Committee has determined that:

''. . . piping that has been designed and constructed in accordance with Section III of the ASME Boiler and Pressure Vessel Code including addenda and applicable cases may be accepted as complying with the requirements of B31.7, 1969 and applicable addenda for the respective class of construction.''

Although the ANSI B31 Code Committee statement refers to the B31.7, 1969 Edition, there are no significant differences between it and the B31.7 1968 (DRAFT) Edition. The change involves the substitution of one accepted piping Code for another and not a physical plant change. The Updated Safety Analysis Report (USAR) accident analysis assumes the proper functioning of safety systems in demonstrating the adequacy of the plant's design. This change does not alter the intended function of any plant equipment nor does it degrade or increase challenges to the performance of safety systems assumed to function in the accident analysis.

The use of ASME BPV Code, Section III, 1980 Edition (no Addenda) analytical methods provides acceptable design results with no reduction in radiological barrier safety margin. Hence, there is no change in radiological barrier performance that would increase the dose to personnel onsite (10 CFR 20) or to the public at the site boundary (10 CFR 100).

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated in the USAR.

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 amendment provides the basis for the use of ASME BPV Code, Section III, 1980 Edition (no Addenda) for stress analysis of non-RCS safety-related piping. This approach will not introduce any methods or analytical techniques that could create the possibility of a new or different kind of accident. Application of a Code methodology does not create the possibility of a different kind of accident.

The application of the ASME BPV Code, Section III, 1980 Edition (no Addenda) does not create any new unanalyzed interactions between systems or components. Piping systems will be analyzed in accordance with the Code, which is one part of the framework to establish the necessary design, fabrication, construction, testing, and performance requirements for structures, systems, and components important to safety. The proposed change to the CLB does not create a new failure mechanism or new accident initiator. The proposed amendment does not involve a change in methods governing the operation of plant systems or components.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated in the USAR.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The Fort Calhoun Station Technical Specifications (TS) ensure that the plant operates in a manner that will ensure acceptable levels of protection for the health and safety of the public. The Technical Specifications ensure that the available equipment and initial conditions for a Design Basis Accident (DBA) as defined in the USAR meet the assumptions in the accident analysis contained in the USAR. The plant safety margins are addressed in the Technical Specification Bases and the USAR.

This proposed amendment revises the CLB to allow the use of ASME BPV Code, Section III, 1980 Edition (no Addenda) for stress analysis of non-RCS safety-related piping. No changes are being made to the physical plant. The use of the ASME BPV Code, Section III, 1980 Edition (no Addenda) does not change, revise, or otherwise affect the current Technical Specifications (TS) or TS Bases. Incorporation of the ASME BPV Code, Section III, 1980 Edition (no Addenda) into the FCS CLB will not affect the current plant design parameters or TS Limiting Conditions for Operation (LCO).

The proposed change does not modify, change, revise, or otherwise affect any current calculations concerning the plant accident analysis or supporting basis for which the TSs, TS Bases, or USAR safety margins were established. Therefore, the proposed 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 A. Repka, Esq., Winston & Strawn, 1700 K Street, NW., Washington, DC 20006–3817.

NRC Branch Chief: Michael T. Markley.

ZionSolutions LLC, Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station (ZNPS), Units 1 and 2, Lake County, Illinois

Date of amendment request: March 17, 2014. A publicly-available version is in ADAMS under Accession No. ML14078A049.

Description of amendment request: The proposed amendments would amend licenses DPR–39 and DPR–48 and revise the Zion Technical Specifications (TS) to reflect the removal of all the spent fuel from the Zion spent fuel pool. The proposed changes to both Facility Operating Licenses modify Section 2.C.(6) to specify the ZNPS Independent Spent Fuel Storage Installation Physical Security Plan (ISFSI), eliminate Section 2.C.(7) Spent Fuel Pool Modification, and eliminate Section 2.C.(16), related to the single-failure proof fuel building crane. The proposed changes to the TS eliminate provisions of the specifications applicable to spent fuel stored in the spent fuel pool and relocate the remaining TS administrative requirements to the Quality Assurance Project Plan. These changes are proposed pursuant to the criteria contained in 10 CFR 50.36 and in accordance with the recommendations contained in the U.S. Nuclear Regulatory Commission's (NRC) Administrative Letter 95–06. The proposed changes will result in a TS that will be applicable to the ZNPS once the last spent fuel assembly has been removed from the spent fuel pool and placed at the ISFSI.

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 change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes (deletion of operational requirements and certain design requirements) reflect the complete transfer of the spent fuel from the spent fuel pool to the ISFSI. Design basis accidents related to the spent fuel pool are discussed in the ZNPS Defueled Safety Analysis Report (DSAR) Chapter 5. These postulated accidents are predicated on spent fuel being stored in the spent fuel pool. With the removal of the spent fuel from the spent fuel pool, there are no remaining spent fuel assemblies to be monitored and there are no credible accidents that require the actions of a Certified Fuel Handler, Shift Supervisor, or a Non-certified Operator to prevent occurrence or mitigate the consequences of an accident.

In addition, the ZNPS DSAR Chapter 5 also provides analyses of accidents as result of

decommissioning with the bounding consequences resulting from the failure of a High Integrity Container (HIC) containing dewatered radioactive demineralizer resin.

The proposed changes do not have an adverse impact on the remaining decommissioning activities or any decommissioning related postulated accident consequences.

The proposed changes related to the relocation of certain administrative requirements do not affect operating procedures or administrative controls that have the function of preventing or mitigating any remaining decommissioning design basis accidents. In addition, these proposed changes are consistent with the guidance of the NRC's Administrative Letter 95–06.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

(2) Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes eliminate the operational requirements and certain design requirements associated with the storage of the spent fuel in the spent fuel pool, and relocate certain administrative controls to the Quality Assurance Program Plan.

With the complete removal of the spent fuel from the spent fuel pool and transfer to the ISFSI, there are no spent fuel assemblies that remain at the plant and the potential for fuel related accidents is removed. The proposed changes do not introduce any new failure modes. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Does the change involve a significant reduction in a margin of safety?

The design basis and accident assumptions within the ZNPS DSAR and the TS relating to spent fuel are no longer applicable. The proposed changes do not affect remaining plant operations, systems, or components supporting decommissioning activities. In addition, the proposed changes do not result in a change in initial conditions, system response time, or in any other parameter affecting the course of the remaining decommissioning activity accident analysis. 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, 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: Russ Workman, Deputy General Counsel, EnergySolutions, 423 West 300 South, Suite 200, Salt Lake City, UT 84101.

NRC Branch Chief: Bruce Watson.

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.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3, Maricopa County, Arizona

Date of application for amendment: December 26, 2012, as supplemented by letter dated August 26, 2013.

Brief description of amendment: The amendments adopt Technical Specifications Task Force (TSTF) change traveler TSTF–500, Revision 2, ''DC Electrical Rewrite—Update to TSTF–360.'' The amendments revised TS requirements related to direct current (DC) electrical systems in TS limiting condition for operation (LCO) 3.8.4, ''DC Sources—Operating,'' LCO 3.8.5, ''DC Sources—Shutdown,'' and LCO 3.8.6, ''Battery Parameters.'' A new ''Battery Monitoring and Maintenance Program'' was added to Section 5.5, ''Programs and Manuals.''

Date of issuance: June 25, 2014.

Effective date: As of the date of issuance and shall be implemented within 180 days from the date of issuance.

Amendment No.: Unit 1—193; Unit 2—193; Unit 3—193. A publicly-available version is in ADAMS under Accession No. ML14115A045; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendments revised the Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register:*** March 4, 2013 (78 FR 14129). The supplement dated August 26, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 25, 2014.

No significant hazards consideration comments received: No.

Dominion Energy Kewaunee, Inc. (DEK), Docket No. 50–305, Kewaunee Power Station (KPS), Kewaunee County, Wisconsin

Date of application for amendment request: April 16, 2013, as supplemented by letters dated September 5, 2013, October 14, 2013, and March 19, 2014.

Brief description of amendment: The amendment revised the Renewed Facility Operating License by deleting a license condition associated with license renewal and adding a license condition related to spent fuel pool storage rack boron absorber surveillance.

Date of issuance: June 23, 2014.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 213. A publicly-available version is in ADAMS under Accession No. ML14008A297; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–43: Amendment revised the Renewed Facility Operating License.

Date of initial notice in ***Federal Register:*** August 20, 2013 (78 FR 51223). The supplemental letters dated September 5, 2013, October 14, 2013, and March 19, 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 original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 23, 2014.

No significant hazards consideration comments received: No.

Dominion Energy Kewaunee, Inc. (DEK), Docket No. 50–305, Kewaunee Power Station (KPS), Kewaunee County, Wisconsin

Date of application for amendment request: May 29, 2013, as supplemented by letters dated September 23, October 15, October 17, October 31, and November 7, 2013, and letters dated January 7, 2014, and March 13, 2014.

Brief description of amendment: The amendment revised the Renewed Facility Operating License Technical Specifications (TSs) to permit fuel handling activities consistent with the permanently shutdown and defueled condition of the facility. Specifically, in its March 13, 2014, supplemental letter DEK stated that it had accelerated the schedule to transfer spent fuel from the spent fuel pool to the independent spent fuel storage installation (ISFSI). Under its new schedule, DEK plans to begin activities to support spent fuel transfer to the ISFSI by July 1, 2014. Based on its new schedule, DEK requested expedited review and partial approval of the deletion of certain TSs currently required for movement of irradiated fuel assemblies. If not amended, the affected TSs would require restoring operability of certain equipment during spent fuel handling activities that are no longer needed for accident mitigation.

The NRC staff has issued a partial approval of the original May 29, 2013, amendment request as supplemented, to permit fuel handling activities in accordance with DEK's request in its March 13, 2014, submittal. The staff continues to review the remaining license condition and technical specification changes requested in DEK's May 29, 2013, submittal as supplemented, that were not addressed in this amendment.

Date of issuance: June 9, 2014.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 212. A publicly-available version is in ADAMS under Accession No. ML14111A234; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–43: Amendment revised the Renewed Facility Operating License.

Date of initial notice in ***Federal Register:*** August 20, 2013 (78 FR 51224). The supplemental letters dated September 23, October 15, October 17, October 31, and November 7, 2013, January 7, 2014, and March 13, 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 original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 9, 2014.

No significant hazards consideration comments received: No.

Entergy Gulf States Louisiana, LLC, and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: February 7, 2013, as supplemented by letter dated January 16, 2014.

Brief description of amendment: The amendment revised the River Bend Station, Unit 1 (RBS) Technical Specification (TS) 3.8.4, ''DC [Direct Current] Sources—Operating,'' Surveillance Requirements 3.8.4.2 and 3.8.4.5. The change is the result of the licensee's determination that the total battery capacity would possibly be insufficient to supply the required load to the DC system if each of the battery-to-battery connections were to reach the individual resistance limits. The changes to the Surveillance Requirements added new acceptance criteria to address the possible non-conservative conditions when the battery connection resistances are at maximum TS values.

Date of issuance: June 18, 2014.

Effective date: As of the date of issuance and shall be implemented 60 days from the date of issuance.

Amendment No.: 181. A publicly-available version is in ADAMS under Accession No. ML14136A008; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–47: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** April 30, 2013 (78 FR 25312). The supplemental letter dated January 16, 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 original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 18, 2014.

No significant hazards consideration comments received: No.

Florida Power & Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Generating Unit Nos. 3 and 4, Miami-Dade County, Florida

Date of application for amendment: September 14, 2012, as supplemented by letters dated January 29, February 14, May 30, and October 22, 2013, and March 11, 2014.

Brief description of amendment: The amendments revised the operating licenses and Technical Specifications (TSs) to remove completed and satisfied license conditions, revised TS 5.5.1 to remove related conditions, corrected inadvertent errors, updated references to the Physical Security Plan, and made editorial changes to the operating licenses and TSs.

Date of issuance: June 13, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 260 and 255. A publicly-available version is in ADAMS under Accession No. ML13329A092; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the licenses and the TSs.

Date of initial notice in ***Federal Register:*** January 8, 2013 (78 FR 1271), and April 16, 2013 78 FR 22569). The submittal dated January 29, 2013, expanded the scope of the application dated September 14, 2012, and the application was renoticed April 16, 2013. The supplements dated February 14, May 30, and October 22, 2013, and March 11, 2014, provided additional information that clarified the application, did not expand the scope of the submittal dated January 29, 2013, as noticed, and did not change the staff's proposed no significant hazards consideration determinations published on January 8, 2013, and April 16, 2013. The supplement dated March 11, 2014, limited the scope of the supplement dated January 29, 2013, by deleting the

proposed change to TS Figure 3.1–2, ''Boric Acid Tank Minimum Volume.''

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 13, 2014.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of application for amendment: September 28, 2011, as supplemented by letters dated December 19 and December 22, 2011; March 20, July 24, August 24, and September 27, 2012; April 23, May 21, July 29, September 12, October 11, November 4, November 11, and December 18, 2013; and January 24, February 28, April 10, and June 11, 2014.

Brief description of amendment: The amendment transitions the Fort Calhoun Station fire protection program to a risk-informed, performance-based program based on National Fire Protection Association (NFPA) 805, in accordance with 10 CFR 50.48(c). NFPA 805 allows the use of performance-based methods such as fire modeling and risk-informed methods such as fire probabilistic risk assessment to demonstrate compliance with the nuclear safety performance criteria.

Date of issuance: June 16, 2014.

Effective date: As of its date of issuance and shall be implemented by 12 months from the date of issuance.

Amendment No.: 275. A publicly-available version is in ADAMS under Accession No. ML14098A092; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–40: The amendment revised the Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** April 10, 2012 (77 FR 21598). The supplements dated March 20, July 24, August 24, and September 27, 2012; April 23, May 21, July 29, September 12, October 11, November 4, November 11, and December 18, 2013; and January 24, February 28, April 10, and June 11, 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 original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 16, 2014.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP) Units 3 and 4, Burke County, Georgia

Date of amendment request: December 20, 2013.

Brief description of amendment: The amendment revises the plant's emergency plan. In conjunction with the new license condition, the amendment complies with the established regulatory changes set forth in ''Enhancements to Emergency Preparedness Regulations,'' published in the **Federal Register** on November 23, 2011 (76 FR 72560). Specifically, the license amendment changes on-shift staffing analysis and the changes to the emergency plan address evacuation time estimates. The design, construction and operation of the plant are not affected by this license amendment and license condition.

Date of issuance: May 30, 2014.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 20. A publicly-available version is in ADAMS under Accession No. ML14118A252; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Combined Licenses No. NPF–91 and NPF–92: Amendment revised the Facility Combined Licenses.

Date of initial notice in ***Federal Register:*** February 4, 2014, (79 FR 6643).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 30, 2014.

No significant hazards consideration comments received: No.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: December 13, 2012, as supplemented by letters dated June 11, 2013, and January 16 and April 9, 2014.

Brief description of amendment: The amendment revised Technical Specification (TS) 3.7.9, ''Ultimate Heat Sink (UHS),'' to incorporate more restrictive UHS level and pond temperature limits which are specified in Surveillance Requirements (SRs) 3.7.9.1 and 3.7.9.2, respectively. In addition, new SR 3.7.9.4 is added to verify that the UHS cooling tower fans respond appropriately to automatic start signals.

Date of issuance: June 17, 2014.

Effective date: As of its date of issuance and shall be implemented within 120 days from the date of issuance.

Amendment No.: 208. A publicly-available version is in ADAMS under Accession No. ML14149A164; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–30: The amendment revised the Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** March 4, 2013 (78 FR 14138). The supplements dated June 11, 2013, and January 16 and April 9, 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 original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 17, 2014.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 27th day of June, 2014.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–15770 Filed 7–7–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[EA–14–094; NRC–2014–0162]

In the Matter of FirstEnergy Nuclear Operating Co. (Davis-Besse Nuclear Power Station, Unit 1)

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an order to revise the Davis-Besse National Fire Protection Association (NFPA) 805 License Amendment Request submittal date of July 1, 2014 to December 31, 2015. This new submittal date extends enforcement discretion until December 31, 2015, and supports FirstEnergy Nuclear Operating Company's (the licensee) continued progress in activities related to the transition to NFPA 805.

DATES: *Effective Date:* See attachment.

ADDRESSES: Please refer to Docket ID NRC–2014–0162 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–2014–0162. 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.

• *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: Gerry Gulla, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–2872, *email: Gerald.Gulla@nrc.gov*.

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 30th day of June 2014.

For the Nuclear Regulatory Commission.

Patricia K. Holahan,

Acting Director, Office of Enforcement.

United States of America

Nuclear Regulatory Commission

[NRC–2014–0162]

In the Matter of: FirstEnergy Nuclear Operating Co., (Davis-Besse Nuclear Power Station, Unit No. 1) Docket No. 50–346, License No. NPF–3, EA–14–094.

Confirmatory Order Modifying License

I

FirstEnergy Nuclear Operating Company (FENOC, the licensee) is the holder of Facility Operating License No. NPF–3 issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities,'' on April 22, 1977. The license authorizes the operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (Davis-Besse, facility), in accordance with conditions specified therein. The facility is located on the licensee's site in Oak Harbor, Ohio.

II

On February 27, 2007, FENOC notified the NRC of its intent to adopt National Fire Protection Association (NFPA) Standard 805, ''Performance Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants, 2001 Edition,'' at Davis-Besse in accordance with 10 CFR 50.48(c). In this February letter, FENOC committed to commence its transition to the performance-based standard on March 1, 2007, and submit its license amendment request (LAR) three years after the transition start date, which would be March 1, 2010. Under this initiative, the NRC has exercised enforcement discretion for most fire protection noncompliances identified during the licensee's transition to NFPA 805, and for certain existing identified noncompliances that may reasonably be resolved at the completion of transition.

The alternative fire protection rule NFPA 805, as adopted in 10 CFR 50.48(c), is one path to resolving longstanding fire protection issues. To receive this enforcement discretion for fire protection noncompliances during transition, the licensee must meet the specific criteria, as stated in Section 9.1, ''Enforcement Discretion for Certain Fire Protection Issues (10 CFR 50.48),'' of the NRC Enforcement Policy (Policy), and submit an acceptable license amendment application by the date, as specified in the licensee's commitment letter.

III

On September 10, 2008, the NRC revised Section 9.1 of the Policy to allow licensees to take advantage of the lessons learned from the NFPA 805 pilot plants (73 FR 52705). This revision offered licensees transitioning to NFPA 805 the option to request an extension to their NFPA 805 enforcement discretion to six months after the NRC approved the second pilot plant LAR, given that the requesting plant had made substantial progress in their transition effort. By letter dated January 14, 2010, FENOC requested this extension for Davis-Besse and on March 23, 2010, the NRC granted it (Agencywide Documents Access and Management System (ADAMS) Accession Nos.; ML100191803 and ML100670111, respectively). Accordingly, Davis-Besse, along with other licensees who requested and were granted this extension, had their LAR submittal date extended.

On December 29, 2010, the NRC approved the second pilot plant's license amendment, thereby establishing June 29, 2011, as the expiration date for the enforcement discretion period for about 25 licensees, including Davis-Besse. In an effort to manage this high number of submittals and for the convenience of the staff, the NRC revised the Policy (76 FR 40777) to extend enforcement discretion to allow for the staggered submittal of licensee LARs. To receive this extension, licensees were required to submit a letter to the NRC by June 29, 2011, acknowledging a new LAR submittal commitment date. Accordingly, on June 29, 2011, FENOC submitted their request to submit their LAR for Davis-Besse on or before July 1, 2014 (ADAMS Accession No. ML111800765). On August 1, 2011, the NRC approved their request to extend enforcement discretion (ADAMS Accession No. ML112010151).

In a public meeting held on November 13, 2013, between the NRC and FENOC, the licensee described its progress for transitioning Davis-Besse to NFPA 805. FENOC also informed the NRC that an extension of the schedule for LAR submittal is under consideration to allow appropriate coordination of design modifications that are risk beneficial. In a letter dated April 1, 2014, FENOC expressed a desire to continue enforcement discretion, and a willingness to commit to a new submittal date of December 31, 2015 (ADAMS Accession No. ML14091A453). In accordance with SECY–12–0031, ''Enforcement Alternatives for Sites that Indicated Additional Time Required to Submit Their License Amendment Requests to Transition to 10 CFR 50.48(c) National Fire Protection Association Standard 805,'' enforcement discretion may be extended, via a confirmatory order, if a licensee provides adequate justification.

In the April and subsequent May 29, 2014 (ADAMS Accession No. ML14149A545) letters, FENOC provided the justification for revising the LAR submittal date. The extension is necessary to incorporate plant modifications that were identified in response to the mitigation strategies for the beyond design basis external events. The extension request is necessary to incorporate these modifications into the PRA that support the NFPA 805 transition and the NFPA 805 LAR, with sufficient technical information for the

NRC staff to complete the detailed technical review. In addition; the staff reviewed the letters provided and a schedule of the major project milestones for the development and submission of incorporation of these modifications into the PRA, and the LAR submittal to the staff.

Therefore, the NRC has determined that the Davis-Besse NFPA 805 enforcement discretion along with the LAR submittal date should be extended. This Order is being issued to revise the Davis-Besse NFPA 805 LAR submittal date of July 1, 2014 to December 31, 2015. This new submittal date supports FENOC's continued progress in activities related to the transition to NFPA 805, as described in their letters dated April 1, and May 29, 2014.

FENOC may, at any time, cease its transition to NFPA 805 and comply with Davis-Besse's existing licensing basis and the regulations set forth in 10 CFR 50.48, as applicable. As indicated in the Enforcement Policy, if FENOC decides not to complete the transition to 10 CFR 50.48(c), it must submit a letter stating its intent to retain its existing licensing basis and withdrawing its letter of intent to comply with 10 CFR 50.48(c). If FENOC fails to meet the new LAR submittal date and fails to comply with its existing licensing basis, the NRC will take appropriate enforcement action, consistent with its Enforcement Policy.

On June 25, 2014, FENOC consented to issuing this Order, as described in Section V below. FENOC further agreed that this Order will be effective upon issuance and that it has waived its rights to a hearing.

IV

Based on the licensee's current status, scheduled key activities, and planned modifications, the NRC has determined that the licensee has provided adequate justification for its commitment given in Section V, and, thus, for the extension of enforcement discretion. Because the licensee will continue to perform modifications to reduce current fire risk in parallel with the development of its NFPA 805 LAR, the staff finds this acceptable to ensure public health and safety. Based on the above and FENOC's consent, this Order is effective upon issuance.

V

Accordingly, pursuant to Sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations in 10 CFR 2.202, ''Orders,'' *It Is Hereby Ordered That License No. NPF–3 Is Modified As Follows:*

A. FENOC will submit an acceptable license amendment request for Davis-Besse Nuclear Power Station, Unit 1, to adopt NFPA Standard 805 by no later than December 31, 2015.

B. FENOC will continue to receive enforcement discretion until December 31, 2015. If the NRC finds that the license amendment request is not acceptable, the NRC will take steps consistent with the Enforcement Policy.

The Director of the Office of Enforcement, in consultation with the Director of the Office of Nuclear Reactor Regulation, may, in writing, relax or rescind any of the above conditions upon demonstration by the licensee of good cause.

VI

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 from the date of this Order. In addition, any other person adversely affected by this Order may request a hearing on this Order within 30 days from the date of this 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, Washington, DC 20555–0001, and include a statement of good cause for the extension.

If a hearing is requested by a person whose interest is adversely affected, 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.

All documents filed in the NRC adjudicatory proceedings, including a request for a 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 NRC E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital certificate). Based on 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/getting-started.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 a hearing or petition for leave to intervene. Submissions should be in portable document format (PDF) in accordance with the NRC guidance available on the NRC's 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 document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk thorough the ''Contact Us'' link located on the NRC's Web site at *http://www.nrc/gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov,* or by a toll free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an extension request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party using 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, 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 submissions.

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).

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

For The Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 30th of June 2014.

Patricia K. Holahan,

Acting Director, Office of Enforcement.

[FR Doc. 2014–15950 Filed 7–7–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0124]

Program-Specific Guidance About Service Provider Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft NUREG; request for comments.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is revising its licensing guidance for service provider licenses. The NRC is requesting public comment on draft NUREG–1556, Volume 18, Revision 1, ''Consolidated Guidance about Materials Licenses: Program-Specific Guidance about Service Provider Licenses.'' The document has been updated from the previous revision to include information on safety culture, security of radioactive materials, protection of sensitive information, and changes in regulatory policies and practices. This document is intended for use by applicants, licensees, and the NRC staff.

DATES: Submit comments by August 7, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC is only able to assure consideration of comments received on or before this date.

ADDRESSES: You may submit comment 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–2014–0124. 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–A44MP, 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: Tomas Herrera, Office of Federal and State Materials and Environmental Management Programs; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7138; email: *Tomas.Herrera@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0124 when contacting the NRC about the availability of information regarding this document. You may obtain 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–2014–0124.

• *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 draft NUREG–1556, Volume 18, Revision 1, is available in ADAMS under Accession No. ML14175A526.

• *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.

The draft NUREG–1556, Volume 18, Revision 1, is also available on the NRC's public Web site on the: (1) ''Consolidated Guidance About Materials Licenses (NUREG–1556)'' page at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/*; and the (2) ''Draft NUREG-Series Publications for Comment'' page at *http://www.nrc.gov/public-involve/doc-comment.html#nuregs.*

B. Submitting Comments

Please include Docket ID NRC–2014–0124 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 publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter 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 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. Further Information

The NUREG provides guidance to existing service provider licensees and to an applicant in preparing a service provider license application. The NUREG also provides the NRC with criteria for evaluating a license application. The purpose of this notice is to provide the public with an opportunity to review and provide comments on draft NUREG–1556, Volume 18, Revision 1, ''Consolidated Guidance about Materials Licenses: Program-Specific Guidance about Service Provider Licenses.'' These comments will be considered in the final version or subsequent revisions.

Dated at Rockville, Maryland, this 27th day of June, 2014.

For the U.S. Nuclear Regulatory Commission.

Laura A. Dudes,

Director, Division of Materials Safety and State Agreements, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2014–15826 Filed 7–7–14; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–31143; File No. 812–14195]

Solar Capital Ltd., et al.; Notice of Application

July 1, 2014

ACTION: Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit a business development company (''BDC'') and certain closed-end management investment companies to co-invest in portfolio companies with each other and with affiliated investment funds.

APPLICANTS: Solar Capital Ltd. (''Solar Capital''), Solar Senior Capital Ltd. (''Solar Senior'', and together with Solar Capital, the ''Solar Funds''), and Solar Capital Partners, LLC (the ''Adviser'').

FILING DATES: The application was filed on August 5, 2013, and amended on December 18, 2013, April 7, 2014, June 12, 2004, and July 1, 2014.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 25, 2014, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549–1090. Applicants: 500 Park Avenue, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 551–6870 or Dalia Osman Blass, Assistant Chief Counsel, at (202) 551–6821 (Chief Counsel's Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Solar Funds are Maryland corporations organized as closed-end management investment companies that have elected to be regulated as BDCs under section 54(a) of the Act.[1] Both Solar Funds invest primarily in US middle market companies. Solar Capital's Objectives and Strategies[2] are to generate both current income and capital appreciation through debt and equity investments. Solar Senior's Objectives and Strategies are to maximize current income consistent with the preservation of capital. A majority of the directors of each of the Regulated Funds is or will be persons who are not ''interested persons'' as defined in section 2(a)(19) of the Act (''Non-Interested Directors''). Solar Capital and Solar Senior share a board of directors (''Board'') comprised of five

[1] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[2] ''Objectives and Strategies'' means a Regulated Fund's investment objectives and strategies, as described in the Regulated Fund's registration statement on Form N–2, other filings the Regulated Fund has made with the Commission under the Securities Act of 1933 (the ''Securities Act''), or under the Securities Exchange Act of 1934, and the Regulated Fund's reports to shareholders.

directors, three of whom are Non-Interested Directors.

2. The Adviser, a privately held investment adviser registered with the Commission pursuant to section 203 of the Investment Advisers Act of 1940 (''Advisers Act''), was organized as a limited liability company under the laws of the state Delaware. The Adviser serves as the investment adviser to each Solar Fund.

3. Applicants seek an order (''Order'') to permit a Regulated Fund [3] and one or more other Regulated Funds and one or more Affiliated Funds [4] to (a) co-invest with each other in securities issued by issuers in private placement transactions in which an Adviser negotiates terms in addition to price; [5] and (b) make additional investments in securities of such issuers, including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers (''Follow-On Investments'') through a proposed co-investment program (the ''Co-Investment Program'') where such participation would otherwise be prohibited under section 17(d) or section 57(a)(4) and the rules under the Act. ''Co-Investment Transaction'' means any transaction in which a Regulated Fund (or its ''Wholly-Owned Investment Sub,'' as defined below) participated together with one or more other Regulated Funds and/or one or more Affiliated Funds in reliance on the requested Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Fund (or its Wholly-Owned Investment Sub) could not participate together with one or more other Regulated Funds and/or one or more Affiliated Funds without obtaining and relying on the Order.[6]

4. Applicants state that a Regulated Fund may, from time to time, form a Wholly-Owned Investment Sub.[7] Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any other Regulated Fund or Affiliated Fund because it would be a company controlled by its parent Regulated Fund for purposes of section 57(a)(4) and rule 17d–1. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-Investment Transactions in lieu of its parent Regulated Fund and that the Wholly-Owned Investment Sub's participation in any such transaction be treated, for purposes of the Order, as though the parent Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Sub would have no purpose other than serving as a holding vehicle for the Regulated Fund's investments and, therefore, no conflicts of interest could arise between the Regulated Fund and the Wholly-Owned Investment Sub. The Regulated Fund's Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Sub's participation in a Co-Investment Transaction, and the Regulated Fund's Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Fund's place. If the Regulated Fund proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subs, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Sub.

5. When considering Potential Co-Investment Transactions for any Regulated Fund, the Adviser will consider only the Objectives and Strategies, investment policies, investment positions, capital available for investment, and other pertinent factors applicable to that Regulated Fund. The Adviser expects that any portfolio company that is an appropriate investment for a Regulated Fund should also be an appropriate investment for one or more other Regulated Funds and/or one or more Affiliated Funds, with certain exceptions based on available capital or diversification.[8]

6. Other than pro rata dispositions and Follow-On Investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), the Adviser will present each Potential Co-Investment Transaction and the proposed allocation to the directors of the Board eligible to vote under section 57(o) of the Act (''Eligible Directors''), and the ''required majority,'' as defined in section 57(o) of the Act (''Required Majority'') [9] will approve each Co-Investment Transaction prior to any investment by the participating Regulated Fund.

7. With respect to the pro rata dispositions and Follow-On Investments provided in conditions 7 and 8, a Regulated Fund may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Fund has approved that Regulated Fund's participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Regulated Fund. If the Board does not so approve, any such disposition or Follow-On Investment will be submitted to the Regulated Fund's Eligible Directors. The Board of any Regulated Fund may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

8. No Non-Interested Director of a Regulated Fund will have a direct or indirect financial interest in any Co-Investment Transaction (other than

[3] ''Regulated Fund'' refers to the Solar Funds and the Future Regulated Funds. ''Future Regulated Fund'' means any closed-end management investment company (a) that is registered under the Act or has elected to be regulated as BDC, and (b) whose investment adviser is the Adviser.

[4] An ''Affiliated Fund'' means an entity (a) whose investment adviser is the Adviser, and (b) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act. No Affiliated Funds exist at this time.

[5] The term ''private placement transactions'' means transactions in which the offer and sale of securities by the issuer are exempt from registration under the Securities Act.

[6] All existing entities that currently intend to rely upon the requested Order have been named as applicants. Any other existing or future entity that subsequently relies on the Order will comply with the terms and conditions of the application.

[7] The term ''Wholly-Owned Investment Sub'' means an entity (a) whose sole business purpose is to hold one or more investments on behalf of a Regulated Fund (and, in the case of an SBIC Subsidiary (as defined below), maintain a license under the SBA Act (as defined below) and issue debentures guaranteed by the SBA (as defined below)); (b) that is wholly-owned by the Regulated Fund (with the Regulated Fund at all times holding, beneficially and of record, 100% of the voting and economic interests); (c) with respect to which the Regulated Fund's Board has the sole authority to make all determinations with respect to the entity's participation under the conditions of the application; and (d) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act. All subsidiaries of the Regulated Fund participating in the Co-Investment Transactions will be Wholly-Owned Investment Subs and will have Objectives and Strategies that are either the same as, or a subset of, the Regulated Fund's Objectives and Strategies. The term ''SBIC Subsidiary'' means a Wholly-Owned Investment Sub that is licensed by the Small Business Administration (the ''SBA'') to operate under the Small Business Investment Act of 1958, as amended (the ''SBA Act'') as a small business investment company (an ''SBIC'').

[8] The Regulated Funds, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

[9] In the case of a Regulated Fund that is a registered closed-end fund, the Board members that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to Section 57(o).

indirectly through share ownership in one of the Regulated Funds), including any interest in any company whose securities would be acquired in a Co-Investment Transaction.

Applicants' Legal Analysis

1. Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in joint transactions with the BDC or a company controlled by a BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by, or under common control with a BDC is subject to section 57(a)(4). Applicants submit that each of the Regulated Funds and Affiliated Funds could be deemed to be a person related to each Regulated Fund in a manner described by section 57(b) by virtue of being under common control. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 also applies to joint transactions with Regulated Funds that are BDCs. Section 17(d) of the Act and rule 17d–1 under the Act are applicable to Regulated Funds that are registered closed-end investment companies.

2. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that in the absence of the requested relief, the Regulated Funds would be, in some circumstances, limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions will ensure that the Co-Investment Transactions are consistent with the protection of each Regulated Fund's shareholders and with the purposes intended by the policies and provisions of the Act. Applicants state that the Regulated Funds' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants' Conditions

Applicants agree that the Order will be subject to the following conditions:

1. Each time the Adviser considers a Potential Co-Investment Transaction for another Regulated Fund or an Affiliated Fund that falls within a Regulated Fund's then-current Objectives and Strategies, the Adviser will make an independent determination of the appropriateness of the investment for the Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. (a) If the Adviser deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, the Adviser will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the Adviser to be invested by the applicable Regulated Fund in the Potential Co-Investment Transaction together with the amount proposed to be invested by the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among them pro rata based on each participant's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each. The Adviser will provide the Eligible Directors of each participating Regulated Fund with information concerning each participating party's available capital to assist the Eligible Directors with their review of the Regulated Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the Adviser will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each Regulated Fund and each Affiliated Fund) to the Eligible Directors of each participating Regulated Fund for their consideration. A Regulated Fund will co-invest with another Regulated Fund or an Affiliated Fund only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its shareholders and do not involve overreaching in respect of the Regulated Fund or its shareholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) the interests of the Regulated Fund's shareholders; and

(B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by any other Regulated Funds or any Affiliated Funds would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from or less advantageous than that of any other Regulated Funds or any Affiliated Funds; provided that, if any other Regulated Fund or any Affiliated Fund, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) the Eligible Directors will have the right to ratify the selection of such director or board observer, if any; and

(B) the Adviser agrees to, and does, provide periodic reports to the Board of the Regulated Fund with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any Regulated Fund or any Affiliated Fund or any affiliated person of any Regulated Fund or any Affiliated Fund receives in connection with the right of a Regulated Fund or an Affiliated Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Affiliated Funds (who may each, in turn, share its portion with its affiliated persons) and the participating Regulated Funds in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the Adviser, the other Regulated Funds, the Affiliated Funds or any affiliated person of any of them (other than the parties to

the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by section 17(e) or 57(k) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The Adviser will present to the Board of each Regulated Fund, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds or Affiliated Funds during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies that were not made available to the Regulated Fund, and an explanation of why the investment opportunities were not offered to the Regulated Fund. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8, a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated Fund, Affiliated Fund, or any affiliated person of another Regulated Fund or Affiliated Fund is an existing investor.

6. A Regulated Fund will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Fund and Affiliated Fund. The grant to another Regulated Fund or an Affiliated Fund, but not the Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Regulated Fund or an Affiliated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the Adviser will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Fund in the disposition.

(b) Each Regulated Fund will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the participating Regulated Funds and Affiliated Funds.

(c) A Regulated Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Regulated Fund's Eligible Directors, and the Regulated Fund will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(d) Each Regulated Fund and each Affiliated Fund will bear its own expenses in connection with any such disposition.

8. (a) If a Regulated Fund or an Affiliated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the Adviser will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Fund.

(b) A Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application). In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of a Follow-On Investment is not based on the Regulated Funds' and the Affiliated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the Adviser to be invested by each Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the participating Affiliated Funds in the same transaction, exceeds the amount of the opportunity; then the amount invested by each such party will be allocated among them pro rata based on each party's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. The Non-Interested Directors of each Regulated Fund will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Funds and the Affiliated Funds that the Regulated Fund considered but declined to participate in, so that the Non-Interested Directors may determine whether all investments made during the preceding quarter, including those investments which the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Non-Interested Directors will consider at least annually the continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions.

10. Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a business development company and each of the investments permitted under these conditions were approved by the

Required Majority under section 57(f) of the Act.

11. No Non-Interested Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act) of an Affiliated Fund.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the Adviser under the investment advisory agreements with the Regulated Funds and the Affiliated Funds, be shared by the Affiliated Funds and the Regulated Funds in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

13. Any transaction fee (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) or 57(k) of the Act, as applicable), received in connection with a Co-Investment Transaction will be distributed to the participating Regulated Funds and Affiliated Funds on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by the Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Funds and Affiliated Funds based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Funds, the Adviser, the other Regulated Funds or any affiliated person of the Regulated Funds or Affiliated Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Funds and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C); and (b) in the case of the Adviser, investment advisory fees paid in accordance with the agreements between the Adviser and the Regulated Funds or the Affiliated Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72509; File No. SR–NYSEArca–2014–58]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to Listing and Trading of Shares of PIMCO Short-Term Exchange-Traded Fund and PIMCO Municipal Bond Exchange-Traded Fund Under NYSE Arca Equities Rule 8.600

July 1, 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 June 25, 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 and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''): PIMCO Short-Term Exchange-Traded Fund and PIMCO Municipal Bond Exchange-Traded Fund. 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 list and trade shares (''Shares'') of the following under NYSE Arca Equities Rule 8.600,[4] which governs the listing and trading of Managed Fund Shares: [5] PIMCO Short-Term Exchange-Traded Fund (''Short-Term Fund'') and PIMCO Municipal Bond Exchange-Traded Fund (''Municipal Bond Fund''), each also referred to as a ''Fund'' and collectively referred to as the ''Funds.'' The Shares will be offered by PIMCO ETF Trust (the ''Trust''), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[6]

The investment manager to the Funds will be Pacific Investment Management

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Commission has previously approved the listing and trading on the Exchange of other actively managed funds under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 60981 (November 10, 2009), 74 FR 59594 (November 18, 2009) (SR–NYSEArca–2009–79) (order approving Exchange listing and trading of five fixed income funds of the PIMCO ETF Trust); 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR–NYSEArca–2011–95) (order approving listing and trading of PIMCO Total Return Exchange Traded Fund); 66670 (March 28, 2012), 77 FR 20087 (April 3, 2012) (SR–NYSEArca–2012–09) (order approving listing and trading of PIMCO Global Advantage Inflation-Linked Bond Strategy Fund).

[5] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[6] The Trust is registered under the 1940 Act. On January 27, 2014, the Trust filed an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (''1933 Act'') and the 1940 Act relating to the Funds (File Nos. 333–155395 and 811–22250) (the ''Registration Statement''). The description of the operation of the Trust and the Funds herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 28993 (November 10, 2009) (File No. 812–13571) (''Exemptive Order'').

Company LLC (''PIMCO'' or the ''Adviser''). PIMCO Investments LLC will serve as the distributor for the Funds (''Distributor''). State Street Bank & Trust Co. will serve as the custodian and transfer agent for the Funds (''Custodian'' or ''Transfer Agent'').

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[7] In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. The Adviser is not registered as a broker-dealer, but is affiliated with a broker-dealer, and will implement a ''fire wall'' with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to a Fund's portfolio. If PIMCO elects to hire a sub-adviser for the Funds that is registered as a broker-dealer or is affiliated with a broker-dealer, such sub-adviser will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

In the event (a) the Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Characteristics of the Funds[8]

According to the Registration Statement, in selecting investments for each Fund, PIMCO will develop an outlook for interest rates, currency exchange rates and the economy, analyze credit and call risks, and use other investment selection techniques. The proportion of each Fund's assets committed to investment in securities with particular characteristics (such as quality, sector, interest rate or maturity) will vary based on PIMCO's outlook for the U.S. economy and the economies of other countries in the world, the financial markets and other factors.

With respect to each Fund, in seeking to identify undervalued currencies, PIMCO may consider many factors, including but not limited to, longer-term analysis of relative interest rates, inflation rates, real exchange rates, purchasing power parity, trade account balances and current account balances, as well as other factors that influence exchange rates such as flows, market technical trends and government policies. With respect to fixed income investing, PIMCO will attempt to identify areas of the bond market that are undervalued relative to the rest of the market. PIMCO will identify these areas by grouping fixed income investments into sectors such as money markets, governments, corporates, mortgages, asset-backed and international. Sophisticated proprietary software will then assist in evaluating sectors and pricing specific investments. Once investment opportunities are identified, PIMCO will shift assets among sectors depending upon changes in relative valuations, credit spreads and other factors.

Fixed Income Instruments

Among other investments described in more detail herein, each Fund may invest in Fixed Income Instruments, which include:

- securities issued or guaranteed by the U.S. Government, its agencies or government-sponsored enterprises (''U.S. Government Securities'');
- corporate debt securities of U.S. and non-U.S. issuers, including convertible securities and corporate commercial paper[9];
- mortgage-backed and other asset-backed securities[10];
- inflation-indexed bonds issued both by governments and corporations[11];
- structured notes, including hybrid or ''indexed'' securities and event-linked bonds[12];
- bank capital and trust preferred securities[13];

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its 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 violations, 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.

[8] Many of the investment strategies of the Funds are discretionary, which means that PIMCO can decide from time to time whether to use them or not.

[9] With respect to each of the Funds, while non-emerging markets corporate debt securities (excluding commercial paper) generally must have $100 million or more par amount outstanding and significant par value traded to be considered as an eligible investment for each of the Funds, at least 80% of issues of such securities held by a Fund must have $100 million or more par amount outstanding at the time of investment. See also note 22, infra, regarding emerging market corporate debt securities.

[10] Mortgage-related and other asset-backed securities include collateralized mortgage obligations (''CMO''s), commercial mortgage-backed securities, mortgage dollar rolls, CMO residuals, stripped mortgage-backed securities and other securities that directly or indirectly represent a participation in, or are secured by and payable from, mortgage loans on real property. A to-be-announced (''TBA'') transaction is a method of trading mortgage-backed securities. In a TBA transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to the settlement date.

[11] Inflation-indexed bonds (other than municipal inflation-indexed bonds and certain corporate inflation-indexed bonds) are fixed income securities whose principal value is periodically adjusted according to the rate of inflation (e.g., Treasury Inflation Protected Securities (''TIPS'')). Municipal inflation-indexed securities are municipal bonds that pay coupons based on a fixed rate plus the Consumer Price Index for All Urban Consumers (''CPI''). With regard to municipal inflation-indexed bonds and certain corporate inflation-indexed bonds, the inflation adjustment is reflected in the semi-annual coupon payment.

[12] The Funds may obtain event-linked exposure by investing in ''event-linked bonds'' or ''event-linked swaps'' or by implementing ''event-linked strategies.'' Event-linked exposure results in gains or losses that typically are contingent, or formulaically related to defined trigger events. Examples of trigger events include hurricanes, earthquakes, weather-related phenomena, or statistics relating to such events. Some event-linked bonds are commonly referred to as ''catastrophe bonds.'' If a trigger event occurs, a Fund may lose a portion or its entire principal invested in the bond or notional amount on a swap.

[13] There are two common types of bank capital: Tier I and Tier II. Bank capital is generally, but not always, of investment grade quality. According to the Registration Statement, Tier I securities often

- loan participations and assignments [14];
- delayed funding loans and revolving credit facilities;
- bank certificates of deposit, fixed time deposits and bankers' acceptances;
- repurchase agreements on Fixed Income Instruments and reverse repurchase agreements on Fixed Income Instruments;
- debt securities issued by states or local governments and their agencies, authorities and other government-sponsored enterprises (''Municipal Bonds'');
- obligations of non-U.S. governments or their subdivisions, agencies and government-sponsored enterprises; and
- obligations of international agencies or supranational entities.

Use of Derivatives by the Funds

A Fund's investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. With respect to each Fund, derivative instruments will include forwards; [15] exchange-traded and over-the-counter (''OTC'') options contracts; exchange-traded futures contracts; exchange-traded and OTC swap agreements; exchange-traded options on futures contracts; and OTC options on swap agreements.[16] Generally, derivatives are financial contracts whose value depends upon, or is derived from, the value of an underlying asset, reference rate or index, and may relate to stocks, bonds, interest rates, currencies or currency exchange rates, commodities, and related indexes. A Fund may, but is not required to, use derivative instruments for risk management purposes or as part of its investment strategies.[17]

As described further below, each Fund will typically use derivative instruments as a substitute for taking a position in the underlying asset and/or as part of a strategy designed to reduce exposure to other risks, such as interest rate or currency risk. A Fund may also use derivative instruments to enhance returns. To limit the potential risk associated with such transactions, a Fund will segregate or ''earmark'' assets determined to be liquid by PIMCO in accordance with procedures established by the Trust's Board of Trustees and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, each Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund's use of derivatives, may give rise to leverage, causing the Fund to be more volatile than if it had not been leveraged.[18] Because the markets for certain securities, or the securities themselves, may be unavailable or cost prohibitive as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for a Fund to obtain the desired asset exposure.

The Adviser believes that derivatives can be an economically attractive substitute for an underlying physical security that each Fund would otherwise purchase. For example, a Fund could purchase Treasury futures contracts instead of physical Treasuries or could sell credit default protection on a corporate bond instead of buying a physical bond. Economic benefits include potentially lower transaction costs or attractive relative valuation of a derivative versus a physical bond (*e.g.,* differences in yields).

The Adviser further believes that derivatives can be used as a more liquid means of adjusting portfolio duration as well as targeting specific areas of yield curve exposure, with potentially lower transaction costs than the underlying securities (e.g., interest rate swaps may have lower transaction costs than physical bonds). Similarly, money market futures can be used to gain exposure to short-term interest rates in order to express views on anticipated changes in central bank policy rates. In addition, derivatives can be used to protect client assets through selectively hedging downside (or ''tail risks'') in each Fund.

Each Fund also can use derivatives to increase or decrease credit exposure. Index credit default swaps (CDX) can be used to gain exposure to a basket of credit risk by ''selling protection'' against default or other credit events, or to hedge broad market credit risk by ''buying protection.'' Single name credit default swaps (CDS) can be used to allow a Fund to increase or decrease exposure to specific issuers, saving investor capital through lower trading costs. A Fund can use total return swap contracts to obtain the total return of a reference asset or index in exchange for paying a financing cost. A total return swap may be much more efficient than buying underlying securities of an index, potentially lowering transaction costs.

The Adviser believes that the use of derivatives will allow each Fund to selectively add diversifying sources of return from selling options. Option purchases and sales can also be used to hedge specific exposures in the portfolio, and can provide access to return streams available to long-term investors such as the persistent difference between implied and realized volatility. Option strategies can generate income or improve execution prices (*i.e.,* covered calls).

Short-Term Fund—Principal Investments

According to the Registration Statement, the Short-Term Fund will seek maximum current income, consistent with preservation of capital and daily liquidity. The Fund will seek to achieve its investment objective by investing under normal circumstances [19] at least 65% of its total assets in a diversified portfolio of Fixed Income Instruments of varying maturities, and derivatives based on Fixed Income Instruments. The average portfolio duration of the Fund will vary based on PIMCO's forecast for interest rates and

take the form of trust preferred securities. Tier II securities are commonly thought of as hybrids of debt and preferred stock, are often perpetual (with no maturity date), callable and, under certain conditions, allow for the issuer bank to withhold payment of interest until a later date. However, such deferred interest payments generally earn interest.

[14] The Funds may invest in fixed- and floating-rate loans, which investments generally will be in the form of loan participations and assignments of portions of such loans.

[15] Forwards are contracts to purchase or sell securities for a fixed price at a future date beyond normal settlement time (forward commitments).

[16] In the future, in the event that there are exchange-traded options on swaps, the Fund may invest in these instruments.

[17] Each Fund will seek, where possible, to use counterparties whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. PIMCO's Counterparty Risk Committee evaluates the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, PIMCO credit analysts evaluate each approved counterparty using various methods of analysis, including company visits, earnings updates, the broker-dealer's reputation, PIMCO's past experience with the broker-dealer, market levels for the counterparty's debt and equity, the counterparty's liquidity and its share of market participation.

[18] To mitigate leveraging risk, the Adviser will segregate or ''earmark'' liquid assets or otherwise cover the transactions that may give rise to such risk.

[19] With respect to each Fund, the term ''under normal circumstances'' includes, but is not limited to, the absence of 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.

will normally not exceed one year. In addition, the dollar weighted average portfolio maturity of the Short-Term Fund, under normal circumstances, is expected not to exceed three years.

According to the Registration Statement, the Fund will invest primarily in investment grade debt securities, but may invest up to 10% of its total assets in high yield securities rated B or higher by Moody's, or equivalently rated by S&P or Fitch, or, if unrated, determined by PIMCO to be of comparable quality.[20]

In furtherance of the Fund's 65% policy, or with respect to the Fund's other investments, the Fund may invest in derivative instruments, subject to applicable law and any other restrictions described herein.

The Fund may invest up to 20% of its assets in mortgage-related and other asset-backed securities, although this 20% limitation does not apply to securities issued or guaranteed by Federal agencies and/or U.S. government sponsored instrumentalities.

According to the Registration Statement, the Fund may invest in securities and instruments that are economically tied to foreign (non-U.S.) countries.[21]

The Fund may invest up to 10% of its total assets in securities denominated in foreign currencies, and may invest beyond this limit in U.S. dollar-denominated securities of foreign issuers.[22] According to the Registration Statement, the Fund will normally limit its foreign currency exposure (from non-U.S. dollar-denominated securities or currencies) to 20% of its total assets. The Fund may invest up to 5% of its total assets in securities and instruments that are economically tied to emerging market countries.[23]

The Fund may engage in foreign currency transactions on a spot (cash) basis and forward basis and invest in foreign currency futures and exchange-traded and OTC options contracts.[24] The Fund may enter into these contracts to hedge against foreign exchange risk, to increase exposure to a foreign currency or to shift exposure to foreign currency fluctuations from one currency to another. Suitable hedging transactions may not be available in all circumstances and there can be no assurance that the Fund will engage in such transactions at any given time or from time to time. The Fund may purchase or sell securities on a when-issued, delayed delivery or forward commitment basis and may engage in short sales.[25]

The Fund may, without limitation, seek to obtain market exposure to the securities in which it primarily invests by entering into a series of purchase and sale contracts or by using other investment techniques (such as buy backs or dollar rolls).[26]

Short-Term Fund—Other (Non-Principal) Investments

The Short-Term Fund may invest up to 10% of its total assets in preferred stock, convertible securities and other equity-related securities.[27]

The Fund may invest in variable and floating rate securities that are not Fixed Income Instruments. The Fund may invest in floaters and inverse floaters that are not Fixed Income Instruments and may engage in credit spread trades.

As disclosed in the Registration Statement, the Fund may invest in trade

[20] With respect to each Fund, securities rated Ba or lower by Moody's, or equivalently rated by S&P or Fitch, are sometimes referred to as ''high yield securities'' or ''junk bonds'', while securities rated Baa or higher are referred to as ''investment grade.'' Unrated securities may be less liquid than comparable rated securities and involve the risk that a Fund's portfolio manager may not accurately evaluate the security's comparative credit rating. To the extent that a Fund invests in unrated securities, a Fund's success in achieving its investment objective may depend more heavily on the portfolio manager's creditworthiness analysis than if that Fund invested exclusively in rated securities. In determining whether a security is of comparable quality, the Adviser will consider, for example, whether the issuer of the security has issued other rated securities; whether the obligations under the security are guaranteed by another entity and the rating of such guarantor (if any); whether and (if applicable) how the security is collateralized; other forms of credit enhancement (if any); the security's maturity date; liquidity features (if any); relevant cash flow(s); valuation features; other structural analysis; macroeconomic analysis; and sector or industry analysis.

[21] PIMCO will generally consider an instrument to be economically tied to a non-U.S. country if the issuer is a foreign government (or any political subdivision, agency, authority or instrumentality of such government), or if the issuer is organized under the laws of a non-U.S. country. With respect to each Fund, in the case of certain money market instruments, such instruments will be considered economically tied to a non-U.S. country if either the issuer or the guarantor of such money market instrument is organized under the laws of a non-U.S. country. With respect to derivative instruments, PIMCO will generally consider such instruments to be economically tied to non-U.S. countries if the underlying assets are foreign currencies (or baskets or indexes of such currencies), or instruments or securities that are issued by foreign governments or issuers organized under the laws of a non-U.S. country (or if the underlying assets are certain money market instruments, if either the issuer or the guarantor of such money market instruments is organized under the laws of a non-U.S. country).

[22] The Fund may have greater exposure (i.e., up to 20% of its total assets) to foreign currencies through (i) investments in securities denominated in such currencies, and (ii) direct investments in foreign currencies, including currency forwards.

[23] PIMCO will generally consider an instrument to be economically tied to an emerging market country if the security's ''country of exposure'' is an emerging market country, as determined by the criteria set forth in the Registration Statement. Alternatively, such as when a ''country of exposure'' is not available or when PIMCO believes the following tests more accurately reflect which country the security is economically tied to, PIMCO may consider an instrument to be economically tied to an emerging market country if the issuer or guarantor is a government of an emerging market country (or any political subdivision, agency, authority or instrumentality of such government), if the issuer or guarantor is organized under the laws of an emerging market country, or if the currency of settlement of the security is a currency of an emerging market country. With respect to derivative instruments, PIMCO will generally consider such instruments to be economically tied to emerging market countries if the underlying assets are currencies of emerging market countries (or baskets or indices of such currencies), or instruments or securities that are issued or guaranteed by governments of emerging market countries or by entities organized under the laws of emerging market countries. While emerging markets corporate debt securities (excluding commercial paper) generally must have $200 million or more par amount outstanding and significant par value traded to be considered as an eligible investment for each of the Funds, at least 80% of issues of such securities held by a Fund must have $200 million or more par amount outstanding at the time of investment.

[24] The Fund will limit its investments in currencies to those currencies with a minimum average daily foreign exchange turnover of USD $1 billion as determined by the Bank for International Settlements (''BIS'') Triennial Central Bank Survey. As of the most recent BIS Triennial Central Bank Survey, at least 52 separate currencies had minimum average daily foreign exchange turnover of USD $1 billion. For a list of eligible currencies, *see* www.bis.org.

[25] Each of the Funds may make short sales of securities to: (i) offset potential declines in long positions in similar securities, (ii) to increase the flexibility of the Fund; (iii) for investment return; and (iv) as part of a risk arbitrage strategy.

[26] A dollar roll is similar except that the counterparty is not obligated to return the same securities as those originally sold by the Fund but only securities that are ''substantially identical.''

[27] Convertible securities are generally preferred stocks and other securities, including fixed income securities and warrants, that are convertible into or exercisable for common stock at a stated price or rate. Equity-related investments may include investments in small-capitalization (''small-cap''), mid-capitalization (''mid-cap'') and large-capitalization (''large-cap'') companies. With respect to each Fund, a small-cap company will be defined as a company with a market capitalization of up to $1.5 billion, a mid-cap company will be defined as a company with a market capitalization of between $1.5 billion and $10 billion and a large-cap company will be defined as a company with a market capitalization above $10 billion. Not more than 10% of the net assets of a Fund in the aggregate invested in exchange-traded equity securities shall consist of equity securities, including stocks into which a convertible security is converted, whose principal market is not a member of the Intermarket Surveillance Group (''ISG'') or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Furthermore, not more than 10% of the net assets of a Fund in the aggregate invested in futures contracts or exchange-traded options contracts shall consist of futures contracts or exchange-traded options contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

claims,[28] privately placed and unregistered securities, and exchange-traded and OTC-traded structured products, including credit-linked securities, commodity-linked notes, and structured notes. The Fund may invest in Brady Bonds.

The Fund may enter into repurchase agreements on instruments other than Fixed Income Instruments, in addition to repurchase agreements on Fixed Income Instruments mentioned above, in which the Fund purchases a security from a bank or broker-dealer, which agrees to purchase the security at the Fund's cost plus interest within a specified time. Repurchase agreements maturing in more than seven days and which may not be terminated within seven days at approximately the amount at which the Fund has valued the agreements will be considered illiquid securities. The Fund may enter into reverse repurchase agreements on instruments other than Fixed Income Instruments, in addition to reverse repurchase agreements on Fixed Income Instruments mentioned above, subject to the Fund's limitations on borrowings.[29] The Fund will segregate or ''earmark'' assets determined to be liquid by PIMCO in accordance with procedures established by the Board to cover its obligations under reverse repurchase agreements.

Municipal Bond Fund—Principal Investments

According to the Registration Statement, the Municipal Bond Fund will seek high current income exempt from federal income tax, consistent with preservation of capital; capital appreciation is a secondary objective. The Fund will seek to achieve its investment objective by investing under normal circumstances at least 80% of its assets in debt securities whose interest is, in the opinion of bond counsel for the issuer at the time of the issuance, exempt from federal income tax (''Municipal Bonds''). Municipal Bonds are generally issued by or on behalf of states and local governments and their agencies, authorities and other instrumentalities. Municipal Bonds include municipal lease obligations, municipal general obligation bonds, municipal cash equivalents, and pre-refunded and escrowed to maturity bonds. The Fund may invest in industrial development bonds, which are Municipal Bonds issued by a government agency on behalf of a private sector company and, in most cases, are not backed by the credit of the issuing municipality. The Fund may also invest in securities issued by entities whose underlying assets are Municipal Bonds.

The Fund may invest more than 25% of its total assets in bonds of issuers in California and New York; may invest 25% of more of its total assets in Municipal Bonds that finance education, health care, housing, transportation, utilities and other similar projects; and may invest 25% or more of its total assets in industrial development bonds. The average portfolio duration of the Fund will normally vary from three to twelve years based on PIMCO's forecast for interest rates.

According to the Registration Statement, the Fund will invest primarily in investment grade debt securities, but may invest up to 10% of its total assets in Municipal Bonds or private activity bonds [30] that are high yield securities rated Ba or higher by Moody's, or equivalently rated by S&P or Fitch, or, if unrated, determined by PIMCO to be of comparable quality.[31]

The Fund may invest in residual interest bonds (''RIBs''), which brokers create by depositing a Municipal Bond in a trust. The trust in turn would issue a variable rate security and RIBs. The interest rate for the variable rate security will be determined by the remarketing broker-dealer, while the RIB holder will receive the balance of the income from the underlying municipal bond.

In furtherance of the Fund's 80% policy the Fund may invest in derivative instruments on Municipal Bonds, subject to applicable law and any other restrictions described herein.

The Fund may, without limitation, seek to obtain market exposure to the securities in which it primarily invests by entering into a series of purchase and sale contracts or by using other investment techniques (such as buy backs or dollar rolls). The Fund may purchase or sell securities on a when-issued, delayed delivery or forward commitment basis and may engage in short sales.[32]

Municipal Bond Fund—Other (Non-Principal) Investments

According to the Registration Statement, the Municipal Bond Fund may invest up to 20% of its net assets in U.S. government securities, money market instruments, ''private activity'' bonds and/or Fixed Income Instruments (other than Municipal Bonds), including derivative instruments related to such instruments, subject to applicable law and any other restrictions described herein.

The Fund may invest up to 10% of its total assets in preferred stock, convertible securities and other equity-related securities.[33]

The Fund may invest in variable and floating rate securities. The Fund may invest in floaters and inverse floaters and may engage in credit spread trades.

Also, as disclosed in the Registration Statement, the Fund may invest in trade claims, privately placed and unregistered securities, and exchange-traded and OTC-traded structured products, including credit-linked securities, commodity-linked notes, and structured notes. The Fund may invest in Brady Bonds.

The Fund may enter into repurchase agreements on instruments other than Fixed Income Instruments, in addition to repurchase agreements on Fixed Income Instruments mentioned above, in which the Fund purchases a security from a bank or broker-dealer, which agrees to purchase the security at the Fund's cost plus interest within a specified time. Repurchase agreements maturing in more than seven days and which may not be terminated within seven days at approximately the amount at which the Fund has valued the agreements will be considered illiquid securities. The Fund may enter into reverse repurchase agreements on instruments other than Fixed Income Instruments, in addition to reverse repurchase agreements on Fixed Income Instruments mentioned above, subject to the Fund's limitations on borrowings.

Other Investments (Both Funds)

The Funds may invest without limit, for temporary or defensive purposes, in U.S. debt securities, including taxable securities and short-term money market securities, if PIMCO deems it appropriate to do so. If PIMCO believes that economic or market conditions are unfavorable to investors, PIMCO may temporarily invest up to 100% of a

[28] Trade claims are non-securitized rights of payment arising from obligations that typically arise when vendors and suppliers extend credit to a company by offering payment terms for products and services. If the company files for bankruptcy, payments on these trade claims stop and the claims are subject to compromise along with the other debts of the company. Trade claims may be purchased directly from the creditor or through brokers.

[29] With respect to each Fund, a reverse repurchase agreement involves the sale of a security by the Fund and its agreement to repurchase the instrument at a specified time and price.

[30] Under the Internal Revenue Code, certain limited obligation bonds are considered ''private activity bonds'', and interest paid on such bonds is treated as an item of tax preference for purposes of calculating federal alternative minimum tax liability.

[31] *See supra,* note 19 [sic].

[32] *See supra,* note 24 [sic].

[33] *See supra,* note 26 [sic].

Fund's assets in certain defensive strategies, including holding a substantial portion of a Fund's assets in cash, cash equivalents or other highly rated short-term securities, including securities issued or guaranteed by the U.S. government, its agencies or instrumentalities. The Funds may invest in, to the extent permitted by Section 12(d)(1)(A) of the 1940 Act, other affiliated and unaffiliated funds, such as open-end or closed-end management investment companies, including other exchange-traded funds, provided that each of a Fund's investment in units or shares of investment companies and other open-end collective investment vehicles will not exceed 10% of that Fund's total assets. Each Fund may invest in securities lending collateral in one or more money market funds to the extent permitted by Rule 12d1–1 under the 1940 Act, including series of PIMCO Funds.

Investment Restrictions

Each Fund's investments, including investments in derivative instruments, will be subject to all of the restrictions under the 1940 Act, including restrictions with respect to illiquid assets; that is, the limitation that a 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, consistent with Commission guidance.[34] Each Fund will monitor its respective 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 a 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.[35]

Each Fund will be diversified within the meaning of the 1940 Act.[36]

Each Fund intends to qualify annually and elect to be treated as a regulated investment company under Subchapter M of the Internal Revenue Code.[37] None of the Funds will concentrate its investments in a particular industry, as that term is used in the 1940 Act, and as interpreted, modified, or otherwise permitted by a regulatory authority having jurisdiction from time to time.[38]

Each Fund's investments, including derivatives, will be consistent with that Fund's investment objective and each Fund's use of derivatives may be used to enhance leverage. However, each Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2Xs and 3Xs) of a Fund's broad-based securities market index (as defined in Form N–1A).[39]

Net Asset Value and Derivatives Valuation Methodology for Purposes of Determining Net Asset Value

The net asset value (''NAV'') of each Fund's Shares will be determined by dividing the total value of a Fund's portfolio investments and other assets, less any liabilities, by the total number of Shares outstanding.

Each Fund's Shares will be valued as of the close of regular trading (normally 4:00 p.m. Eastern time (''E.T.'') (the ''NYSE Close'')) on each day NYSE Arca is open (''Business Day''). Information that becomes known to each of the Funds or its agents after the NAV has been calculated on a particular day will not generally be used to retroactively adjust the price of a portfolio asset or the NAV determined earlier that day.

For purposes of calculating NAV, portfolio securities and other assets for which market quotes are readily available will be valued at market value. Market value will generally be determined on the basis of last reported sales prices, or if no sales are reported, based on quotes obtained from a quotation reporting system, established market makers, or pricing services.

Fixed Income Instruments, including those to be purchased under firm commitment agreements/delayed delivery basis, will generally be valued on the basis of quotes obtained from brokers and dealers or independent pricing services. Foreign fixed income securities will generally be valued on the basis of quotes obtained from brokers and dealers or pricing services using data reflecting the earlier closing of the principal markets for those assets. Short-term debt instruments having a remaining maturity of 60 days or less will generally be valued at amortized cost, which approximates market value.

As discussed in more detail below, derivatives will generally be valued on the basis of quotes obtained from brokers and dealers or pricing services using data reflecting the earlier closing of the principal markets for those assets. Local closing prices will be used for all instrument valuation purposes. Foreign currency-denominated derivatives will generally be valued as of the respective local region's market close.

With respect to specific derivatives:

- Currency spot and forward rates from major market data vendors[40] will generally be determined as of the NYSE Close.
- Exchange traded futures will generally be valued at the settlement price of the relevant exchange.
- A total return swap on an index will be valued at the publicly available index price. The index price, in turn, is determined by the applicable index calculation agent, which generally values the securities underlying the index at the last reported sale price.
- Equity total return swaps will generally be valued using the actual underlying equity at local market closing, while bank loan total return swaps will generally be valued using the evaluated underlying bank loan price minus the strike price of the loan.
- Exchange traded non-equity options, (for example, options on bonds, Eurodollar options and U.S. Treasury options), index options, and options on futures will generally be valued at the official settlement price determined by the relevant exchange, if available.

[34] In reaching liquidity decisions, the Adviser may consider the following factors: the frequency of trades and quotes for the security; the number of dealers willing to purchase or sell the security and 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 trades (e.g., the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[35] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. See Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. See also, Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. See Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act).

[36] The diversification standard is set forth in Section 5(b)(1) of the 1940 Act (15 U.S.C. 80e).

[37] 26 U.S.C. 851.

[38] 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).

[39] Each Fund's broad-based securities market index will be identified in a future amendment to the Registration Statement following a Fund's first full calendar year of performance.

[40] Major market data vendors may include, but are not limited to: Thomson Reuters, JPMorgan Chase PricingDirect Inc., Markit Group Limited, Bloomberg, Interactive Data Corporation or other major data vendors.

• OTC and exchange traded equity options will generally be valued on a basis of quotes obtained from a quotation reporting system, established market makers, or pricing services or at the settlement price of the applicable exchange.

• OTC FX options will generally be valued by pricing vendors.

• All other swaps such as interest rate swaps, inflation swaps, swaptions, credit default swaps, and CDX/CDS will generally be valued by pricing services.

Exchange-traded equity securities will be valued at the official closing price or the last trading price on the exchange or market on which the security is primarily traded at the time of valuation. If no sales or closing prices are reported during the day, exchange-traded equity securities will generally be valued at the mean of the last available bid and ask quotation on the exchange or market on which the security is primarily traded, or using other market information obtained from quotation reporting systems, established market makers, or pricing services. Investment company securities that are not exchange-traded will be valued at NAV. Equity securities traded OTC will be valued based on price quotations obtained from a broker-dealer who makes markets in such securities or other equivalent indications of value provided by a third-party pricing service. Options on swaps will be valued at their most recent exchange closing price when available. If no such closing prices are reported, these contracts will be valued by a third party pricing service. RIBs, money market instruments, trade claims, privately placed and unregistered securities, structured products and other types of debt securities will generally be valued on the basis of independent pricing services or quotes obtained from brokers and dealers.

If a foreign security's value has materially changed after the close of the security's primary exchange or principal market but before the NYSE Close, the security will be valued at fair value based on procedures established and approved by the Board. Foreign securities that do not trade when the NYSE is open will also be valued at fair value.

Securities and other assets for which market quotes are not readily available will be valued at fair value as determined in good faith by the Board or persons acting at their direction. The Board has adopted methods for valuing securities and other assets in circumstances where market quotes are not readily available, and has delegated to PIMCO the responsibility for applying the valuation methods. In the event that market quotes are not readily available, and the security or asset cannot be valued pursuant to one of the valuation methods, the value of the security or asset will be determined in good faith by the Valuation Committee of the Board of Trustees, generally based upon recommendations provided by PIMCO.

Market quotes are considered not readily available in circumstances where there is an absence of current or reliable market-based data (*e.g.,* trade information, bid/ask information, broker quotes), including where events occur after the close of the relevant market, but prior to the NYSE Close, that materially affect the values of a Fund's securities or assets. In addition, market quotes are considered not readily available when, due to extraordinary circumstances, the exchanges or markets on which the securities trade do not open for trading for the entire day and no other market prices are available. The Board has delegated to PIMCO the responsibility for monitoring significant events that may materially affect the values of a Fund's securities or assets and for determining whether the value of the applicable securities or assets should be re-evaluated in light of such significant events.

When a Fund uses fair value pricing to determine its NAV, securities will not be priced on the basis of quotes from the primary market in which they are traded, but rather may be priced by another method that the Board of Trustees or persons acting at their direction believe reflects fair value. Fair value pricing may require subjective determinations about the value of a security. While the Trust's policy is intended to result in a calculation of the Fund's NAV that fairly reflects security values as of the time of pricing, the Trust cannot ensure that fair values determined by the Board or persons acting at its direction would accurately reflect the price that a Fund could obtain for a security if it were to dispose of that security as of the time of pricing (for instance, in a forced or distressed sale). The prices used by a Fund may differ from the value that would be realized if the securities were sold.

For a Fund's 4:00 p.m. E.T. futures holdings, estimated prices from Reuters will be used if any cumulative futures margin impact is greater than $0.005 to the NAV due to futures movement after the fixed income futures market closes (3:00 p.m. E.T.) and up to the NYSE Close (generally 4:00 p.m. E.T.). Swaps traded on exchanges such as the Chicago Mercantile Exchange (''CME'') or the Intercontinental Exchange (''ICE–US'') will be priced using the applicable exchange closing price where available.

Investments initially valued in currencies other than the U.S. dollar will be converted to the U.S. dollar using exchange rates obtained from pricing services. As a result, the NAV of a Fund's Shares may be affected by changes in the value of currencies in relation to the U.S. dollar. The value of securities traded in markets outside the United States or denominated in currencies other than the U.S. dollar may be affected significantly on a day that the NYSE is closed. As a result, to the extent that a Fund holds foreign (non-U.S.) securities, the NAV of a Fund's Shares may change when an investor cannot purchase, redeem or exchange shares.

Derivatives Valuation Methodology for Purposes of Determining Portfolio Indicative Value

On each Business Day, before commencement of trading in Fund Shares on NYSE Arca, each Fund will disclose on its Web site the identities and quantities of the portfolio instruments and other assets held by a Fund that will form the basis for a Fund's calculation of NAV at the end of the Business Day.

In order to provide additional information regarding the intra-day value of Shares of a Fund, one or more major market data vendors will disseminate every 15 seconds through the facilities of the Consolidated Tape Association (''CTA'') or other widely disseminated means an updated Portfolio Indicative Value (''PIV'') for each Fund as calculated by an information provider or market data vendor.

A third party market data provider will calculate the PIV for each Fund. For the purposes of determining the PIV, the third party market data provider's valuation of derivatives is expected to be similar to its valuation of all securities. The third party market data provider may use market quotes if available or may fair value securities against proxies (such as swap or yield curves).

With respect to specific derivatives:

• Foreign currency derivatives may be valued intraday using market quotes, or another proxy as determined to be appropriate by the third party market data provider.

• Futures may be valued intraday using the relevant futures exchange data, or another proxy as determined to be appropriate by the third party market data provider.

• Interest rate swaps may be mapped to a swap curve and valued intraday

based on the swap curve, or another proxy as determined to be appropriate by the third party market data provider.

- CDX/CDS may be valued using intraday data from market vendors, or based on underlying asset price, or another proxy as determined to be appropriate by the third party market data provider.
- Total return swaps may be valued intraday using the underlying asset price, or another proxy as determined to be appropriate by the third party market data provider.
- Exchange listed options may be valued intraday using the relevant exchange data, or another proxy as determined to be appropriate by the third party market data provider.
- OTC options may be valued intraday through option valuation models (*e.g.,* Black-Scholes) or using exchange traded options as a proxy, or another proxy as determined to be appropriate by the third party market data provider.
- A third party market data provider's valuation of forwards will be similar to their valuation of the underlying securities, or another proxy as determined to be appropriate by the third party market data provider. The third party market data provider will generally use market quotes if available. Where market quotes are not available, they may fair value securities against proxies (such as swap or yield curves). Each Fund's disclosure of forward positions will include information that market participants can use to value these positions intraday.

Disclosed Portfolio

Each Fund's disclosure of derivative positions in the applicable Disclosed Portfolio will include information that market participants can use to value these positions intraday. On a daily basis, the Funds will disclose on the Funds' Web site the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in a Fund's portfolio.

Impact on Arbitrage Mechanism

For each Fund, the Adviser believes there will be minimal, if any, impact to the arbitrage mechanism as a result of the use of derivatives. Market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Adviser believes that the price at which Shares of a Fund trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem creation Shares of a Fund at their NAV, which should ensure that Shares of a Fund will not trade at a material discount or premium in relation to its NAV.

The Adviser does not believe there will be any significant impacts to the settlement or operational aspects of a Fund's arbitrage mechanism due to the use of derivatives. Because derivatives generally are not eligible for in-kind transfer, they will be substituted with a ''cash in lieu'' amount (as described below) when each Fund processes purchases or redemptions of block-size ''Creation Units'' (as described below) in-kind.

Creations and Redemptions of Shares

According to the Registration Statement, Shares of each of the Funds that trade in the secondary market will be ''created'' at NAV by Authorized Participants only in block-size Creation Units of 50,000 Shares or multiples thereof.[41] The size of a Creation Unit is subject to change. Each of the Funds will offer and issue Shares at their NAV per Share generally in exchange for a basket of debt securities held by that Fund (the ''Deposit Securities'') together with a deposit of a specified cash payment (the ''Cash Component''), or in lieu of Deposit Securities, a Fund may permit a ''cash-in-lieu'' amount for any reason at a Fund's sole discretion. Alternatively, a Fund may issue Creation Units in exchange for a specified all-cash payment (''Cash Deposit'') (together with Deposit Securities and Cash Component, the ''Fund Deposit''). Similarly, Shares can be redeemed only in Creation Units, generally in-kind for a portfolio of debt securities held by the Funds and/or for a specified amount of cash (collectively, ''Redemption Instruments'').

On any given Business Day, purchases and redemptions of Creation Units will be made in whole or in part on a cash basis if an Authorized Participant deposits or receives (as applicable) cash in lieu of some or all of the Fund Deposit or Redemption Instruments, respectively, solely because such instruments are, in the case of the Fund Deposit, not available in sufficient quantity.[42] In determining whether a Fund will be selling or redeeming Creation Units on a cash or in-kind basis, the key consideration will be the benefit which would accrue to Fund investors. In many cases, investors may benefit by the use of all cash purchase orders because the Adviser would execute trades rather than market makers, and the Adviser may be able to obtain better execution in bond transactions due to its size, experience and potentially stronger relationships in the fixed income markets.

Except when aggregated in Creation Units, Shares will not be redeemable by the Funds. The prices at which creations and redemptions occur will be based on the next calculation of NAV after an order is received. Requirements as to the timing and form of orders will be described in the Authorized Participant agreement. PIMCO will make available on each Business Day via the National Securities Clearing Corporation (''NSCC''), prior to the opening of business (subject to amendments) on the Exchange (currently 9:30 a.m., E.T.), the identity and the required amount of each Deposit Security and the amount of the Cash Component (or Cash Deposit) to be included in the current ''Fund Deposit'' [43] (based on information at the end of the previous Business Day). Creations and redemptions must be made by an Authorized Participant.

Additional information regarding the Trust, the Funds and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings, disclosure

[41] The NAV of the Funds' Shares generally will be calculated once daily Monday through Friday as of the close of trading on the New York Stock Exchange (''NYSE''), generally 4:00 p.m. E.T. (the ''NAV Calculation Time'') on any Business Day. NAV per Share will be calculated by dividing a Fund's net assets by the number of that Fund's Shares outstanding. For more information regarding the valuation of Fund investments in calculating a Fund's NAV, see the Registration Statement.

The term ''Authorized Participant'' refers to a ''Participating Party'' (a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the NSCC; or a Depository Trust Company (''DTC'') Participant who has executed a Participant Agreement (an agreement with the Distributor and Transfer Agent with respect to creations and redemptions of Creation Units).

[42] Such purchase or redemption transactions are ''custom orders.'' On any given Business Day, if the Fund accepts a custom order, the Adviser represents that the Fund will accept custom orders from all other Authorized Participants on the same basis.

[43] The Deposit Securities and Cash Component or, alternatively, the Cash Deposit, will constitute the Fund Deposit, which will represent the investment amount for a Creation Unit of each of the Funds.

policies, distributions and taxes is included in the Registration Statement. All terms relating to the Funds that are referred to but not defined in this proposed rule change are defined in the Registration Statement.

Availability of Information

The Trust's Web site (*www.pimcoetfs.com*), which will be publicly available prior to the public offering of Shares of the Funds, will include a form of the prospectus for each of the Funds that may be downloaded. The Trust's Web site will include additional quantitative information updated on a daily basis, including, for each of the Funds, (1) daily trading volume, the prior Business Day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[44] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each Business Day, before commencement of trading in Shares in the Core Trading Session (9:30 a.m. E.T. to 4:00 p.m. E.T.) on the Exchange, each of the Funds will disclose on the Trust's Web site the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for each of the Fund's calculation of NAV at the end of the Business Day.[45]

Each Fund's disclosure of derivative positions in the applicable Disclosed Portfolio will include information that market participants can use to value these positions intraday. On a daily basis, the Funds will disclose on the Funds' Web site the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in a Fund's portfolio. The Web site information will be publicly available at no charge.

In addition, a basket composition file, which includes the security names and share quantities, if applicable, required to be delivered in exchange for each of the Funds' Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the Exchange via the NSCC. The basket represents one Creation Unit of each of the Funds. The NAV of each of the Funds will normally be determined as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m. E.T.) on each Business Day. Authorized Participants may refer to the basket composition file for information regarding Fixed Income Instruments, and any other instrument that may comprise a Fund's basket on a given day.

Investors can also obtain the Trust's SAI, the Funds' Shareholder Reports, and the Funds' Forms N–CSR and Forms N–SAR, filed twice a year. The Funds' SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N–CSR, Form N–PX and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Intra-day and closing price information regarding exchange-traded equity securities, including common stocks, preferred stocks, securities convertible into stocks, closed-end funds, exchange traded funds and other equity-related securities, will be available from the exchange on which such securities are traded. Intra-day and closing price information regarding exchange traded options (including options on futures) and futures will be available from the exchange on which such instruments are traded. Intra-day and closing price information regarding Fixed Income Instruments also will be available from major market data vendors. Price information relating to forwards, spot currency, OTC options and swaps will be available from major market data vendors. Price information regarding RIBs, money market instruments, private activity bonds, trade claims, privately placed and unregistered securities, and structured products will be available from major market data vendors. Price information regarding other investment company securities will be available from on-line information services and from the Web site for the applicable investment company security. 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. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the CTA high-speed line. Exchange-traded options quotation and last sale information is available via the Options Price Reporting Authority. Price information relating to equity securities traded OTC will be available from major market data vendors. In addition, the PIV, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.[46] The dissemination of the PIV, together with the Disclosed Portfolio, may allow investors to determine an approximate value of the underlying portfolio of each of the Funds on a daily basis and to provide an estimate of that value throughout the trading day.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of a Fund.[47] Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also 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 and/or the financial instruments comprising the Disclosed Portfolio of any of the Funds; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of a Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's

[44] The Bid/Ask Price of each of the Funds will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of that Fund's NAV. The records relating to Bid/Ask Prices will be retained by each of the Funds and their service providers.

[45] Under accounting procedures followed by the Funds, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (''T+1''). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[46] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available PIVs taken from CTA or other data feeds.

[47] *See* NYSE Arca Equities Rule 7.12.

existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. E.T. in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. Consistent with NYSE Arca Equities Rule 8.600(d)(2)(B)(ii), the Funds' Reporting Authority will 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 each Fund's portfolio. The Exchange represents that, for initial and/or continued listing, each Fund will be in compliance with Rule 10A–3 [48] under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for each Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares of each Fund 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.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[49] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, exchange-traded options, exchange-traded equities, futures and options on futures with other markets or other entities that are members of the ISG, and FINRA may obtain trading information regarding trading in the Shares, exchange-traded options, exchange-traded equities, futures and options on futures from such markets or entities. In addition, the Exchange may obtain information regarding trading in the Shares, exchange-traded options, exchange-traded equities, futures and options on futures from markets or other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[50] FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Funds reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). FINRA also can access data obtained from the Municipal Securities Rulemaking Board relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

Not more than 10% of the net assets of a Fund in the aggregate invested in exchange-traded equity securities shall consist of equity securities, including stocks into which a convertible security is converted, whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Furthermore, not more than 10% of the net assets of a Fund in the aggregate invested in futures contracts or exchange-traded options contracts shall consist of futures contracts or exchange-traded options contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (4) how information regarding the PIV and the Disclosed Portfolio is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that each of the Funds is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. E.T. each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [51] 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 8.600. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to

[48] 17 CFR 240.10A–3.

[49] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[50] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for a Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[51] 15 U.S.C. 78f(b)(5).

deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, exchange-traded options, exchange-traded equities, futures and options on futures with other markets or other entities that are members of the ISG and FINRA may obtain trading information regarding trading in the Shares, exchange-traded options, exchange-traded equities, futures and options on futures from such markets or entities. In addition, the Exchange may obtain information regarding trading in the Shares, exchange-traded options, exchange-traded equities, futures and options on futures from markets or other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Funds reported to FINRA's TRACE. FINRA also can access data obtained from the Municipal Securities Rulemaking Board relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares. While emerging markets corporate debt securities (excluding commercial paper) generally must have $200 million or more par amount outstanding and significant par value traded to be considered as an eligible investment for each of the Funds, at least 80% of issues of such securities held by a Fund must have $200 million or more par amount outstanding at the time of investment. Furthermore, not more than 10% of the net assets of a Fund in the aggregate invested in exchange-traded equity securities shall consist of equity securities, including stocks into which a convertible security is converted, whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Furthermore, not more than 10% of the net assets of a Fund in the aggregate invested in futures contracts or exchange-traded options contracts shall consist of futures contracts or exchange-traded options contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

Each Fund's investments, including derivatives, will be consistent with that Fund's investment objective and each Fund's use of derivatives may be used to enhance leverage. However, each Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2Xs and 3Xs) of a Fund's broad-based securities market index (as defined in Form N–1A). Each Fund's investments will be subject to all of the restrictions under the 1940 Act, including restrictions with respect to investments in illiquid assets, that is, the limitation that a 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. PIMCO's Counterparty Risk Committee will evaluate the creditworthiness of swaps counterparties on an ongoing basis.

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 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, a large amount of information is publicly available regarding each of the Funds and the Shares, thereby promoting market transparency. Moreover, the PIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each Business Day, before commencement of trading in Shares in the Core Trading Session on the Exchange, each of the Funds will disclose on the Trust's Web site the Disclosed Portfolio that will form the basis for each Fund's calculation of NAV at the end of the Business Day. 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 quotation and last sale information will be available via the CTA high-speed line. Exchange-traded options quotation and last sale information is available via the Options Price Reporting Authority. Price information for the debt securities and other financial instruments held by each of the Funds, including the intra-day closing settlement price for the Fixed Income Instruments, including Municipal Bonds, and derivatives thereon, and other financial instruments held by each of the Funds, will be available through major market data vendors. Each Fund's investments, including derivatives, will be consistent with that Fund's investment objective. The Trust's Web site will include a form of the prospectus for each of the Funds and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of any of the Funds will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of any of the Funds may be halted. In addition, as noted above, investors will have ready access to information regarding each of the Funds' holdings, the PIV, the Disclosed Portfolio, and quotation and last sale information for the 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 it will facilitate the listing and trading of additional types of actively-managed exchange-traded products that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. The Adviser is not a broker-dealer but is affiliated with a broker-dealer and has implemented a ''fire wall'' with respect to such broker-dealer regarding access to information concerning the composition and/or changes to each Fund's portfolio. In addition, the Funds' Reporting Authority will 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 each Fund's portfolio.

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 purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of additional types of actively-managed

exchange-traded products that, under normal circumstances, will invest principally in fixed income securities and that will enhance competition with respect to such products among market participants, to the benefit of investors and the marketplace.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2014–58 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–2014–58. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2014–58, and should be submitted on or before July 29, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[52]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–15814 Filed 7–7–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72510; File No. SR–NYSEMKT–2014–53]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Price List To Add Certain Charges for Hosting Equipment To Support Internet Connections for Member Organizations Operating on the Floor of the Exchange Starting January 1, 2015

July 1, 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 June 24, 2014, NYSE MKT LLC (''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Price List to add certain charges for hosting equipment to support Internet connections for member organizations operating on the Floor of the Exchange. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Price List to add certain charges for hosting equipment to support Internet connections for member organizations operating on the Floor of the Exchange.

Currently, a member organization that operates on the Floor must arrange for its own access to an Internet service provider (''ISP''). To provide the service, an ISP must place certain equipment on the Exchange's premises at 11 Wall Street. Currently there is no separate charge related to the Exchange's hosting of such equipment. The Exchange does charge fees for installing and removing data jacks and lines, and member organizations are responsible for paying the ISP's fees.

The Exchange believes that these hosting arrangements are not an efficient use of its space or an efficient or robust way to provide Internet service to member organizations operating on the Floor. As such, the Exchange proposes to provide member organizations operating on the Floor with connections to ISPs at no charge via the Exchange's Secure Financial Transaction Infrastructure (''SFTI''). For

[52] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

such member organizations that choose to use SFTI to connect to their ISP, it will no longer be necessary to host separate ISP equipment at 11 Wall Street and such equipment can be removed. Using SFTI to connect to ISPs also would help avoid the consequences of a service disruption at a single carrier or access point. For example, for a period beginning in October 2013, the Exchange had to temporarily suspend certain rules restricting the use of personal portable phone devices by Floor brokers on the Trading Floor because the third-party carrier that provided service for the Exchange-provided cell phones experienced an issue that caused a service outage.[3] The proposed rule change would help to avoid such an issue with respect to Internet services because SFTI can connect to multiple ISPs at multiple access points, providing redundancy and resilience in service and improving member organizations' and the Exchange's disaster recovery capabilities.

The Exchange will make the connections to ISPs available via SFTI immediately and provide member organizations with a transition period until December 31, 2014 to have their ISP equipment located at 11 Wall Street removed. If a member organization has not done so by that time, then the Exchange will begin charging $1,000 per month per member organization per rack for continuing to host the member organization's ISP equipment at 11 Wall Street, or $600 per month for a half rack or $400 per month for a quarter rack.[4] The Exchange believes that the proposed charges will incent all member organizations to transition over to the free, more robust service while leaving them the option of maintaining their current service arrangement if they so choose. The Exchange will continue to charge fees for installing and removing data jacks and lines as set forth in the current Price List, and member organizations will remain responsible for paying any fees charged by the ISP.

The proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[6] 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 rule change is reasonable because it will result in a more efficient use in the Exchange's premises and increase the redundancy and resilience in Internet service to member organizations operating on the Floor, thereby improving those member organizations' and the Exchange's disaster recovery capabilities. The proposed change is equitable and not unfairly discriminatory because there would continue to be an option, as there is today, for all member organizations operating on the Floor to obtain a free connection to an ISP. The proposed fees would only apply if, after the transition period, the member organization elected to have a separate ISP connection that would require separate equipment hosting on the Exchange's premises at 11 Wall Street.

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,[7] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address any competitive issues among exchanges or broker-dealers but rather to more efficiently use the Exchange's premises and help to prevent Internet service disruptions from affecting the Floor, thereby improving disaster preparedness.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[8] of the Act and subparagraph (f)(2) of Rule 19b–4[9] 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)[10] 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–NYSEMKT–2014–53 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–NYSEMKT–2014–53. 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

[3] *See* Securities Exchange Act Release No. 70696 (October 16, 2013), 78 FR 62802 (October 22, 2013) (SR–NYSEMKT–2013–82).

[4] All NYSE MKT members [sic] organizations are New York Stock Exchange LLC (''NYSE'') member organizations. *See* Supplementary Material .10 to Rule 2—Equities. NYSE has submitted substantially the same proposed fee change. *See* SR–NYSE–2014–30. However, because the ISP connection will support a member organization's operations for both SROs, the fee will only be assessed once.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] 15 U.S.C. 78f(b)(8).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

[10] 15 U.S.C. 78s(b)(2)(B).

Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2014–53 and should be submitted on or before July 29, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–15815 Filed 7–7–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72511; File No. SR–NYSE–2014–30]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Price List To Add Certain Charges for Hosting Equipment To Support Internet Connections for Member Organizations Operating on the Floor of the Exchange Starting January 1, 2015

July 1, 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 June 24, 2014, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Price List to add certain charges for hosting equipment to support Internet connections for member organizations operating on the Floor of the Exchange. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Price List to add certain charges for hosting equipment to support Internet connections for member organizations operating on the Floor of the Exchange.

Currently, a member organization that operates on the Floor must arrange for its own access to an Internet service provider (''ISP''). To provide the service, an ISP must place certain equipment on the Exchange's premises at 11 Wall Street. Currently there is no separate charge related to the Exchange's hosting of such equipment. The Exchange does charge fees for installing and removing data jacks and lines, and member organizations are responsible for paying the ISP's fees.

The Exchange believes that these hosting arrangements are not an efficient use of its space or an efficient or robust way to provide Internet service to member organizations operating on the Floor. As such, the Exchange proposes to provide member organizations operating on the Floor with connections to ISPs at no charge via the Exchange's Secure Financial Transaction Infrastructure (''SFTI''). For such member organizations that choose to use SFTI to connect to their ISP, it will no longer be necessary to host separate ISP equipment at 11 Wall Street and such equipment can be removed. Using SFTI to connect to ISPs also would help avoid the consequences of a service disruption at a single carrier or access point. For example, for a period beginning in October 2013, the Exchange had to temporarily suspend certain rules restricting the use of personal portable phone devices by Floor brokers on the Trading Floor because the third-party carrier that provided service for the Exchange-provided cell phones experienced an issue that caused a service outage.[3] The proposed rule change would help to avoid such an issue with respect to Internet services because SFTI can connect to multiple ISPs at multiple access points, providing redundancy and resilience in service and improving member organizations' and the Exchange's disaster recovery capabilities.

The Exchange will make the connections to ISPs available via SFTI immediately and provide member organizations with a transition period until December 31, 2014 to have their ISP equipment located at 11 Wall Street removed. If a member organization has not done so by that time, then the Exchange will begin charging $1,000 per month per member organization per rack for continuing to host the member organization's ISP equipment at 11 Wall Street, or $600 per month for a half rack or $400 per month for a quarter rack.[4] The Exchange believes that the proposed charges will incent all member organizations to transition over to the free, more robust service while leaving them the option of maintaining their current service arrangement if they so choose. The Exchange will continue to charge fees for installing and removing data jacks and lines as set forth in the current Price List, and member organizations will remain

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 70697 (October 16, 2013), 78 FR 62825 (October 22, 2013) (SR–NYSE–2013–69).

[4] All NYSE members [sic] organizations are NYSE MKT LLC (''NYSE MKT'') member organizations. *See* Supplementary Material .10 to Rule 2. NYSE MKT has submitted substantially the same proposed fee change. *See* SR–NYSEMKT–2014–53. However, because the ISP connection will support a member organization's operations for both SROs, the fee will only be assessed once.

responsible for paying any fees charged by the ISP.

The proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[6] 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 rule change is reasonable because it will result in a more efficient use in the Exchange's premises and increase the redundancy and resilience in Internet service to member organizations operating on the Floor, thereby improving those member organizations' and the Exchange's disaster recovery capabilities. The proposed change is equitable and not unfairly discriminatory because there would continue to be an option, as there is today, for all member organizations operating on the Floor to obtain a free connection to an ISP. The proposed fees would only apply if, after the transition period, the member organization elected to have a separate ISP connection that would require separate equipment hosting on the Exchange's premises at 11 Wall Street.

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,[7] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address any competitive issues among exchanges or broker-dealers but rather to more efficiently use the Exchange's premises and help to prevent Internet service disruptions from affecting the Floor, thereby improving disaster preparedness.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[8] of the Act and subparagraph (f)(2) of Rule 19b–4[9] 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)[10] 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–NYSE–2014–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street N.E., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2014–30. 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 N.E., 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–NYSE–2014–30 and should be submitted on or before July 29, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–15816 Filed 7–7–14; 8:45 am]

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[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] 15 U.S.C. 78f(b)(8).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

[10] 15 U.S.C. 78s(b)(2)(B).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72512; File Nos. SR–NYSE–2013–72; SR–NYSEMKT–2013–91]

Self-Regulatory Organizations; New York Stock Exchange LLC; NYSE MKT LLC; Notice of Withdrawal of Proposed Rule Changes To Establish an Institutional Liquidity Program on a One-Year Pilot Basis

July 1, 2014.

On November 7, 2013, New York Stock Exchange LLC (''NYSE'') and NYSE MKT LLC (''NYSE MKT'' and together with NYSE, the ''Exchanges'') each 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 establish an Institutional Liquidity Program (''ILP'') on a one-year pilot basis. The proposed rule changes were published for comment in the **Federal Register** on November 27, 2013.[3] The Commission received three comments on the NYSE Proposal.[4] On January 9, 2014, the Commission designated a longer period for Commission action on the proposed rule changes, until February 25, 2014.[5] The Exchanges submitted a consolidated response letter on January 14, 2014.[6] On February 25, 2014, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act to determine whether to disapprove the proposed rule changes.[7] On June 27, 2014, the Exchanges withdrew the Proposals (SR–NYSE–2013–72; SR–NYSEMKT–2013–91).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–15818 Filed 7–7–14; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4

[3] *See* Securities Exchange Act Release Nos. 70909 (November 21, 2013), 78 FR 71002 (SR–NYSE–2013–72) (''NYSE Proposal''); and 70910 (November 21, 2013), 78 FR 70992 (SR–NYSEMKT–2013–91) (''NYSE MKT Proposal'') (collectively, the ''Proposals'').

[4] *See* Letters to the Commission from James Allen, Head, and Rhodri Pierce, Director, Capital Markets Policy, CFA Institute (December 18, 2013); Clive Williams, Vice President and Global Head of Trading, Andrew M. Brooks, Vice President and Head of U.S. Equity Trading, and Christopher P. Hayes, Vice President and Legal Counsel, T. Rowe Price Associates, Inc. (December 18, 2013); and Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association (December 20, 2013). These comment letters address only the NYSE Proposal, but since the NYSE MKT Proposal is nearly identical, the Commission has treated the letters as addressing both Proposals.

[5] *See* Securities Exchange Act Release No. 71267, 79 FR 2738 (January 15, 2014).

[6] *See* Letter to the Commission from Janet McGinnis, EVP & Corporate Secretary, NYSE Euronext (January 14, 2014).

[7] *See* Securities Exchange Act Release No. 71609, 79 FR 11849 (March 3, 2014).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72502; File No. SR–BX–2014–035]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change Relating to Market Maker Quoting Obligations and the Introduction of a Lead Market Maker

July 1, 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 June 19, 2014, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to: (1) Amend BX Market Maker quoting obligations; (2) adopt new BX Rules at Chapter VII, Section 13 and 14 to allow qualified Options Participants to act as a Lead Market Maker, or LMM, in one or more options classes; (3) revise priority rules to entitle LMMs participation entitlement; and (4) provide for a Public Customer priority overlay for the Price/Time Execution Algorithm.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.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 Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the current BX Market Maker quoting obligations and adopt rules to permit BX Market Makers to act as Lead Market Makers, or LMMs, in one or more options classes, provided the LMM meets certain obligations and quoting requirements as provided for in the new proposed Exchange Rules. The Exchange proposes to provide assigned LMMs with certain participation entitlements. Finally, the Exchange proposes to provide Public Customers with priority when the Price/Time execution algorithm is in effect. The Exchange believes that these amendments, which will be described below in greater detail, will enhance competition on the Exchange by rewarding LMMs who meet certain obligations on BX.

BX Market Maker Quoting Obligations

Currently, Chapter VII, Section 6(d) provides that on a daily basis, a Market Maker must during regular market hours make markets consistent with the applicable quoting requirements specified in these rules, on a continuous basis in at least sixty percent (60%) of the series in options in which the Market Maker is registered. It further provides that, to satisfy this requirement with respect to quoting a series, a Market Maker must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as BX may announce in advance. BX Regulation may consider exceptions to the requirement to quote 90% (or higher) of the trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances.

BX proposes to better align its market maker quoting requirement with that of other exchanges, such as NYSE Arca, Inc. (''NYSE Arca'') and NYSE MKT LLC (''NYSE MKT''). Specifically, BX proposes to reduce the quoting requirement for BX Options Market Makers as follows: A Market Maker must quote such options 60% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as BX may announce in advance. BX Regulation may consider exceptions to the requirement to quote 60% (or higher) of the trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances. This quoting

obligation will apply to all of a Market Maker's registered options collectively on a daily basis, rather than on an option-by-option basis. This quoting obligation will be reviewed on a monthly basis, and allows the Exchange to review the Market Makers' daily compliance in the aggregate and determine the appropriate disciplinary action for single or multiple failures to comply with the continuous quoting requirement during the month period. However, determining compliance with the continuous quoting requirement on a monthly basis does not relieve a Market Maker of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet the continuous quoting obligation each trading day. This is the same requirement as on other options exchanges.[3]

BX believes that this is appropriate for two reasons. First, BX's current Market Maker quoting requirement is much more stringent than certain other exchanges. Quoting each series 90% of the trading day is much more stringent than looking at all options in which a Market Maker is registered, because it allows for some number of series not to be quoted at all, as long as the overall standard is met. This better accommodates the occasional issues that may arise in a particular series, whether technical or manual. The existing requirement may at times discourage liquidity in particular options series because a market maker is forced to focus on a momentary lapse rather than using the appropriate resources to focus on the options series that need and consume additional liquidity. BX believes that it can better attract Market Makers to the BX Options market and grow its market if its quoting obligation is more in line with that of other exchanges.

The Exchange believes that the amendments to Section 6(d)(i)(1) of Chapter VII, which would allow applying the quoting requirements for Market Makers collectively across all options classes, is a fair and more efficient way for the Exchange and market participants to evaluate compliance with the continuous quoting requirements. Applying the continuous quoting requirement collectively across all option classes rather than on an issue-by-issue basis is beneficial to Market Makers by providing some flexibility to choose which series in their appointed classes they will continuously quote—increasing the continuous quoting obligation in the series of one class to allow for a decrease in the continuous quoting obligation in the series of another class. This flexibility does not, however, diminish the Market Maker's obligation to continuously quote a significant part of the trading day in a significant percentage of series. Flexibility is important for classes that have relatively few series and may prevent the Market Maker, in particular, from breaching the continuous quoting requirement when failing to meet the specified quote amount during the trading day (as proposed) in more than one series in an appointed class. However, this flexibility does not act to relieve the Market Maker of his continuous quoting obligations and does not, for example, relieve the Market Maker from providing liquidity in classes experiencing heightened volatility. The Exchange provides in the proposed rule that determining compliance with the continuous quoting requirement on a monthly basis will not relieve a Market Maker of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet the continuous quoting obligation each trading day. The Exchange believes that the balance between the benefits provided to Market Makers and the obligations imposed upon Market Makers by the proposed rule change is appropriate.

The Exchange believes that the proposal will not diminish, and in fact may increase, market making activity on the Exchange, by establishing quoting compliance standards that are reasonable and are already in place on other options exchanges. By amending Section 6 of Chapter VII to state that quoting obligations apply to a Market Maker's appointed issues collectively, this proposal is similar to that of other options markets and puts the Exchange on an equal competitive footing.[4] Moreover, as discussed the Exchange believes that the proposal may increase market making activity on the Exchange by establishing quoting compliance standards that are reasonable and already in place on other options exchanges.

Lead Market Makers Allocations

Today on BX there are two types of Options Participants, Options Order Entry Firms and Options Market Makers. Options Order Entry Firms, or OEFs, are Options Participants who represent customer orders as agent on BX Options and non-Market Maker Participants conducting proprietary trading as principal. Options Market Makers are Options Participants registered with the Exchange as Options Market Makers in one or more listed options on BX.[5] BX may suspend or terminate any registration of an Options Market Maker when, in BX's judgment, the interests of a fair and orderly market are best served by such action.

To become an Options Market Maker, an Options Participant is required to register by filing a written application. BX does not place any limit on the number of entities that may become Options Market Makers. BX Options Market Makers are required to electronically engage in a course of dealing to enhance liquidity available on BX and to assist in the maintenance of fair and orderly markets.[6] Among other things, Options Market Makers must maintain minimum net capital in accordance with SEC and BX Options Rules. The Exchange is proposing herein that Options Market Makers must quote 60% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as BX may announce in advance.[7] BX Regulation may consider exceptions to the requirement to quote 60% (or higher) of the trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances. Market Makers shall not be required to make two-sided markets pursuant to Section 5(a)(i) of Chapter VII in any Quarterly Option Series, adjusted option series, or any option series until the time to expiration for such series is less than nine months. Accordingly, the continuous quotation obligations set forth in this rule shall not apply to Market Makers respecting Quarterly

[3] *See* NYSE Arca Rule 6.37B(c) and NYSE MKT Rule 925.1NY(c).

[4] The proposed rule text is, as noted, similar in all material respects to BATS Exchange, Inc. (''BATS'') Rule 22.6(d)(3) and NASDAQ OMX PHLX LLC (''Phlx'') Rule 1014.

[5] *See* BX Options Rules at Chapter VII.

[6] Options Market Makers receive certain benefits for carrying out their duties. For example, a lender may extend credit to a broker-dealer without regard to the restrictions in Regulation T of the Board of governors of the Federal Reserve System if the credit is to be used to finance the broker-dealer's activities as market maker on a national securities exchange. Thus, an Options Market Maker has a corresponding obligation to hold itself out as willing to buy and sell options for its own account on a regular or continuous basis to justify this favorable treatment.

[7] As noted herein, today BX Options Market Makers must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as BX may announce in advance.

Option Series, adjusted option series,[8] or any series with an expiration of nine months or greater. However, a LMM may still receive a participation entitlement in such series if it elects to quote in such series and otherwise satisfies the requirements of Chapter VI, Section 10. If a technical failure or limitation of a system of BX prevents a Market Maker from maintaining, or prevents a Market Maker from communicating to BX Options, timely and accurate quotes, the duration of such failure or limitation shall not be included in any of these calculations with respect to the affected quotes.[9] Options Market Makers must also comply with certain bid/ask differentials (quote spread parameters).[10] Options on equities (including Exchange-Traded Fund Shares), and on index options must be quoted with a difference not to exceed $5 between the bid and offer regardless of the price of the bid, including before and during the opening.[11] However, respecting in-the-money series where the market for the underlying security is wider than $5, the bid/ask differential may be as wide as the quotation for the underlying security on the primary market.[12]

At this time, the Exchange is proposing a third type of Options Participant, an LMM. Approved BX Options Market Makers [13] may become an LMM in one or more listed options. Initial application(s) to become an LMM shall be in a form and/or format prescribed by the Exchange and shall include the following: (1) Background information on the LMM including experience in trading options; (2) the LMM's clearing arrangements; (3) adequacy of capital; and (4) adherence to Exchange rules and ability to meet obligations of an LMM.[14] Subsequent applications shall be in a form and/or format prescribed by the Exchange and shall include the information requested therein, including, but not limited to, an account of the abilities and background of the applicant as well as any other special requirements that the Exchange may require.[15] Once an applicant is approved by the Exchange as an LMM, any material change in capital shall be reported in writing to the Exchange within two business days after the change. BX will not place any limit on the number of entities that may become LMMs, however the Exchange notes that there will only be one LMM per class.

When an options class is to be allocated or reallocated by the Exchange, the Exchange will solicit applications from all eligible LMMs. If the Exchange determines that special qualifications should be sought in the successful applicant, it shall indicate such desired qualifications in the notice.[16]

Further, the Exchange proposes to require an allocation application to be submitted in writing to the Exchange's designated staff and shall include, at a minimum, the name and background of the LMM, the LMM's experience and capitalization demonstrating an ability to trade the particular options class sought, and any other reasons why the LMM believes it should be assigned or allocated the security. In addition, the Exchange may also require that the application include other information such as system acceptance/execution levels and guarantees. The Exchange may re-solicit applications for any reason, including if it determines that its initial solicitation resulted in an insufficient number of applicants.[17]

Allocation decisions and automatic allocations shall be communicated in writing to Exchange members. Once the LMM is allocated an issue, such LMM shall immediately notify the Exchange in writing of any change to the respective system acceptance/execution levels or any other material change in the application for any assigned issue. If an LMM seeks to withdraw from allocation in a security, it should so notify the Exchange at least one business day prior to the desired effective date of such withdrawal.[18]

Options on Related Securities shall be automatically allocated to the LMM that is already the LMM in Currently Allocated Securities (as defined hereafter). Only one LMM may be allocated to an options class. The Exchange is defining the term ''Related Securities'' for purpose of Chapter VII, Section 13 as follows: ''Related Securities means, but is not limited to: Securities of a partially or wholly owned subsidiary; securities that are convertible into the securities of the issuer; warrants on securities of the issuer; securities issued in connection with a name change; securities issued in a reverse stock split; contingent value rights; ''tracking'' securities designed to track the performance of the underlying security or corporate affiliate thereof; securities created in connection with the merger or acquisition of one or more companies; securities created in connection with a ''spin-off'' transaction; convertible on non-convertible senior securities; and securities into which a listed security is convertible, where such Related Securities emanate from or are related to securities underlying options that are currently allocated to a LMM on the Exchange (''Currently Allocated Options''). The term Related Securities does not include Exchange Traded Funds.[19]

The Exchange shall allocate new options classes, or reallocate existing options classes to applicants based on the results of such factors as the Exchange deems appropriate. Among the factors that the Exchange may consider in making such decisions are: The number and type of securities in which applicants are currently registered; the capital and other resources of the applicant; recent allocation decisions within the past eighteen months; the desirability of encouraging the entry of new LMMs into the Exchange's market; order flow commitments; any prior transfers of LMM privileges by the applicant and the reasons therefore and such policies as the Board instructs the Exchange to follow in allocating or reallocating securities. The Exchange may also consider: Quality of markets data; observance of ethical standards and administrative responsibilities. Solely with respect to options class allocations or reallocations, past or contemplated voluntary delisting of options by LMMs, done in the best interest of the Exchange, will not be viewed negatively by the Exchange in making allocation and reallocation decisions. The Exchange is empowered to allocate option classes for a limited period of time or subject to such other terms and conditions as it deems appropriate.[20]

Requests to allocate or transfer allocation, or transfer of an options class request must be made in writing to the

[8] An adjusted option series is an option series wherein one option contract in the series represents the delivery of other than 100 shares of underlying stock or Exchange-Traded Fund Shares.

[9] Substantial or continued failure by an Options Market Maker to meet any of its obligations and duties, will subject the Options Market Maker to disciplinary action, suspension, or revocation of the Options Market Maker's registration in one or more options series.

[10] *See* BX Options Rules at Chapter VII, Section 6.

[11] *Id.*

[12] *Id.*

[13] *See* Chapter VII, Section 2.

[14] *See* proposed BX Options Rules at Chapter VII, Section 13(A)(b).

[15] *See* proposed BX Options Rules at Chapter VII, Section 13(A)(c).

[16] *See* proposed BX Options Rules at Chapter VII, Section 13(B)(a).

[17] *See* proposed BX Options Rules at Chapter VII, Section 13(B)(b).

[18] *See* proposed BX Options Rules at Chapter VII, Section 13(B)(c)(d) and (e).

[19] *See* proposed BX Options Rules at Chapter VII, Section 13(B)(f).

[20] *See* proposed BX Options Rules at Chapter VII, Section 13(C).

Exchange and such transfer may only be made to an approved LMM. The LMM shall be assigned to an options class for a period defined by the Exchange. The Exchange will communicate such period in solicitation applications (notices). The Exchange may re-allocate an options class after the defined period has expired.[21]

The proposed rules relating to the appointment of LMMs and the allocation of option series are similar to rules currently in place on NASDAQ OMX PHLX LLC (''Phlx'') with respect to its appointment of specialists.[22]

LMM Obligations and Quotations

The Exchange also requires that LMM transactions should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and no LMM should enter into transactions or make bids or offers that are inconsistent with such a course of dealings.[23] Further, with respect to each class of options in his or her appointment, an LMM is expected to engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class. Without limiting the foregoing, an LMM is expected to perform the following activities in the course of maintaining a fair and orderly market pursuant to proposed Chapter VII, Section 14(b): (i) To compete with other Market Makers to improve the market in all series of options classes to which the LMM is appointed; (ii) to make markets that will be honored for the number of contracts entered into the Trading System [24] in all series of options classes within the LMM's appointment; (iii) to update market quotations in response to changed market conditions in all series of options classes within the LMM's appointment; (iv) options traded on the Trading System may be quoted with a difference not to exceed $5 between the bid and offer regardless of the price of the bid; and (v) BX Regulation may establish quote width differences other than as provided in subparagraph (iv) for one or more options series. In the event the bid/ask differential in the underlying security is greater than the bid/ask differential set forth in subsection (b)(iv)–(v) of Section 14 the permissible price differential for any in-the-money option series may be identical to those in the underlying security market. In the case of the at-the-money and out-of-the-money series, BX Regulation may waive the requirements of subsections (b)(iv)–(v) of Section 14 on a case-by-case basis when the bid/ask differential for the underlying security is greater than .50. In such instances, the bid/ask differentials for the at-the-money series and the out-of-the-money series may be half as wide as the bid/ask differential in the underlying security in the primary market. Exemptions from subsections (b)(iv)–(v) are subject to Exchange review. BX Regulation must file a report with BX operations setting forth the time and duration of such exemptive relief and the reasons therefore.[25]

With respect to unusual conditions, if the interest of maintaining a fair and orderly market so requires, BX Regulation may declare that unusual market conditions exist in a particular issue and allow LMMs in that issue to make auction bids and offers with spread differentials of up to two times, or in exceptional circumstances, typically up to three times, the legal limits permitted under this Rule. In making such determinations to allow wider markets, BX Regulation should consider the following factors: (A) Whether there is pending news, a news announcement or other special events; (B) whether the underlying security is trading outside of the bid or offer in such security then being disseminated; (C) whether Options Participants receive no response to orders placed to buy or sell the underlying security; and (D) whether a vendor quote feed is clearly stale or unreliable.[26] In the event that BX Regulation determines that unusual market conditions exist in any option, it will be the responsibility of BX Regulation to file a report with BX operations setting forth the relief granted for the unusual market conditions, the time and duration of such relief and the reasons therefore.

In classes of options other than those to which the LMM is appointed, LMMs should not engage in transactions for an account in which they have an interest that are disproportionate in relation to, or in derogation of, the performance of their obligations as specified in this Rule with respect to the classes in their appointment. Furthermore, LMMs should not: (1) Individually or as a group, intentionally or unintentionally, dominate the market in option contracts of a particular class; and (2) effect purchases or sales on the Exchange except in a reasonable and orderly manner.[27]

LMMs are prohibited from the following: (1) Any practice or procedure whereby LMMs trading any particular option issue determine by agreement the spreads or option prices at which they will trade that issue; and (2) any practice or procedure whereby LMMs trading any particular option issue determine by agreement the allocation of orders that may be executed in that issue.[28]

An LMM may enter quotations only in the issues included in its appointment. An LMM must provide continuous two-sided quotations throughout the trading day in its appointed issues for 90% of the time the Exchange is open for trading in each issue. Such quotations must meet the legal quote width requirements herein. These obligations will apply to all of the LMMs appointed issues collectively, rather than on an option-by-option basis. Compliance with this obligation will be determined on a monthly basis.[29] BX Regulation may consider exceptions to the requirement to quote 90% (or higher) of the trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances. However, determining compliance with the continuous quoting requirement on a monthly basis does not relieve an LMM of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against an LMM for failing to meet the continuous quoting obligation each trading day.

If a technical failure or limitation of a system of the Exchange prevents an LMM from maintaining, or prevents a LMM from communicating to the Exchange, timely and accurate electronic quotes in an issue, the duration of such failure shall not be considered in determining whether the LMM has satisfied the 90% quoting standard with respect to that option issue. The Exchange may consider other exceptions to this continuous electronic quote obligation based on demonstrated

[21] *See* proposed BX Options Rules at Chapter VII, Section 13(D).

[22] *See* Phlx Rules 501, 505, 506 and 511.

[23] *See* proposed BX Options Rules at Chapter VII, Section 14(a).

[24] *See* Chapter I, Section 1(62). The term ''Trading System'' or ''System'' means the automated trading system used by BX Options for the trading of options contracts.

[25] *See* proposed BX Options Rules at Chapter VII, Section 14(b).

[26] *See* proposed BX Options Rules at Chapter VII, Section 14(c).

[27] *See* proposed BX Options Rules at Chapter VII, Section 14(d).

[28] *See* proposed BX Options Rules at Chapter VII, Section 14(e).

[29] *See* proposed BX Options Rules at Chapter VII, Section 14(f).

legal or regulatory requirements or other mitigating circumstances.[30] An LMM may be called upon by BX Regulation to submit a single quote or maintain continuous quotes in one or more series of an option issue within its appointment whenever, in the judgment of BX Regulation, it is necessary to do so in the interest of maintaining fair and orderly markets.[31]

An LMM shall be compelled to buy/sell a specified quantity of option contracts at the disseminated bid/offer pursuant to his obligations with respect to firm quotes. All quotes and orders entered into the System by Options Participants are firm under this Rule and Rule 602 of Regulation NMS under the Exchange Act (''SEC Rule 602'') for the number of contracts specified and according to the size requirements set forth herein. Market Maker bids and offers are not firm under this Rule and SEC Rule 602: (1) For the period prior to the Opening Cross; or (2) if any of the circumstances provided in paragraph (b)(3) or (c)(4) of SEC Rule 602 exist.[32] These obligations of this Rule shall not apply to LMMs with respect to adjusted option series, quarterly options series, or any series with a time to expiration of nine months or greater. For purposes of this Rule, an adjusted option series is an option series wherein, as a result of a corporate action by the issuer of the underlying security, one option contract in the series represents the delivery of other than 100 shares of underlying security.[33]

These LMM obligations are based on rules of NYSE Arca.[34]

Lead Market Maker Priority

The Exchange proposes to provide LMM participation entitlements in Chapter VI (Trading Systems) at Section 10, entitled ''Book Processing.'' Specifically, with respect to Size Pro-Rata executions, the Exchange would afford an LMM a participation entitlement if the LMM's bid/offer is at the Exchange's disseminated price and all Public Customer [35] orders have been fully executed.[36] The LMM shall not be entitled to receive a number of contracts that is greater than the displayed size associated with such LMM. LMM participation entitlements will be considered after the opening process. The LMM participation entitlement is as follows: (1) A BX Options LMM shall receive the greater of: the LMM's Size Pro-Rata share; 50% of remaining interest if there is one or no other Market Maker at that price; 40% of remaining interest if there are two other Market Makers at that price; or 30% of remaining interest if there are more than two other Market Makers at that price; or if rounding would result in an allocation of less than one contract, a BX Options LMM shall receive one contract. Rounding will be up or down to the nearest integer.

Orders for 5 contracts or fewer shall be allocated to the LMM. The Exchange will review this provision quarterly and will maintain the small order size at a level that will not allow orders of 5 contracts or less executed by the LMM to account for more than 40% of the volume executed on the Exchange. After all Public Customer orders have been fully executed and LMM participation entitlements applied, if applicable, BX Options Market Makers shall have priority over all other Participant orders at the same price.

Several examples of the manner in which an LMM will be allocated pursuant to the Size Pro-Rata model follow below.

Example Number 1:

ABBO = 1.00–1.10
BX BBO = 1.00–1.10
Orders/Quotes entered into Trading System in the following order of receipt:
Market Maker 1: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Firm 5 contracts offered at 1.10
LMM: 1.00 bid (10 contracts)—1.10 offer (20 contracts)
Market Maker 2: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Customer B 1 contract offered at 1.10
Incoming Order to pay 1.10 for 5 contracts
Allocated as follows:
Customer B trades 1 contract at 1.10
LMM trades 4 contracts at 1.10

Example Number 2:

ABBO = 1.00–1.10
BX BBO = 1.00–1.10
Orders/Quotes entered into Trading System in the following order of receipt:
Market Maker 1: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Firm 5 contracts offered at 1.10
LMM: 1.00 bid (10 contracts)—1.10 offer (3 contracts)
Market Maker 2: 1.00 bid (10 contracts)—1.10 offer (30 contracts)
Incoming Order to pay 1.10 for 5 contracts
Allocated as follows:
LMM trades 3 contracts at 1.10
MM1 trades 0 contracts at 1.10 ((10/40)*2) [rounded down based on normal pro-rata]
MM2 trades 1 contracts at 1.10 ((30/40)*2) [rounded down based on normal pro-rata]
MM1 then trades the 1 residual contract based on time

Example Number 3:

ABBO = 1.00–1.10
BX BBO = 1.00–1.10
Orders/Quotes entered into Trading System in the following order of receipt:
LMM: 1.00 bid (10 contracts)—1.10 offer (15 contracts)
Customer A 5 contracts offered at 1.10
Firm 5 contracts offered at 1.10
Market Maker 1: 1.00 bid (10 contracts)—1.10 offer (20 contracts)
Market Maker 2: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Customer B 2 contracts offered at 1.10
Incoming Order to pay 1.10 for 40 contracts
Allocated as follows:
Size Pro-Rata results in Customer A trading 5 contracts, Customer B trading 2 contracts, LMM trading 11 contracts (15/45*33 remaining), MM1 trading 14 contracts (20/45*33), MM2 trading 7 contracts (10/45*33), and then LMM based on time receiving an additional 1 lot.

LMM allocation would result in Customer A trading 5 contracts, Customer B trading 2 contracts, and LMM trading 40% of remaining 33 contracts= 13 (13.2 rounded down); then Size Pro-Rata for remaining with MM1 trading 13 contracts (20/30*20) and MM2 trading 6 contracts (10/30*20) and LMM trading an additional 1 lot based on time.

Pursuant to proposed Chapter VI, Section 10(1)(C)(2)(ii)(1), LMM allocation would prevail in this example because the LMM receives greater allocation.

Example Number 4:

ABBO = 1.00–1.10
BX BBO = 1.00–1.10 comprised of the following in order of receipt
Orders/Quotes entered into Trading System in the following order of receipt:
Market Maker 1: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Customer A 10 contracts offered at 1.10
Firm 15 offered at 1.10
LMM: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Market Maker 2: 1.00 bid (10contracts)—1.10 offer (10 contracts)
Customer B: 10 contracts offered at 1.10
Incoming Order to pay 1.10 for 40 contracts
Allocated as follows:
Size Pro-Rata results in Customer A trading 10 contracts, Customer B trading 10 contracts, LMM trading 6 contracts (10/30*20 remaining rounded down), MM1 trading 6 contracts (10/30*20), MM2 trading 6 contracts (10/30*20), and then MM1 and LMM based on time each receiving an additional 1 lot.

LMM allocation would result in Customer A trading 10 contracts, Customer B trading 10 contracts, and LMM trading 40% of remaining 20 contracts = 8; then normal pro rata resumes with MM1 and MM2 each being allocated 6 contracts.

[30] *See* proposed BX Options Rules at Chapter VII, Section 14(f)(1).

[31] *See* proposed BX Options Rules at Chapter VII, Section 14(f)(2).

[32] *See* proposed BX Options Rules at Chapter VII, Section 14(f)(3).

[33] *See* proposed BX Options Rules at Chapter VII, Section 14(f)(4).

[34] *See* 6.37A and 6.37B of NYSE Arca, Inc.'s Rulebook.

[35] *See* Chapter I, Section 1(50). The term ''Public Customer'' means a person that is not a broker or dealer in securities.

[36] Price Improving Orders will retain price priority before an LMM participation entitlement is provided at the Exchange's disseminated price. *See* Chapter VI, Sections 1(a)(6) and 7(b)(3)(B).

Pursuant to proposed Chapter VI, Section 10(1)(C)(2)(ii)(1), LMM allocation would prevail in this example because the LMM receives greater allocation.

Example Number 5:

ABBO = 1.00–1.10
BX BBO = 1.00–1.10
Orders/Quotes entered into Trading System in the following order of receipt:
Market Maker 1: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Firm 25 offered at 1.10
LMM: 1.00 bid (10 contracts)—1.10 offer (20 contracts)
Market Maker 2: 1.00 bid (5 contracts)—1.10 offer (10 contracts)
Market Maker 3 1.00 bid (10 contracts)—1.10 offer (20 contracts)
Customer B: 2 contracts offered at 1.10
Incoming Order to pay 1.10 for 40 contracts
Allocated as follows:

Size Pro-Rata results in Customer B trading 2 contracts, MM1 trading 6 contracts (10/60*38), LMM trading 12 (20/60*38), MM2 trading 6 contracts (10/60*38), and MM3 trading 12 contracts (20/60*38) and then MM1 and LMM each trading an additional 1 contract based on time.

LMM allocation would result in Customer B trading 2 contracts and LMM trading 30% of remaining 38 contracts = 11 (11.4 rounded down); then normal pro rata resumes and MM1 trades 6 contracts (10/40*27), MM2 trades 6 (10/40*27), and MM3 trades 13 contracts (20/40*27) and MM1 and LMM each trade an additional 1 lot based on time.

Size Pro-Rata allocation would prevail because the LMM receives greater allocation that way pursuant to proposed Chapter VI, Section 10(1)(C)(2)(ii)(1).

With respect to Price/Time executions, the Exchange proposes to provide that the highest bid and lowest offer shall have priority except that Public Customer orders shall have priority over non-Public Customer orders at the same price. Today, Public Customer orders do not have priority over non-Public Customer orders at the same price. If there are two or more Public Customer orders for the same options series at the same price, priority shall be afforded to such Public Customer orders in the sequence in which they are received by the System. For purposes of this Rule, a Public Customer order does not include a Professional Order. Public Customer Priority is always in effect when Price/Time execution algorithm is in effect.[37] The Exchange is proposing to add a sentence to the rule text at Chapter VI, Section 10(1)(C)(1)(a) to state that Public Customer Priority is always in effect when the Price/Time execution algorithm is in effect. This is a substantive change which will provide Public Customer orders with priority over non-Public Customer orders at the same price for executions under the Price/Time execution algorithm. Similar language is also being added to Chapter VI, Section 10(1)(C)(2)(i) to conform the Size Pro-Rata language for clarity. Public Customer priority has been in effect when the Size Pro-Rata execution algorithm has been in effect. This amendment to the Size Pro-Rata language seeks to clarify Public Customer priority with respect to that algorithm. The Public Customer priority overlay recognizes the unique status of customers in the marketplace and the role their orders play in price competition and adding depth to the marketplace.

The Exchange proposes that LMM participant entitlements may be in effect when the Public Customer Priority Overlay is also in effect. After all Public Customer orders have been fully executed, upon receipt of an order, provided the LMM's bid/offer is at the Exchange's disseminated price, the LMM will be afforded a participation entitlement.[38] The LMM shall not be entitled to receive a number of contracts that is greater than the displayed size associated with such LMM. A BX Options LMM shall receive the greater of: (a) Contracts the LMM would receive if the allocation was based on time priority with Public Customer priority; (b) 50% of remaining interest if there is one or no other Market Maker at that price; (c) 40% of remaining interest if there are two other Market Makers at that price; or (d) 30% of remaining interest if there are more than two other Market Makers at that price or if rounding would result in an allocation of less than one contract, a BX Options LMM shall receive one contract. Rounding will be up or down to the nearest integer.

Orders for 5 contracts or fewer shall be allocated to the LMM. The Exchange will review this provision quarterly and will maintain the small order size at a level that will not allow orders of 5 contracts or less executed by the LMM to account for more than 40% of the volume executed on the Exchange.

Several examples of the manner in which an LMM will be allocated pursuant to the Price/Time model follow below.

Example Number 1:

ABBO = 1.00–1.10
BX BBO = 1.00–1.10
Orders/Quotes entered into Trading System in the following order of receipt:
Market Maker 1: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Customer A: 5 contracts offered at 1.10
Firm 5 contracts offered at 1.10
LMM: 1.00 bid (10 contracts)—1.10 offer (20 contracts)
Market Maker 2: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Customer B: 2 contracts offered at 1.10
Incoming Order to pay 1.10 for 40 contracts
Allocated as follows:

Price/Time with Customer priority results in Customer A trading 5 contracts, Customer B trading 2 contracts, Market Maker 1 trading 10 contracts, LMM trading 20 contracts, and Firm trading 3 contracts

LMM allocation would result in Customer A trading 5 contracts, Customer B trading 2 contracts, and LMM trading 40% of remaining 33 contracts = 13 (13.2 rounded down); then normal price time resumes and Market Maker1 trades 10 contracts, Firm trades 5 contracts, and LMM trades an additional 5 contracts

Price/Time with Customer priority would prevail because LMM allocation results in a greater allocation pursuant to proposed Chapter VI, Section 10(1)(a).

Example Number 2:

ABBO = 1.00–1.10
BX BBO = 1.00–1.10
Orders/Quotes entered into Trading System in the following order of receipt:
Market Maker 1: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Customer A 10 contracts offered at 1.10
Firm 15 contracts offered at 1.10
LMM: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Market Maker 2: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Customer B 10 contracts offered at 1.10
Incoming Order to pay 1.10 for 40 contracts
Allocated as follows:

Price/Time with Customer priority results in Customer A trading 10 contracts, Customer B trading 10 contracts, Market Maker 1 trading 10 contracts, Firm trading 10 contracts

LMM allocation would results in Customer A trading 10 contracts, Customer B trading 10 contracts, and LMM trading 40% of remaining 20 contracts = 8; then Price/Time resumes and Market Maker 1 trades 10 contracts and Firm trades 2 contracts

LMM allocation would prevail because the LMM receives a greater allocation with this calculation pursuant to proposed Chapter VI, Section 10(1)(C)(1)(b)(1).

Example Number 3:

ABBO = 1.00–1.10
BX BBO = 1.00–1.10
Orders/Quotes entered into Trading System in the following order of receipt:
Market Maker 1: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Firm 25 contracts offered at 1.10
LMM 1.00 bid (10 contracts)—1.10 offer (20 contracts)
Customer B 2 contracts offered at 1.10
Incoming Order to pay 1.10 for 40 contracts
Allocated as follows:

Price/Time with Customer priority results in Customer B trading 2 contracts, Market Maker 1 trading 10 contracts, Firm trading 25 contracts, and LMM trading 3 contracts

[37] *See* proposed Chapter VI, Section 10(1)(C)(1)(a).

[38] Price Improving Orders will retain price priority before an LMM participation entitlement is provided at the Exchange's disseminated price. *See* Chapter VI, Sections 1(a)(6) and 7(b)(3)(B).

LMM allocation would result in Customer B trading 2 contracts and LMM trading 50% of remaining 38 contracts = 19; then normal price time resumes and MM1 trades 10 contracts and Firm trades 9 contracts

LMM allocation would prevail because the LMM receives a greater allocation with this calculation pursuant to proposed Chapter VI, Section 10(1)(C)(1)(b)(1).

Example Number 4:

ABBO = 1.00–1.10
BX BBO = 1.00–1.10

Orders/Quotes entered into Trading System in the following order of receipt:
Market Maker 1: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Firm 5 contracts offered at 1.10
LMM: 1.00 bid (10 contracts)—1.10 offer (20 contracts)
Market Maker 2: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Customer B 1 contract offered at 1.10

Incoming Order to pay 1.10 for 5 contracts

Allocated as follows:
Customer B trades 1 contract at 1.10
LMM trades 4 contracts at 1.10

Example Number 5:

ABBO = 1.00–1.10
BX BBO = 1.00–1.10

Orders/Quotes entered into Trading System in the following order of receipt:
Market Maker 1: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Customer A: 1 contract offered at 1.10
Firm 5 contracts offered at 1.10
LMM: 1.00 bid (10 contracts)—1.10 offer (3 contracts)
Market Maker 2: 1.00 bid (10 contracts)—1.10 offer (10 contracts)
Customer B 2 contracts offered at 1.10

Incoming Order to pay 1.10 for 5 contracts

Allocated as follows:
Customer A trades 1 contract at 1.10
Customer B trades 2 contracts at 1.10
LMM trades 2 contracts at 1.10

The Exchange desires to implement this rule change by rolling out the rule amendments on an option-by-option basis over a period of time. The Exchange would issue Options Trader Alerts in advance to inform market participants which symbols will be implemented on which dates.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [39] in general, and furthers the objectives of Section 6(b)(5) of the Act [40] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, 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. BX Options operates in an intensely competitive environment and seeks to offer the same services that its competitors offer and in which its customers find value.

The Exchange believes that requiring Market Makers to provide continuous two-sided quotations 60% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as BX may announce in advance continues to promote just and equitable principles of trade, and to foster cooperation and coordination with persons engaged in facilitating transactions in securities. Further, the Exchange would apply the quoting requirement to all of a Market Maker's registered options collectively to all appointed issues, rather than on an option-by-option basis and compliance with this obligation will be determined on a monthly basis.

The proposal supports the quality of the Exchange's market by helping to ensure that Market Makers will continue to be obligated to quote in series when necessary. Ultimately, the benefit the proposed rule change confers upon Market Makers is offset by the continued responsibilities to provide significant liquidity to the market to the benefit of market participants. While under the proposal there are quoting requirements changes, the Exchange does not believe that these changes reduce the overall obligations applicable to Market Makers.[41] Moreover, the Exchange believes that the proposal may increase market making activity on the Exchange and the quality of the Exchange's market by establishing quoting compliance standards that are reasonable and already in place on other options exchanges.[42]

The proposed rule change also protects investors and the public interest by creating more uniformity and consistency among the Exchange's rules related to Market Maker quoting obligations. Providing Market Makers with flexibility by providing the continuous quoting obligation collectively across all option classes will not diminish the Market Makers' obligation to continuously quote a significant part of the trading day in a significant percentage of series.

Additionally, with respect to compliance standards, the Exchange believes that adopting the proposed standards will enhance compliance efforts by Market Makers and the Exchange, and are consistent with requirements currently in place on other options exchanges (*e.g.* BATS Rule 22.6(d)(3) and Phlx Rule 1014). The proposal ensures that compliance standards for continuous quoting, in particular regarding quoting obligations applying to all of a Market Maker's appointed issues collectively, will be the same on the Exchange as on other options exchanges. The Exchange believes that the proposal will not diminish and in fact may increase, market making activity on the Exchange by establishing quoting compliance standards that are reasonable and already in place on other options exchanges.

The proposed rules relating to LMM allocations seek to establish and promote just and equitable principles of trade by requiring each market maker who desires to be an LMM to submit an application to the Exchange providing certain basic information and other information as necessary. The solicitation process is intended to provide all LMMs an opportunity to seek allocations by requiring allocation applications to be submitted in writing to the Exchange with certain information. The Exchange intends to foster cooperation and coordination with LMMs by requiring information concerning the LMM's experience and capitalization and other information to ensure that an LMM is qualified when allocated option series. LMMs would be required to update information accordingly once they are assigned in an option series.

Exchange staff seeks to allocate option series by considering a number of factors including but not limited to, the number and type of securities in which applicants are currently registered; the capital and other resources of the applicant; recent allocation decisions within the past eighteen months; the desirability of encouraging the entry of new LMMs into the Exchange's market; order flow commitments; any prior transfers of LMM privileges by the applicant and the reasons therefore; quality of markets data; and observance of ethical standards and administrative responsibilities and such policies as the Board instructs the Exchange to follow in allocating or reallocating securities. These factors are intended to assist the Exchange in determining which LMMs qualify for allocations and the LMM's ability to meet its obligations. The process of allocating securities

[39] 15 U.S.C. 78f(b).

[40] 15 U.S.C. 78f(b)(5).

[41] In this respect, the Exchange notes that such Market Makers are subject to many obligations aside from quoting, including, for example, the obligation to maintain a fair and orderly market in their appointed classes, and the obligation to conduct the opening and enter continuous quotations in all of the series of their appointed options classes within maximum spread requirements.

[42] *See supra* note 4.

considers such factors to protect investors and the public interest by allocating to qualified and responsible Options Participants. Further, an LMM may be called upon by BX Regulation to submit a single quote or maintain continuous quotes in one or more series of an option issue within its appointment whenever, in the judgment of BX Regulation, it is necessary to do so in the interest of maintaining fair and orderly markets. An LMM will be compelled to buy/sell a specified quantity of option contracts at the disseminated bid/offer pursuant to his obligations with respect to firm quotes.

With respect to an LMM's obligations, the Exchange would require LMMs be subject to heightened standards as compared to other market makers. An LMM must provide continuous two-sided quotations throughout the trading day in its appointed issues for 90% of the time the Exchange is open for trading in each issue. Such quotations must meet the legal quote width requirements herein. These obligations will apply to all of the LMMs appointed issues collectively, rather than on an option-by-option basis. Compliance with this obligation will be determined on a monthly basis. BX Regulation may consider exceptions to the requirement to quote 90% (or higher) of the trading day based on demonstrated legal or regulatory requirements or other mitigating circumstances. However, determining compliance with the continuous quoting requirement on a monthly basis does not relieve an LMM of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against an LMM for failing to meet the continuous quoting obligation each trading day.

LMM's transactions should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and no LMM should enter into transactions or make bids or offers that are inconsistent with such a course of dealings. An LMM is expected to engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class. The Exchange will obligate an LMM to certain conduct including: (1) To compete with other LMMs to improve the market in all series of options classes to which the LMM is appointed; (2) to make markets that will be honored for the number of contracts entered into the Trading System in all series of options classes within the LMM's appointment; (3) to update market quotations in response to changed market conditions in all series of options classes within the LMM's appointment; (4) to quote with a difference not to exceed $5 between the bid and offer regardless of the price of the bid; (5) to establish quote width differences other than as provided in subparagraph (4) for one or more options series; and (6) certain permissible price differentials.

With respect to classes of option contracts outside of their appointment, LMMs will not be permitted to engage in transactions for an account in which they have an interest that are disproportionate in relation to, or in derogation of, the performance of their obligations as specified in this Rule with respect to the classes in their appointment. LMMs are also prohibited from entering into certain agreements that may undermine the LMMs obligations.

The Exchange believes that the obligations set forth for LMMs in its proposed rules will promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, to protect investors and the public interest.

The Exchange believes that offering LMMs participation entitlements promotes just and equitable principles of trade because LMMs will be held to a higher standard as compared to other market participants including Market Makers. A Market Maker would be required, pursuant to this proposal, to quote 60% of the trading day. LMMs are being held to a higher obligation and therefore are being rewarded with participation entitlements. Similar to Market Makers, LMMs add value through continuous quoting [43] and the commitment of capital.

In addition, the LMM quoting requirements promote liquidity and continuity in the marketplace in requiring LMMs to be held to a higher standard of quoting. The Exchange also believes that the proposed rule change supports the quality of the Exchange's markets because it maintains the quoting obligations of Market Makers as LMMs at 90%. LMM transactions must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market. Accordingly, the proposed rule change supports the quality of the Exchange's trading markets by helping to ensure that LMMs will be required to meet a higher quoting standard in order to reap the benefits of the participation entitlements. The Exchange believes this proposed change to offer participation entitlements to LMMs is offset by LMMs' continued responsibilities to provide significant liquidity to the market to the benefit of market participants.

The Exchange's proposal to add a sentence to the rule text at Chapter VI, Section 10(1)(C)(1)(a) to state that Public Customer Priority is always in effect when the Price/Time execution algorithm is in effect and also add language to Chapter VI, Section 10(1)(C)(2)(i) to conform the Size Pro-Rata language for clarity recognizes the unique status of customers in the marketplace and the role their orders play in price competition and adding depth to the marketplace. The Exchange believes that the Public Customer priority overlay is designed to promote just and equitable principles of trade and to protect investors and the public interest.

The proposed rule change also removes impediments to and allows for a free and open market, while protecting investors, by promoting transparency regarding LMMs' obligations and benefits in the Exchange Rules. In addition, the Exchange believes that the proposed rule change is designed to not permit unfair discrimination among LMMs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Market Makers will be subject to quoting obligations which are similar to those at other options exchanges.[44] The obligations would apply to all of a Market Maker's registered options collectively to all appointed issues, rather than on an option-by-option basis and compliance with this obligation will be determined on a monthly basis.

[43] Pursuant to Chapter VII (Market Participants), Section 5 (Obligations of Market Makers), in registering as a market maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. *See* Chapter VII, Section 5. Further, all Market Makers are designated as specialists on BX for all purposes under the Act or rules thereunder. *See* Chapter VII, Section 2.

[44] *See supra* note 3.

Further, Exchange believes that because this proposal establishes quoting compliance standards that are already in place on other options exchanges, the proposal will not diminish, and in fact may increase, market making activity on the Exchange and thereby enhance intermarket competition. Moreover, the proposed rule change will not impose any burden on intra-market competition because it will affect all Market Makers the same. LMMs will be subject to heightened quoting obligations as compared to other BX Market Makers. All market makers that desire to apply to become LMMs will be subject to the same review and scrutiny with respect to their LMM application and the ultimate assignment of options series.

The Exchange does not believe the proposed rule change will cause any unnecessary burden on intra-market competition because it provides all market participants that qualify as LMMs and meet the required criteria and fulfill the required obligations the opportunity to benefit from participation entitlements. The Exchange believes that the proposed rule change will promote competition among LMMs who desire to be assigned in options series and in turn promote trading activity on the Exchange to the benefit of the Exchange, its Members, and market participants.

The Exchange does not believe the proposed change will cause any unnecessary burden on inter-market competition because any qualifying LMM will be entitled to receive participation entitlements on options series they are obligated to quote in under the Rules. In addition, the Exchange believes that the proposed rule change will in fact promote competition. The Exchange believes allowing LMMs to receive participation entitlements will promote trading activity on the Exchange because it will provide incentives to LMMs to quote in series which they are not obligated to do so, to the benefit of the Exchange, its Members, and market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or 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 Exchange 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–BX–2014–035 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–BX–2014–035. 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–BX–2014–035* and should be submitted on or before July 29, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[45]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–15792 Filed 7–7–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72504; File No. SR-Phlx-2014–41]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding the Short Term Option Series Program

July 1, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that, on June 27, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Rule 1012 (Series of Options Open for Trading) and Rule 1101A (Terms of Option Contracts) regarding the Short Term Option (''STO'') Program (''STO Program'' or ''Program'') to introduce finer strike price intervals for standard expiration contracts in option classes that also have STOs [3] listed on them

[45] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] STOs, also known as ''weekly options'' as well as ''Short Term Options'', are series in an options class that are approved for listing and trading on the Exchange in which the series are opened for trading on any Thursday or Friday that is a business day and that expire on the Friday of the next business week. If a Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Thursday or Friday, respectively. For STO Program rules regarding non-index options, *see* Rule 1000(b)(44) and Commentary .11 to Rule 1012. For STO Program rules regarding index options, *see* Rule 1000A(b)(16) and Rule 1101A(b)(vi).

(''related non-STOs'' or ''related non-Short Term Options'').

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.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 Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend Rule 1012 and Rule 1101A regarding the STO Program to introduce finer strike price intervals for standard expiration contracts in option classes that also have related non-STOs listed on them. In particular, the Exchange proposes to amend its rules to permit the listing of related non-short term options during the month prior to expiration in the same strike price intervals as allowed for short term option series.

The STO Program, which was initiated in 2010,[4] is codified in Commentary .11 to Rule 1012 for non-index options including equity, currency, and exchange traded fund (''ETF'') options, and in Rule 1101A(b)(vi) for index options. Under these rules, the Exchange may list STOs in up to fifty option classes,[5] including up to thirty index option classes,[6] in addition to option classes that are selected by other securities exchanges that employ a similar program under their respective rules. For each of these option classes, the Exchange may list five STO expiration dates at any given time, not counting monthly or quarterly expirations.[7] Specifically, on any Thursday or Friday that is a business day, the Exchange may list STOs in designated option classes that expire at the close of business on each of the next five consecutive Fridays that are business days.[8] These STOs, which can be several weeks or more from expiration, may be listed in strike price intervals of $0.50, $1, or $2.50, with the finer strike price intervals being offered for lower priced securities, and for options that trade in the Exchange's dollar strike program.[9] More specifically, the Exchange may list short term options in $0.50 intervals for strike prices less than $75, or for option classes that trade in one dollar increments in the related non-short term option, $1 intervals for strike prices that are between $75 and $150, and $2.50 intervals for strike prices above $150.[10]

The Exchange may also list standard expiration contracts, which are listed in accordance with the regular monthly expiration cycle. These standard expiration contracts must be listed in wider strike price intervals of $2.50, $5, or $10,[11] though the Exchange also operates strike price programs, such as the dollar strike program mentioned above,[12] that allow the Exchange to list a limited number of option classes in finer strike price intervals. In general, the Exchange must list standard expiration contracts in $2.50 intervals for strike prices of $25 or less, $5 intervals for strike prices greater than $25, and $10 intervals for strike prices greater than $200.[13] During the week prior to expiration only, the Exchange is permitted to list related non-short term option contracts in the narrower strike price intervals available for short term option series.[14] Since this exception to the standard strike price intervals is available only during the week prior to expiration, however, standard expiration contracts regularly trade at significantly wider intervals than their weekly counterparts, as illustrated below.

For example, assume ABC is trading at $56.54 and the monthly expiration contract is three weeks to expiration. Assume also that the Exchange has listed all available STO expirations and thus has STOs listed on ABC for weeks one, two, four, five, and six. Each of the five weekly ABC expiration dates can be listed with strike prices in $0.50 intervals, including, for example, the $56.50 at-the-money strike. Because the monthly expiration contract has three weeks to expiration, however, the near-the-money strikes must be listed in $5 intervals unless those options are eligible for one of the Exchange's other strike price programs. In this instance, that would mean that investors would be limited to choosing, for example, between the $55 and $60 strike prices instead of the $56.50 at-the-money strike available for STOs. This is the case even though contracts on the same option class that expire both several weeks before and several weeks after the monthly expiration are eligible for finer strike price intervals. Under the proposed rule change, the Exchange would be permitted to list the related non-short term option on ABC, which is less than a month to expiration, in the same strike price intervals as allowed for STOs. Thus, the Exchange would be able to list, and investors would be able to trade, all expirations described above with the same uniform $0.50 strike price interval.

As proposed, the Exchange would be permitted to begin listing the monthly expiration contract in these narrower intervals at any time during the month prior to expiration, which begins on the first trading day after the prior month's expiration date, subject to the provisions of Exchange rules. For example, since the April 2014 monthly option expired on Saturday, April 19, the proposed rule change would allow the Exchange to list the May 2014 monthly option in short term option intervals starting Monday, April 21.

The Exchange believes that introducing consistent strike price intervals for STOs and related non-STOs during the month prior to expiration will benefit investors by giving them more flexibility to closely tailor their investment decisions. The Exchange also believes that the proposed rule change will provide the investing public and other market participants with additional opportunities to hedge their investments, thus allowing these investors to better manage their risk exposure.

[4] *See* Securities Exchange Act Release No. 62296 (June 15, 2010), 75 FR 35115 (June 21, 2010) (SR–Phlx–2010–84) (notice of filing and immediate effectiveness permanently establishing STO Program on the Exchange).

[5] *See* Commentary .11(a) to Rule 1012.

[6] *See* Rule 1101A(b)(vi)(A).

[7] *See* Commentary .11 to Rule 1012; Rule 1101A(b)(vi).

[8] *Id.*

[9] *See* Commentary .11 to Rule 1012; Rule 1101A(b)(vi).

[10] *Id. See* Commentary .11(e) to Rule 1012; Rule 1101A(b)(vi)(E). The $2.50 interval does not apply to indexes. *See* Rule 1101A(b)(vi).

[11] *See* Commentary .05(a)(iii) to Rule 1012.

[12] *See* Commentary .05(A)(1) [sic] to Rule 1012, which allows the Exchange to designate up to 150 option classes on individual stocks to be traded in $1 strike price intervals where the strike price is between $50 and $1. *See also* Commentary .05(b) to Rule 1012 ($2.50 Strike Program) and Commentary .05(a)(ii) to Rule 1012 ($0.50 Strike Program).

[13] *See* Commentary .05(a)(iii) to Rule 1012.

[14] *See* Commentary .11(e) to Rule 1012; Rule 1101A(b)(vi)(E).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[15] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[16] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

As noted above, standard expiration options currently trade in wider intervals than their weekly counterparts, except during the week prior to expiration. This creates a situation where contracts on the same option class that expire both several weeks before and several weeks after the standard expiration are eligible to trade in strike price intervals that the standard expiration contract is not. When the Exchange originally filed to list related non-STOs in the same intervals as STOs in the same option class during the week prior to expiration,[17] the Exchange was limited to listing one short term option expiration date at a time. Thus, there was no inconsistency between standard expiration contracts, which traded in finer intervals in the week prior to expiration, and STOs, which were only listed on the week prior to expiration. The STO Program has since grown in response to customer demand, and the Exchange is now permitted to list up to five STO expiration dates in addition to standard expiration options.[18] There is continuing strong customer demand to have the ability to execute hedging and trading strategies in the finer strike price intervals available in STOs, and the Exchange believes that the proposed rule change will increase market efficiency by harmonizing strike price intervals for contracts that are close to expiration, whether those contracts happen to be listed pursuant to weekly or monthly expiration cycles.

The Exchange notes that, in addition to listing standard expiration contracts in STO intervals during the expiration week, it already operates several programs that allow for strike price intervals for standard expiration contracts that range from $0.50 to $2.50.[19] The Exchange believes that each of these programs has been successful but notes that limitations on the number of option classes that may be selected for each of these programs means that many standard expiration contracts must still be listed in wider intervals than their short term option counterparts. For example, the $0.50 strike price program, which offers the narrowest strike price interval, only permits the Exchange to designate up to 20 option classes to trade in $0.50 intervals in addition to option classes selected by other exchanges that employ a similar program.[20] Thus, the proposed rules are necessary to fill the gap between strike price intervals allowed for STOs and related non-STOs. The Exchange believes that the proposed rule change, like the other strike price programs currently offered by the Exchange, will benefit investors by giving them more flexibility to closely tailor their investment and hedging decisions. Moreover, the proposed rule change is consistent with changes proposed by other exchanges.[21]

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange believes that its members will not have a capacity issue as a result of this proposal. The Exchange also represents that it does not believe this expansion will cause fragmentation of liquidity.

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. To the contrary, the Exchange believes that the proposed rule change will result in additional investment options and opportunities to achieve the investment objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general. Specifically, the Exchange believes that investors will benefit from the availability of strike price intervals in standard expiration contracts that match the intervals currently permitted for STOs with a similar time to expiration.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[22] and Rule 19b–4(f)(6) thereunder.[23]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement would allow STOs to be traded on the Exchange in a manner similar to other markets, in a competitive manner and without interruption. For this reason, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest; and will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposed rule change to be operative upon filing.[24]

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

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *See* Securities Exchange Act Release No. 67753 (August 29, 2012), 77 FR 54635 (September 5, 2012) (SR–Phlx–2012–78) (approval order); and 67446 (July 16, 2012), 77 FR 42780 (June 20, 2012) (SR–Phlx–2012–78) (notice of filing).

[18] *See* Securities Exchange Act Release No. 70116 (August 5, 2013), 78 FR 48754 (August 9, 2013) (SR–Phlx–2013–79) (notice of filing and immediate effectiveness).

[19] *See supra* note 9 [sic].

[20] *See* Commentary .05(a) to Rule 1012.

[21] *See* Securities Exchange Act Release No. 72098 (May 6, 2014), 79 FR 27006 (May 12, 2014) (SR–ISE–2014–23) (notice of filing).

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[24] 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).

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–Phlx–2014–41 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–Phlx–2014–41. 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–Phlx–2014–41 and should be submitted on or before July 29, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–15793 Filed 7–7–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72506; File No. SR–NASDAQ–2014–050]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change Relating to the Listing and Trading of the Shares of the First Trust Strategic Income ETF of First Trust Exchange-Traded Fund IV

July 1, 2014.

I. Introduction

On May 5, 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 shares (''Shares'') of the First Trust Strategic Income ETF (''Fund'') of First Trust Exchange-Traded Fund IV (''Trust'') under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The proposed rule change was published for comment in the **Federal Register** on May 21, 2014.[3] The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change.

II. Description of Proposed Rule Change

The Exchange has made the following representations and statements in describing the Fund and its investment strategies, including other portfolio holdings and investment restrictions.[4]

General

The Fund will be an actively-managed exchange-traded fund (''ETF''). The Shares will be offered by the Trust, which was established as a Massachusetts business trust on September 15, 2010.[5] The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission.[6] The Fund will be a series of the Trust. The Fund intends to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

First Trust Advisors L.P. will be the investment adviser (''Adviser'') to the Fund. The following will serve as investment sub-advisers (each a ''Sub-Adviser'') to the Fund: First Trust Global Portfolios Ltd (''First Trust Global''); Energy Income Partners, LLC (''EIP''); Stonebridge Advisors LLC (''Stonebridge''); and Richard Bernstein Advisors LLC (''RBA'').[7] First Trust Portfolios L.P. (''Distributor'') will be the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon Corporation (''BNY'') will act as the administrator, accounting agent, custodian and transfer agent to the Fund.

The primary investment objective of the Fund will be to seek risk-adjusted

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72169 (May 15, 2014), 79 FR 29247 (''Notice'').

[4] The Commission notes that additional information regarding the Trust, the Fund, and the Shares, including investment strategies, risks, net asset value (''NAV'') calculation, creation and redemption procedures, fees, Fund holdings disclosure policies, distributions, and taxes, among other information, is included in the Notice and the Registration Statement, as applicable. *See* Notice and Registration Statement, *supra* note 3 and *infra* note 5, respectively.

[5] The Commission has issued an order granting certain exemptive relief under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (''1940 Act''). *See* Investment Company Act Release No. 30029 (April 10, 2012) (File No. 812–13795) (the ''Exemptive Relief''). In addition, the Commission has issued no-action relief pertaining to the Fund's ability to invest in derivatives notwithstanding certain representations in the application for the Exemptive Relief. *See* Commission No-Action Letter (December 6, 2012).

[6] *See* Post-Effective Amendment No. 67 to Registration Statement on Form N–1A for the Trust, dated May 2, 2014 (File Nos. 333–174332 and 811–22559).

[7] The Exchange states that neither the Adviser nor any Sub-Adviser is a broker-dealer, although the Adviser, First Trust Global, EIP and Stonebridge are each affiliated with a broker-dealer. The Exchange states that RBA is currently not affiliated with a broker-dealer. The Exchange states that the Adviser and the broker-dealer affiliated Sub-Advisers have each implemented a fire wall with respect to their respective broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In addition, the Exchange states that personnel who make decisions on the Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio. Furthermore, the Exchange states that in the event (a) the Adviser or a Sub-Adviser becomes, or becomes newly affiliated with, a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

income and its secondary objective will be capital appreciation. Under normal market conditions,[8] the Fund will seek to achieve its investment objectives by following a strategic and tactical asset allocation process that will provide diversified exposure to income-producing asset classes.

The Fund will be a multi-manager, multi-strategy actively-managed exchange-traded fund. The Adviser will determine the Fund's strategic allocation among various general investment categories and allocate the Fund's assets to portfolio management teams comprised of personnel of the Adviser and/or a Sub-Adviser (each a ''Management Team''), which will employ their respective investment strategies. The Fund's investment categories, which are described in more detail below, will be: (i) High yield corporate bonds and first lien senior secured floating rate bank loans (referred to as ''senior loans''); (ii) mortgage-related investments; (iii) preferred securities; (iv) international sovereign bonds; (v) equity securities of Energy Infrastructure Companies (as defined below); (vi) dividend paying domestic equity securities and Depositary Receipts (as defined below), together with a related option overlay strategy; and (vii) other derivative instruments.

The Fund may add or remove investment categories or Management Teams at the Adviser's discretion. The Fund will seek to provide income and total return by having each Management Team focus on those securities within its respective investment category. The Fund may invest in securities directly or, alternatively, may invest in other ETFs that generally provide exposure to the various investment categories.[9] The Adviser expects that the Fund may at times invest significantly (and, potentially, may invest up to 50% of its net assets) in other ETFs, including but not limited to, other ETFs that are advised by the Adviser; however, the Fund does not intend to operate principally as a ''fund of funds.'' Any other ETFs in which the Fund invests to gain exposure to an investment category may be subject to investment parameters that differ in certain respects from those that have been established for the Fund for such investment category, as set forth below.

To enhance expected return, the Adviser's investment committee will, on a generally periodic basis, tactically adjust investment category weights. Security selection will be performed for the Fund by the Adviser and/or a Sub-Adviser.

With respect to each investment category, the liquidity of a security will be a substantial factor in the Fund's security selection process. The Fund will not purchase any securities or other assets that, in the opinion of the applicable Management Team, are illiquid if, as a result, more than 15% of the value of the Fund's net assets will be invested in illiquid assets (''15% Limitation'').[10] 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 Adviser will communicate with the various Management Teams regarding the Fund's ongoing compliance with the 15% Limitation.

Except as specifically provided herein, the fixed income and equity securities in which the Fund will invest may be issued by U.S. and non-U.S. issuers of all kinds and of any capitalization range and credit quality. The Fund represents that its portfolio will include a minimum of 13 non-affiliated issuers of fixed income securities. In addition, the fixed income securities in which the Fund will invest may have effective or final maturities of any length. At least 90% of the Fund's net assets that are invested in exchange-traded equity securities of both domestic and foreign issuers, exchange-traded products and exchange-traded derivatives (in the aggregate) will be invested in investments that trade in markets that are members of the Intermarket Surveillance Group (''ISG''), which includes all U.S. national securities exchanges and certain foreign exchanges, or are parties to a comprehensive surveillance sharing agreement with the Exchange.[11]

The Fund may invest in the equity securities (including without limitation preferred securities) of foreign issuers, either directly or through investments that are in the form of American Depositary Receipts (''ADRs'') or Global Depositary Receipts (''GDRs'' and, together with ADRs, ''Depositary Receipts'').[12] The Depositary Receipts in which the Fund invests will be exchange-traded and will not include unsponsored Depositary Receipts.

The Fund's exposure to any single country (outside of the U.S.) will generally be limited to 20% of the Fund's net assets. The portion of the Fund's net assets that may be denominated in currencies other than the U.S. dollar is not expected to exceed 30%. To the extent the Fund invests in such assets, the value of the assets of the Fund as measured in U.S. dollars will be affected by changes in exchange rates.

The Fund may from time to time purchase securities on a ''when-issued'' or other delayed-delivery basis. To the extent required under applicable federal securities laws (including the 1940 Act), rules, and interpretations thereof, the Fund will ''set aside'' liquid assets or engage in other measures to ''cover'' open positions held in connection with the foregoing types of transactions.

The investment categories in which the Fund intends to invest and the investment strategies that the applicable Management Teams are expected to pursue are described below:

[8] 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 securities 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.

[9] 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, including ETFs, in excess of the limits imposed under the 1940 Act pursuant to an exemptive order obtained by the Trust and the Adviser 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.

[10] In reaching liquidity decisions, the Adviser and/or Management Team 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 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).

[11] For a list of the current members of ISG, *see* www.isgportal.org.

[12] ADRs are U.S. dollar denominated receipts typically issued by U.S. banks and trust companies that evidence ownership of underlying securities issued by a foreign issuer. GDRs are receipts issued throughout the world that evidence a similar arrangement. ADRs and GDRs may trade in currencies that differ from the currency in which the underlying security trades. Generally, ADRs, in registered form, are designed for use in the U.S. securities markets. GDRs, in registered form, are traded both in the United States and in Europe and are designed for use throughout the world.

• *High Yield Corporate Bonds and Senior Loans.* The Fund intends to invest between 0% and 30%, but may invest up to 50%, of its net assets in a combination of high yield corporate bonds and senior loans.[13] Such bonds and loans in which the Fund invests directly will be issued by entities domiciled in the United States. Under normal market conditions, the Fund will seek to invest at least 75% of its net assets that are invested in such bonds and loans (in the aggregate) in bonds and loans that, at the time of original issuance, have at least $100 million par amount outstanding.

The high yield corporate bonds in which the Fund will invest will be rated below investment grade [14] at the time of purchase or unrated and deemed by the Adviser and/or the applicable Management Team to be of comparable quality,[15] commonly referred to as ''junk'' bonds. For purposes of determining whether a security is below investment grade, the lowest available rating will be considered. High yield debt may be issued, for example, by companies without long track records of sales and earnings or by issuers that have questionable credit strength. Corporate bonds may carry fixed or floating rates of interest.

The senior loans in which the Fund will invest will represent amounts borrowed by companies or other entities from banks and other lenders. In many cases, senior loans are issued in connection with recapitalizations, acquisitions, leveraged buyouts, and refinancings. A significant portion of the senior loans in which the Fund will invest are expected to be rated below investment grade or unrated.

A senior loan is considered senior to all other unsecured claims against the borrower, and senior to or *pari passu* with all other secured claims, meaning that in the event of a bankruptcy, the senior loan, together with all other first lien claims, is entitled to be the first to be repaid out of the proceeds of the assets securing the loans, before other existing unsecured claims or interests receive repayment. However, in bankruptcy proceedings, there may be other claims, such as taxes or additional advances, which take precedence.

Senior loans have interest rates that reset periodically. The interest rates on senior loans are generally based on a percentage above the London Interbank Offered Rate (LIBOR), a U.S bank's prime or base rate, the overnight federal funds rate, or another rate. Senior loans may be structured and administered by a financial institution that acts as the agent of the lenders participating in the senior loan. The Fund may acquire senior loans directly from a lender or through the agent, as an assignment from another lender who holds a senior loan, or as a participation interest in another lender's senior loan or portion thereof.

The Fund will generally invest in senior loans that the Adviser and/or the applicable Management Team deems to be liquid with readily available prices.

The Management Team does not intend to purchase senior loans that are in default; however, the Fund may hold a senior loan that has defaulted subsequent to the purchase by the Fund.

• *Mortgage-Related Investments.* The Fund intends to invest between 0% and 30%, but may invest up to 50%, of its net assets in the mortgage-related debt securities and other mortgage-related instruments described below (collectively, ''Mortgage-Related Investments'').

The Mortgage-Related Investments in which the Fund invests will primarily consist of investment grade securities (*i.e.,* securities with credit ratings within the four highest rating categories of an NRSRO at the time of purchase or securities that are unrated and deemed by the Adviser and/or the applicable Management Team to be of comparable quality [16] at the time of purchase). If a security is rated by multiple NRSROs and receives different ratings, the Fund will treat the security as being rated in the highest rating category received from an NRSRO. In addition, if a security experiences a decline in credit quality and falls below investment grade, the Fund may continue to hold the security.

The types of Mortgage-Related Investments in which the Fund will invest are described in the following three paragraphs:

The Fund will invest in mortgage-backed securities, such as residential mortgage-backed securities (''RMBS'') and commercial mortgage-backed securities (''CMBS''). Mortgage-backed securities represent an interest in a pool of mortgage loans made by banks and other financial institutions to finance purchases of homes, commercial buildings and other real estate. The individual mortgage loans are packaged or ''pooled'' together for sale to investors. As the underlying mortgage loans are paid off, investors receive principal and interest payments.[17]

The mortgage-backed securities in which the Fund will invest may be, but are not required to be, issued or guaranteed by the U.S. government, its agencies or instrumentalities, such as Ginnie Mae and U.S. government-sponsored entities, such as Fannie Mae and Freddie Mac (the U.S. government, its agencies and instrumentalities, and U.S. government-sponsored entities are referred to collectively as ''Government Entities'').[18] The Fund, however, will limit its investments in mortgage-backed securities that are not issued or guaranteed by Government Entities to 20% of its net assets. Many mortgage-backed securities are pass-through securities, which means they provide

[13] For the avoidance of doubt, this investment category and these percentages will not include so-called baby bonds, which are included in ''Preferred Securities'' (described below).

[14] Securities rated below investment grade include securities that are rated Ba1/BB+/BB+ or below by Moody's Investors Service, Inc. (''Moody's''), Fitch Ratings (''Fitch''), or Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. (''S&P Ratings''), respectively, or another nationally recognized statistical rating organization (''NRSRO'').

[15] Comparable quality of unrated securities will be determined by the Adviser and/or the applicable Management Team based on fundamental credit analysis of the unrated security and comparable NRSRO-rated securities. On a best efforts basis, the Adviser and/or the applicable Management Team will attempt to make a rating determination based on publicly available data. In making a ''comparable quality'' determination, the Adviser and/or the applicable Management Team 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.

[16] *See supra* note 15.

[17] Mortgage-backed securities may be fixed rate or adjustable rate mortgage-backed securities (''ARMS''). Certain mortgage-backed securities (including RMBS and CMBS), where mortgage payments are divided up between paying the loan's principal and paying the loan's interest, are referred to as stripped mortgage-backed securities (''SMBS''). Further, mortgage-backed securities can also be categorized as collateralized mortgage obligations (''CMOs'') or real estate mortgage investment conduits (''REMICs'') where they are divided into multiple classes with each class being entitled to a different share of the principal and/or interest payments received from the pool of underlying assets.

[18] Securities issued or guaranteed by Government Entities have different levels of credit support. For example, Ginnie Mae securities carry a guarantee as to the timely repayment of principal and interest that is backed by the full faith and credit of the U.S. government. However, the full faith and credit guarantee does not apply to the market prices and yields of the Ginnie Mae securities or to the net asset value, trading price or performance of the Fund, which will vary with changes in interest rates and other market conditions. Fannie Mae and Freddie Mac pass-through mortgage certificates are backed by the credit of the respective Government Entity and are not guaranteed by the U.S. government. Other securities issued by Government Entities (other than the U.S. government) may only be backed by the creditworthiness of the issuing institution, not the U.S. government, or the issuers may have the right to borrow from the U.S. Treasury to meet their obligations.

investors with monthly payments consisting of a pro rata share of both regular interest and principal payments as well as unscheduled prepayments on the underlying mortgage loans. Because prepayment rates of individual mortgage pools vary widely, the average life of a particular pool cannot be predicted accurately. Adjustable rate mortgage-backed securities include ARMS and other mortgage-backed securities with interest rates that adjust periodically to reflect prevailing market rates.

Additionally, the Fund may invest in mortgage dollar rolls.[19] The Fund intends to enter into mortgage dollar rolls only with high quality securities dealers and banks, as determined by the Adviser. The Fund may also invest in to-be-announced transactions (''TBA Transactions'').[20] Further, the Fund may enter into short sales as part of its overall portfolio management strategies or to offset a potential decline in the value of a security; however, the Fund does not expect, under normal market conditions, to engage in short sales with respect to more than 30% of the value of its net assets that are invested in Mortgage-Related Investments. To the extent required under applicable federal securities laws, rules, and interpretations thereof, the Fund will ''set aside'' liquid assets or engage in other measures to ''cover'' open positions and short positions held in connection with the foregoing types of transactions.

• *Preferred Securities.* The Fund intends to invest between 0% and 30%, but may invest up to 50%, of its net assets in preferred securities issued by U.S. and non-U.S. issuers.[21] Under normal market conditions, the Fund will seek to invest at least 75% of its net assets that are invested in preferred securities in preferred securities that have a minimum initial issuance amount of at least $100 million. Initially, at least 50% of the Fund's net assets that are invested in preferred securities will be invested in exchange-listed preferred securities, although this percentage may decrease in the future. Preferred securities held by the Fund will generally pay fixed or adjustable rate distributions to investors and will have preference over common stock in the payment of distributions and the liquidation of a company's assets, which means that a company typically must pay dividends or interest on its preferred securities before paying any dividends on its common stock. Preferred securities are generally junior to all forms of the company's debt, including both senior and subordinated debt.

• *International Sovereign Bonds.* The Fund intends to invest between 0% and 30%, but may invest up to 50%, of its net assets in debt securities, including inflation-linked bonds,[22] issued by foreign governments or their subdivisions, agencies and government-sponsored enterprises (''Sovereign Debt'').[23] At least 50% of the Fund's net assets that are invested in Sovereign Debt will be invested in securities of issuers rated investment grade (BBB-/Baa3 or higher) at the time of purchase by at least one NRSRO and unrated securities judged to be of comparable quality [24] by the Adviser and/or the applicable Management Team. Up to 50% of its net assets invested in Sovereign Debt may be invested in securities of issuers rated below investment grade at the time of purchase (*i.e.,* ''junk'' bonds). If a security or issuer is rated by multiple NRSROs and receives different ratings, the Fund will treat the security or issuer (as applicable) as being rated in the highest rating category received from an NRSRO. In addition, if a security or issuer (as applicable) experiences a decline in credit quality and falls below investment grade, the Fund may continue to hold the security and it will not count toward the investment limit; however, the security will be taken into account for purposes of determining whether purchases of additional securities will cause the Fund to violate such limit.

The Fund intends to invest in Sovereign Debt of issuers in both developed and emerging markets.[25] In addition, the Fund expects that, under normal market conditions, at least 80% of the Sovereign Debt in which it invests will be issued by issuers with outstanding debt of at least $200 million

[19] In a mortgage dollar roll, the Fund will sell (or buy) mortgage-backed securities for delivery on a specified date and simultaneously contract to repurchase (or sell) substantially similar (same type, coupon and maturity) securities on a future date. During the period between a sale and repurchase, the Fund will forgo principal and interest paid on the mortgage-backed securities. The Fund will earn or lose money on a mortgage dollar roll from any difference between the sale price and the future purchase price. In a sale and repurchase, the Fund will also earn money on the interest earned on the cash proceeds of the initial sale.

[20] A TBA Transaction is a method of trading mortgage-backed securities. TBA Transactions generally are conducted in accordance with widely-accepted guidelines which establish commonly observed terms and conditions for execution, settlement and delivery. In a TBA Transaction, the buyer and the seller agree on general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to the settlement date. The mortgage TBA market is liquid and positions can be easily added, rolled or closed. According to the Financial Industry Regulatory Authority (''FINRA'') Trade Reporting and Compliance Engine (''TRACE'') data, TBA Transactions represented approximately 93% of total trading volume for agency mortgage-backed securities in the month of January 2014.

[21] For the avoidance of doubt, this investment category and these percentages will not include those investments in preferred securities that are included in ''Equity Securities of Energy Infrastructure Companies'' (described below). Certain of the preferred securities in which the Fund will invest will be traditional preferred stocks that issue dividends that qualify for the dividends received deduction under which ''qualified'' domestic corporations are able to exclude a percentage of the dividends received from their taxable income. Other preferred securities in which the Fund will invest will be preferred stocks that do not issue dividends that qualify for the dividends received deduction or generate qualified dividend income. Additionally, certain of the preferred securities in which the Fund will invest may be so-called baby bonds (*i.e.,* small denomination, typically $25 par value, bonds that often have certain characteristics associated with fixed income securities sold to retail investors (for example, they typically pay a quarterly coupon and are typically investment grade)). Hybrid preferred securities, another type of preferred securities, are typically junior and fully subordinated liabilities of an issuer or the beneficiary of a guarantee that is junior and fully subordinated to the other liabilities of the guarantor.

[22] Inflation-linked bonds are fixed income securities that are structured to provide protection against inflation. The value of the inflation-linked bond's principal or the interest income paid on the bond is adjusted to track changes in an official inflation measure. The value of inflation-linked bonds is expected to change in response to changes in real interest rates. Real interest rates are tied to the relationship between nominal interest rates and the rate of inflation. If nominal interest rates increase at a faster rate than inflation, real interest rates may rise, leading to a decrease in the value of inflation-linked bonds.

[23] For the avoidance of doubt, Sovereign Debt includes debt obligations denominated in local currencies or U.S. dollars. Moreover, given that it includes debt issued by subdivisions, agencies and government-sponsored enterprises, Sovereign Debt may include debt commonly referred to as ''quasi-sovereign debt.'' Sovereign Debt may also include issues denominated in emerging market local currencies that are issued by ''supranational issuers,'' such as the International Bank for Reconstruction and Development and the International Finance Corporation, as well as development agencies supported by other national governments. According to the Adviser and the applicable Management Team, while there is no universally accepted definition of what constitutes an ''emerging market,'' in general, emerging market countries are characterized by developing commercial and financial infrastructure with significant potential for economic growth and increased capital market participation by foreign investors.

[24] *See supra* note 15.

[25] The Fund intends, initially, to invest in Sovereign Debt of the following issuers: Argentina; Brazil; Chile; Colombia; Costa Rica; Dubai (United Arab Emirates); Hungary; Indonesia; Malaysia; Mexico; Nigeria; Peru; Philippines; Poland; Qatar; Romania; Russia; South Africa; South Korea; Sri Lanka; Thailand; Turkey; Venezuela; and Vietnam, although this list may change based on market developments. The percentage of Fund assets invested in a specific region, country or issuer will change from time to time.

(or the foreign currency equivalent thereof).

• *Equity Securities of Energy Infrastructure Companies.* The Fund intends to invest between 0% and 50% of its net assets in exchange-traded equity securities of companies deemed by the applicable Management Team to be engaged in the energy infrastructure sector. These companies principally include publicly-traded master limited partnerships and limited liability companies taxed as partnerships (''MLPs'') (described below), MLP affiliates (described below), ''Canadian Income Equities,'' which are successor companies to Canadian income trusts,[26] pipeline companies, utilities, and other companies that derive at least 50% of their revenues from operating or providing services in support of infrastructure assets such as pipelines, power transmission and petroleum and natural gas storage in the petroleum, natural gas and power generation industries (collectively, ''Energy Infrastructure Companies'').

As indicated above, the Fund may invest in the equity securities of MLPs. MLPs are limited partnerships whose shares (or units) are listed and traded on a U.S. securities exchange. MLP units may be common or subordinated.[27] In addition, the Fund may invest in I-Shares,[28] which represent an ownership interest issued by an affiliated party of an MLP. The MLP affiliate uses the proceeds from the sale of I-Shares to purchase limited partnership interests in the MLP in the form of i-units. I-units have similar features as MLP common units in terms of voting rights, liquidation preference and distributions. However, rather than receiving cash, the MLP affiliate receives additional i-units in an amount equal to the cash distributions received by MLP common units. Similarly, holders of I-Shares will receive additional I-Shares, in the same proportion as the MLP affiliates' receipt of i-units, rather than cash distributions. I-Shares themselves have limited voting rights which are similar to those applicable to MLP common units. I-Shares are listed and traded on a U.S. national securities exchange.

• *Dividend Paying Domestic Equity Securities and Depositary Receipts and Related Option Overlay Strategy.* The Fund intends to invest between 0% and 30%, but may invest up to 50%, of its net assets in dividend paying U.S. exchange-traded equity securities (including common stock) of companies domiciled in the United States and Depositary Receipts.[29] In connection with its investments in dividend paying domestic equity securities, the Fund may use an option overlay strategy (''Option Overlay Strategy'').[30] To implement this strategy, the Fund will write (sell) covered U.S. exchange-traded call options in order to seek additional cash flow in the form of premiums on the options. The market value of the Option Overlay Strategy may be up to 30% of the Fund's overall net asset value and the notional value of the calls written may be up to 30% of the overall Fund. The maturity of the options utilized will generally be between one week and three months. The options written may be in-the-money, at-the-money or out-of-the-money.

• *Derivative Instruments:*

As described below, the Fund may invest in derivative instruments.[31] Not including the Option Overlay Strategy, no more than 20% of the value of the Fund's net assets will be invested in derivative instruments (''20% Limitation'').[32] In general, the Fund may invest in exchange-listed futures contracts, exchange-listed options, exchange-listed options on futures contracts, and exchange-listed stock index options.[33]

Primarily in connection with its investments in Sovereign Debt (but, to the extent applicable, in connection with other investments), the Fund may actively manage its foreign currency exposures, including through the use of forward currency contracts, non-deliverable forward currency contracts, exchange-listed currency futures and exchange-listed currency options; such derivatives use will be included for purposes of determining compliance with the 20% Limitation. The Fund may, for instance, enter into forward currency contracts in order to ''lock in'' the exchange rate between the currency it will deliver and the currency it will receive for the duration of the contract[34]

[26] The term ''Canadian income trusts'' refers to qualified income trusts designated by the Canada Revenue Agency that derive income and gains from the exploration, development, mining or production, processing, refining, transportation (including pipelines transporting gas, oil or products thereof), or the marketing of any mineral or natural resources.

[27] MLPs generally have two classes of owners, the general partner and limited partners. The general partner, which is generally a major energy company, investment fund or the management of the MLP, typically controls the MLP through a 2% general partner equity interest in the MLP plus common units and subordinated units. Limited partners own the remainder of the partnership, through ownership of common units, and have a limited role in the partnership's operations and management.

[28] As a matter of clarification, the ''I-Shares'' referred to herein are not ''iShares'' ETFs.

[29] For the avoidance of doubt, this investment category and these percentages will not include investments in preferred securities (described above under ''Preferred Securities''), investments in those equity securities that are included in ''Equity Securities of Energy Infrastructure Companies'' (described above), or investments in ETFs that are intended to provide exposure to any of the other five investment categories.

[30] The Fund's investments in options in connection with the Option Overlay Strategy will not be included for purposes of determining compliance with the 20% Limitation (defined below).

[31] The Fund may invest in derivative instruments for various purposes, such as to seek to enhance return, to hedge some of the risks of its investments in securities, as a substitute for a position in the underlying asset, to reduce transaction costs, to maintain full market exposure (which means to adjust the characteristics of its investments to more closely approximate those of the markets in which it invests), to manage cash flows, to limit exposure to losses due to changes to non-U.S. currency exchange rates or to preserve capital.

[32] Because the Option Overlay Strategy will be excluded from the 20% Limitation, the Fund's total investments in derivative instruments may exceed 20% of the value of its net assets. 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.

[33] Any exchange-traded derivatives in which the Fund invests will trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. The exchange-listed futures and options contracts in which the Fund may invest will be listed on exchanges in the U.S., Europe, London, Hong Kong, Singapore, Australia or Canada. The United Kingdom's primary financial markets regulator (the Financial Conduct Authority), Hong Kong's primary financial markets regulator (the Securities and Futures Commission), Singapore's primary financial markets regulator (the Monetary Authority of Singapore), Australia's primary financial markets regulator (the Australian Securities and Investments Commission), and certain Canadian financial markets regulators (including the Alberta Securities Commission, the British Columbia Securities Commission, the Ontario Securities Commission, and Autorite des marches financiers (Quebec)) are signatories to the International Organization of Securities Commissions (''IOSCO'') Multilateral Memorandum of Understanding (''MMOU''), which is a multi-party information sharing arrangement among financial regulators. Both the Commission and the Commodity Futures Trading Commission are signatories to the IOSCO MMOU.

[34] The Fund will invest only in currencies, and instruments that provide exposure to such currencies, that have significant foreign exchange turnover and are included in the Bank for International Settlements, *Triennial Central Bank Survey, Global Foreign Exchange Market Turnover in 2013* (''BIS Survey''). The Fund may invest in

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and may buy or sell exchange-listed futures contracts on U.S. Treasury securities, non-U.S. government securities and major non-U.S. currencies.

The Fund will comply with the regulatory requirements of the Commission to maintain assets as ''cover,'' maintain segregated accounts, and/or make margin payments when it takes positions in derivative instruments involving obligations to third parties (*i.e.,* instruments other than purchase options). If the applicable guidelines prescribed under the 1940 Act so require, the Fund will earmark or set aside cash, U.S. government securities, high grade liquid debt securities and/or other liquid assets permitted by the Commission in a segregated custodial account in the amount prescribed.

The Fund will only enter into transactions in derivative instruments with counterparties that the Adviser and/or the applicable Management Team reasonably believes are capable of performing under the applicable contract.[35]

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 and, as described above, the Fund may invest in derivative instruments. In addition, the Fund may invest its remaining assets in other securities and financial instruments, as generally described below.

The Fund may invest up to 20% 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. For temporary defensive purposes, during the initial invest-up period and during periods of high cash inflows or outflows, the Fund (as a whole or with respect to one or more investment categories) may depart from its principal investment strategies and invest part or all of its assets in these securities or it may hold cash. During such periods, the Fund may not be able to achieve its investment objectives. The Fund (as a whole or with respect to one or more investment categories) may adopt a defensive strategy when the Adviser and/or a Management Team believe securities in which the Fund normally invests have elevated risks due to political or economic factors and in other extraordinary circumstances.

Short-term debt securities are securities from issuers having a long-term debt rating of at least A by S&P Ratings, Moody's or 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 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) short-term securities issued or guaranteed by non-U.S. governments or by their agencies or instrumentalities; [36] (3) certificates of deposit issued against funds deposited in a bank or savings and loan association; (4) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (5) repurchase agreements,[37] which involve purchases of debt securities; (6) 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; (7) commercial paper, which is short-term unsecured promissory notes; and (8) other securities that are similar to the foregoing. 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.

In addition, to manage foreign currency exposures, the Fund may invest directly in foreign currencies, including without limitation in the form of bank and financial institution deposits, certificates of deposit, and bankers' acceptances denominated in a specified non-U.S. currency.

The Fund may invest in the securities of money market funds. The Fund may also invest in the securities of other ETFs that invest primarily in short-term debt securities, in addition to any investments in other ETFs described above.[38]

The Fund may invest up to 15% of its net assets in secured loans that are not first lien loans or loans that are unsecured (collectively referred to as ''junior loans''). Junior loans have the same characteristics as senior loans except that junior loans are not first in priority of repayment and/or may not be secured by collateral. Accordingly, the risks associated with junior loans are higher than the risks for loans with first priority over the collateral. Because junior loans are lower in priority and/or unsecured, they are subject to the additional risk that the cash flow of the borrower may be insufficient to meet scheduled payments after giving effect to the secured obligations of the borrower or in the case of a default, recoveries may be lower for unsecured loans than for secured loans.[39]

In accordance with the 15% Limitation described above, 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 and/or the applicable Management Team.[40] 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.

currencies, and instruments that provide exposure to such currencies, selected from the top 40 currencies (as measured by percentage share of average daily turnover for the applicable month and year) included in the BIS Survey.

[35] The Fund will seek, where possible, to use counterparties, as applicable, whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Adviser and/or the applicable Management Team will evaluate the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, the Adviser's and/or Management Team's analysis will evaluate each approved counterparty using various methods of analysis and may consider the Adviser's and/or Management Team's past experience with the counterparty, its known disciplinary history and its share of market participation.

[36] The relevant non-U.S. government, agency or instrumentality must have a long-term debt rating of at least A by S&P Ratings, Moody's or Fitch.

[37] The Fund intends to enter into repurchase agreements only with financial institutions and dealers believed by the Adviser and/or the applicable Management Team to present minimal credit risks in accordance with criteria approved by the Board of Trustees of the Trust (''Trust Board''). The Adviser and/or the Management Team will review and monitor the creditworthiness of such institutions. The Adviser and/or the Management Team 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.

[38] *See supra* note 9.

[39] Junior loans generally have greater price volatility than senior loans and may be less liquid. There is also a possibility that originators will not be able to sell participations in junior loans, which would create greater credit risk exposure for the holders of such loans. Junior loans share the same risks as other below investment grade instruments.

[40] *See supra* note 10 and accompanying text.

The Fund will not concentrate in any one industry. For the avoidance of any doubt, however, this will not limit the Fund's investments in (a) obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities or (b) securities of other investment companies.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act [41] and the rules and regulations thereunder applicable to a national securities exchange.[42] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[43] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Fund and the Shares must comply with the initial and continued listing criteria in NASDAQ Rule 5735 for the Shares 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,[44] 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 (''CTA'') plans for the Shares. In addition, the Intraday Indicative Value,[45] as defined in Nasdaq Rule 5735(c)(3), will be available on the NASDAQ OMX Information LLC proprietary index data service,[46] and will be widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session.[47] On each business day, before commencement of trading in Shares in the Regular Market Session 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 NAV at the end of the business day.[48] The Fund's custodian, through the National Securities Clearing Corporation, will make available on each business day, prior to the opening of business on the Exchange, the list of the names and quantities of instruments, as well as the estimated amount of cash, comprising the creation basket of the Fund for that day. The NAV of the Fund will be determined as of the close of trading (normally, 4:00 p.m., Eastern Time) on each day the New York Stock Exchange is open for business.[49] 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. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the underlying U.S. exchange-listed equity securities will be available via the CTA high-speed line, and will be available from the national securities exchange on which they are listed. Pricing information for the underlying exchange-traded equity securities (including ETFs, exchange-traded preferred securities, and the exchange-traded equity securities described under ''Dividend Paying Domestic Equity Securities and Depositary Receipts and Related Option Overlay Strategy'' and ''Equity Securities of Energy Infrastructure Companies''), exchange-traded derivative instruments and Depositary Receipts will be available from the exchanges on which they trade and from major market data vendors. Pricing information for corporate bonds, senior loans, non-exchange traded preferred securities, Sovereign Debt, Mortgage-Related Investments, forward currency contracts, non-deliverable forward currency contracts, and debt securities in which the Fund may invest that are described under ''Other Investments'' will be available from major broker-dealer firms and/or major market data vendors and/or pricing services. An additional source of price information for certain fixed income securities is FINRA's TRACE. Information relating to U.S. exchange-listed options will be available via the Options Price Reporting Authority. 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 necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. 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. Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable,[50] and trading in

[41] 15 U.S.C. 78f.

[42] 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).

[43] 15 U.S.C. 78f(b)(5).

[44] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[45] According to the Exchange, the Intraday Indicative Value reflects an estimated intraday value of the Fund's Disclosed Portfolio, and will be based upon the current value for the components of the Disclosed Portfolio. The Intraday Indicative Value will be based on quotes and closing prices from the securities' local market and may not reflect events that occur subsequent to the local market's close. Premiums and discounts between the Intraday Indicative Value and the market price may occur. The Intraday Indicative Value should not be viewed as a ''real time'' update of the NAV per Share of the Fund, which is calculated only once a day.

[46] 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.

[47] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m., Eastern time; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m., Eastern time; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m., Eastern time).

[48] The Disclosed Portfolio will include, as applicable, the names, quantities, percentage weightings and market values of the portfolio securities, financial instruments, and other assets held by the Fund. The Web site information will be publicly available at no charge.

[49] NAV will be calculated for the Fund by taking the market price of the Fund's total assets, including interest or dividends accrued but not yet collected, less all liabilities, and dividing such amount by the total number of Shares outstanding.

[50] These reasons may include: (1) The extent to which trading is not occurring in the securities and/or the other assets composing 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. With respect to trading halts, the Exchange

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the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth additional circumstances under which trading in the Shares of the Fund may be halted. The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. Further, 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.[51] The Adviser and certain Sub-Advisers are affiliated with broker-dealers and have each implemented a fire wall with respect to their respective broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio.[52] The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also FINRA, on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[53] The Exchange further represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Moreover, prior to the commencement of trading, the Exchange states that it will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares.

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 the following:

(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) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund with other markets and other entities that are members of ISG, and FINRA may obtain trading information regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the exchange-traded securities and instruments held by the Fund from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE.

(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 2111A, 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 continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[54]

(6) 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 and/or the applicable Management Team. The Fund will not purchase any securities or other assets that, in the opinion of the applicable Management Team, are illiquid if, as a result, more than 15% of the value of the Fund's net assets will be invested in illiquid assets.

(7) At least 90% of the Fund's net assets that are invested in exchange-traded equity securities of both domestic and foreign issuers, exchange-traded products and exchange-traded derivatives (in the aggregate) will be invested in investments that trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. The Depositary Receipts in which the Fund invests will be exchange-traded and will not include unsponsored Depositary Receipts. Any exchange-traded derivatives in which the Fund invests will trade in markets that are members of ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

(8) The Fund represents that its portfolio will include a minimum of 13 non-affiliated issuers of fixed income securities.

(9) The Fund's exposure to any single country (outside of the U.S.) will generally be limited to 20% of the Fund's net assets. The portion of the Fund's net assets that may be denominated in currencies other than the U.S. dollar is not expected to exceed 30%.

(10) In connection with its investments in high yield corporate bonds and senior loans, under normal market conditions, the Fund will seek to invest at least 75% of its net assets that are invested in such bonds and loans (in the aggregate) in bonds and loans that, at the time of original issuance, have at least $100 million par amount outstanding.

(11) The Fund may invest up to 15% of its net assets in junior loans.

(12) The Fund will limit its investments in mortgage-backed

may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.

[51] *See* Nasdaq Rule 5735(d)(2)(B)(ii).

[52] *See supra* note 7. The Exchange states 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 the Sub-Advisers 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.

[53] The Exchange states that FINRA surveils trading on the Exchange pursuant to a regulatory services agreement and that the Exchange is responsible for FINRA's performance under this regulatory services agreement.

[54] 17 CFR 240.10A–3.

securities that are not issued or guaranteed by Government Entities to 20% of its net assets.

(13) Under normal market conditions, the Fund will seek to invest at least 75% of its net assets that are invested in preferred securities in preferred securities that have a minimum initial issuance amount of at least $100 million. Initially, at least 50% of the Fund's net assets that are invested in preferred securities will be invested in exchange-listed preferred securities, although this percentage may decrease in the future.

(14) Under normal market conditions, at least 80% of the Sovereign Debt in which the Fund invests will be issued by issuers with outstanding debt of at least $200 million (or the foreign currency equivalent thereof).

(15) Not including the Option Overlay Strategy, no more than 20% of the value of the Fund's net assets will be invested in derivative instruments. The Fund will only enter into transactions in derivative instruments with counterparties that the Adviser and/or the applicable Management Team reasonably believes are capable of performing under the applicable contract. 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.

(16) 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 [55] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[56] that the proposed rule change (SR–NASDAQ–2014–050) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[57]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–15794 Filed 7–7–14; 8:45 am]

BILLING CODE 8011–01–P

[55] 15 U.S.C. 78f(b)(5).

[56] 15 U.S.C. 78s(b)(2).

[57] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72501; File No. SR–NYSE–2014–31]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 86 To Extend the Hours for the Core Bond Trading Session for NYSE Bonds SM and Amending Rule 88 To Make Corresponding Changes Related to Bonds Liquidity Providers

July 1, 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 June 25, 2014, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') 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 Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 86 to extend the hours for the Core Bond Trading Session for NYSE Bonds SM and to amend Rule 88 to make corresponding changes related to Bonds Liquidity Providers (''BLPs''). 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 86 to extend the hours for the Core Bond Trading Session for NYSE Bonds and to amend Rule 88 to make corresponding changes related to BLPs.[4]

NYSE Bonds is the Exchange's electronic system for receiving, processing, executing, and reporting bids, offers, and executions in bonds. Rule 86 prescribes how bonds are traded through the NYSE Bonds trading platform, including the receipt, execution, and reporting of bond transactions. Rule 88 provides for BLPs, which are member organizations that electronically enter orders from off the Floor of the Exchange into NYSE Bonds.

NYSE Bonds has three Bond Trading Sessions: (1) the Opening Bond Trading Session, (2) the Core Bond Trading Session, and (3) the Late Bond Trading Session. The Opening Bond Trading Session currently commences at 4:00 a.m. Eastern Time (''ET'') and concludes at 9:30 a.m. ET. The Core Bond Trading Session currently commences at 9:30 a.m. ET and concludes at 4:00 p.m. ET. The Late Bond Trading Session currently commences at 4:00 p.m. ET and concludes at 8:00 p.m. ET.

The Exchange proposes to extend the hours of the Core Bond Trading Session so that it would commence at 8:00 a.m. ET and end at 5:00 p.m. ET, adding a total of 2.5 hours to the Core Bond Trading Session and better aligning its hours with those of other bond trading venues. The Exchange proposes to amend the references to the various time periods throughout Rule 86 to effect this change, including, for example, that the Core Bond Auction would commence at 8:00 a.m. ET instead of the current 9:30 a.m. ET. The Exchange would announce the date on which the expanded Core Bond Trading Session hours would take effect via Trader Update. The Exchange notes, for example, that the proposed extended Core Bond Trading Session would also result in the ability for an ''NYSE Bonds Good 'Til Cancelled

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Terms not defined herein shall have the meaning prescribed under Rule 86 or Rule 88, as applicable.

Order'' or an ''NYSE Bonds Day Order'' to remain in effect for a longer period of time.

Rule 88(a) and (f) specify BLP bid and offer requirements to qualify for a financial incentive for transactions on NYSE Bonds, as set forth in Rule 88(b) and in the Exchange's Price List. The requirements currently refer to ''trading day'' or ''normal trading day'' when describing the time period during which they apply and are calculated, which, in practice, refers to the Core Bond Trading Session. The Exchange proposes to replace these references to ''trading day'' and ''normal trading day'' with ''Core Bond Trading Session.'' The Exchange believes that this proposed change would encourage BLPs to be active for greater periods of time each day, which would lead to increased liquidity throughout the day and contribute to the quality of NYSE Bonds for all Users. The Exchange notes that BLPs may already be active in bonds on other marketplaces on which they trade during the extended period of time and because BLPs are also currently active after the Core Bond Trading Session at levels that would contribute to satisfying the applicable requirements, BLPs would not have any problems in complying with the proposed change. Moreover, while the time period during with the requirements would apply would increase, so would the ability for BLPs to earn financial incentives for transactions on NYSE Bonds, as set forth in Rule 88(b) and in the Exchange's Price List, which are only available during the Core Bond Trading Session.

The proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems Users, including BLPs, would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change would foster cooperation and coordination with persons engaged in bond transactions by more closely aligning the hours of the Core Bond Trading Session with the hours of other marketplaces on which bonds trade (e.g., various alternative trading systems). The proposed change would also remove impediments to, and perfect the mechanisms of, a free and open market and a national market system by permitting Users to be active in the Core Bond Trading Session for 2.5 additional hours each day. Expanding the time period during which the Core Bond Trading Session is active would also increase the time period during which BLP requirements would apply, which may also increase the amount of liquidity on NYSE Bonds, thereby contributing to protecting investors and the public interest. The Exchange further believes that expanding the time period during which BLP requirements would apply would remove impediments to and perfect the mechanism of a free and open market and national market system because it would encourage BLPs to be active for greater periods of time each day, which would lead to increased liquidity throughout the day and contribute to the quality of NYSE Bonds for all Users. The Exchange notes that because BLPs may already be active in bonds on other marketplaces on which they trade during the extended period of time and because BLPs are also currently active after the Core Bond Trading Session at levels that would contribute to satisfying the applicable requirements, BLPs would not have any problems in complying with the proposed change. Moreover, while the time period during with the requirements would apply would increase, so would the ability for BLPs to earn financial incentives for transactions on NYSE Bonds, as set forth in Rule 88(b) and in the Exchange's Price List, which are only available during the Core Bond Trading Session. Likewise, replacing references within Rule 88(a) and (f) to ''trading day'' and ''normal trading day'' with ''Core Bond Trading Session'' would foster cooperation and coordination with persons engaged in bond transactions by more precisely specifying the period during which BLP requirements would apply and be calculated.

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,[7] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change would contribute to competition because it could lead to additional bond transactions on NYSE Bonds, a public market, which would contribute to greater transparency regarding such transactions. The Exchange also believes that the proposed change would place NYSE Bonds in a more competitive position compared to other marketplaces for bond transactions with respect to the time period during which bonds are traded.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[10] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[11] the Commission may designate a shorter time if such

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(8).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

action is consistent with the protection of investors and the public interest.

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) [12] 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–NYSE–2014–31 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–NYSE–2014–31. 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–NYSE–2014–31, and should be submitted on or before July 29, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–15813 Filed 7–7–14; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13967 and #13968]

Alabama Disaster Number AL–00054

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Alabama (FEMA–4176–DR), dated 05/02/2014.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 04/28/2014 through 05/05/2014.

Effective Date: 06/30/2014.

Physical Loan Application Deadline Date: 07/15/2014.

EIDL Loan Application Deadline Date: 02/02/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Alabama, dated 05/02/2014 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 07/15/2014.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2014–15821 Filed 7–7–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13999 and #14000]

Texas Disaster #TX–00433

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Administrative disaster declaration for the State of TEXAS dated 05/20/2014.

Incident: Wildfires.

Incident Period: 05/11/2014 and continuing through 05/14/2014.

Effective Date: 06/30/2014.

Physical Loan Application Deadline Date: 07/21/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 02/20/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Administrative disaster declaration for the State of Texas, dated 05/20/2014 is hereby amended to establish the incident period for this disaster as beginning 05/11/2014 and continuing through 05/14/2014.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: June 30, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–15820 Filed 7–7–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may

be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 3.00 (3) percent for the July–September quarter of FY 2014.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender's commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

Linda S. Rusche,

Director, Office of Financial Assistance.

[FR Doc. 2014–15742 Filed 7–7–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8789]

U.S. Department of State Advisory Committee on Private International Law (ACPIL): Public Meeting on Conciliated Settlement Agreements

The Office of the Assistant Legal Adviser for Private International Law, Department of State, gives notice of a public meeting to discuss possible work related to international commercial conciliation in the United Nations Commission on International Trade Law (UNCITRAL). The public meeting will take place on Thursday, July 31, 2014 from 9:00 a.m. until 12 p.m. EDT. This is not a meeting of the full Advisory Committee.

At its July 2014 session, UNCITRAL will be deciding what projects, if any, its Working Group II (Arbitration and Conciliation) should begin at its fall 2014 meeting. The United States has proposed that the Working Group develop a convention on the enforcement of conciliated settlement agreements that resolve international commercial disputes. *See* A/CN.9/822, *available at http://www.uncitral.org/uncitral/commission/sessions/47th.html.* UNCITRAL may or may not decide to develop such a convention.

The purpose of the public meeting is to obtain the views of concerned stakeholders on what any such convention should provide and how the various issues identified in the proposal should be addressed. Those who cannot attend but wish to comment are welcome to do so by email to Tim Schnabel at *SchnabelTR@state.gov.*

Time and Place: The meeting will take place from 9:00 a.m. until 12:00 p.m. in Room 4835, Harry S Truman Building, 2201 C Street NW., Washington, DC 20520. Participants should plan to arrive at the C Street entrance by 8:30 a.m. for visitor screening. If you are unable to attend the public meeting and would like to participate from a remote location, teleconferencing will be available.

Public Participation: This meeting is open to the public, subject to the capacity of the meeting room. Access to the building is strictly controlled. For pre-clearance purposes, those planning to attend should email *pil@state.gov* providing full name, address, date of birth, citizenship, driver's license or passport number, and email address. This information will greatly facilitate entry into the building. A member of the public needing reasonable accommodation should email *pil@state.gov* not later than July 24, 2014. Requests made after that date will be considered, but might not be able to be fulfilled. If you would like to participate by telephone, please email *pil@state.gov* to obtain the call-in number and other information.

If UNCITRAL does not decide to commence work on this project, this public meeting will not be held; those who have communicated their intent to attend will be notified if the meeting is cancelled.

Data from the public is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State-36) at *http://www.state.gov/documents/organization/103419.pdf for additional information.*

Dated: June 27, 2014.

Timothy R. Schnabel,

Attorney-Adviser, Office of Private International Law, Office of Legal Adviser, Department of State.

[FR Doc. 2014–15940 Filed 7–7–14; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Intelligent Transportation Systems Program Advisory Committee; Notice of Meeting

AGENCY: ITS Joint Program Office, Office of the Assistant Secretary for Research and Technology, U.S. Department of Transportation.

ACTION: Notice.

The Intelligent Transportation Systems (ITS) Program Advisory Committee (ITSPAC) will hold a meeting by Web conference on July 23, 2014, from 2:00 p.m. to 3:00 p.m. (EDT).

The ITSPAC, established under Section 5305 of Public Law 109–59, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, August 10, 2005, and re-established under Section 53003 of Public Law 112–141, Moving Ahead for Progress in the 21st Century, July 6, 2012, was created to advise the Secretary of Transportation on all matters relating to the study, development, and implementation of intelligent transportation systems. Through its sponsor, the ITS Joint Program Office (JPO), the ITSPAC makes recommendations to the Secretary regarding ITS Program needs, objectives, plans, approaches, content, and progress.

The following is a summary of the meeting tentative agenda: (1) Call to Order and Roll Call, (2) Welcome Remarks, (3) Ethics Review, (4) Overview of Advisory Committee, (5) Overview of ITS Joint Program Office, and (6) Summary and Next Steps.

The Web conference will be open to the public, but limited conference lines will be available on a first-come, first-served basis. Members of the public who wish to participate in the Web conference must request approval from Mr. Stephen Glasscock, the Committee Designated Federal Official, at (202) 366–9126, not later than July 16, 2014. You must also request Mr. Glasscock's approval to present oral statements during the Web conference.

Questions about the agenda or written comments may be submitted by U.S. Mail to: U.S. Department of Transportation, Office of the Assistant Secretary for Research and Technology, ITS Joint Program Office, Attention: Stephen Glasscock, 1200 New Jersey Avenue SE., HOIT, Washington, DC 20590 or faxed to (202) 493–2027. The ITS JPO requests that written comments be submitted not later than July 16, 2014.

Notice of this meeting is provided in accordance with the Federal Advisory Committee Act and the General Services Administration regulations (41 CFR Part 102–3) covering management of Federal advisory committees.

Issued in Washington, DC, on the 1st day of July 2014.

John Augustine,

Managing Director, ITS Joint Program Office.

[FR Doc. 2014–15897 Filed 7–7–14; 8:45 am]

BILLING CODE 4910–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: High Density Traffic Airports; Slot Allocation and Transfer Methods

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 14, 2014, vol. 79, no. 71, pages 20962–20963. This information collection is used to allocate slots and maintain accurate records of slot transfers at Ronald Reagan Washington National Airport (DCA), the only High Density Traffic Airport. The information is provided by air carriers, commuter operators, or other persons holding a slot at DCA or by persons conducting an Other (unscheduled) operation at DCA. This notice serves as a correction to the notice for public comments published on June 27, 2014, vol. 79, number 124, page 36574. This notice clarifies details of the collection activity and revises hourly burden figures.

DATES: Written comments should be submitted by August 7, 2014.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0524.

Title: High Density Traffic Airports; Slot Allocation and Transfer Methods.

Form Numbers: There are no FAA forms associated with this information collection.

Type of Review: Renewal of an information collection.

Background: Information is reported to the FAA by air carriers, commuter operators or other persons with slots at DCA. The respondents must notify the FAA of: (1) Requests for confirmation of transferred slots; (2) slots required to be returned or slots voluntarily returned; (3) requests to be included in a lottery for available slots; (4) usage of slots on a bi-monthly basis; and (5) requests for short-term use of off-peak hour slots. The FAA uses this information to allocate and withdraw takeoff and landing slots at DCA, and to confirm transfers of slots made among the operators, thus maintaining an accurate slot base at DCA. Information also is reported by persons conducting unscheduled operations at DCA. Those respondents must obtain a reservation from the FAA prior to an unscheduled operation. The FAA uses this information to provide air traffic control services at DCA.

Respondents: Approximately 15 air carriers and commuter operators; as many as 78,840 unscheduled operations.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 34 minutes.

Estimated Total Annual Burden: 3,441 hours.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov*, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on July 1, 2014.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2014–15922 Filed 7–7–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In June 2014, there were two applications approved. This notice also includes information on one application, approved in October 2013, inadvertently left off the October 2013 notice. Additionally, three approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

PUBLIC AGENCY: County of Monroe, Rochester, New York.

APPLICATION NUMBER: 13–05–C–00–ROC.

APPLICATION TYPE: Impose and use a PFC.

PFC LEVEL: $4.50.

TOTAL PFC REVENUE APPROVED IN THIS DECISION: $30,580,000.

EARLIEST CHARGE EFFECTIVE DATE: August 1, 2021.

ESTIMATED CHARGE EXPIRATION DATE: September 1, 2027.

CLASS OF AIR CARRIERS NOT REQUIRED TO COLLECT PFC'S: None.

BRIEF DESCRIPTION OF PROJECTS APPROVED FOR COLLECTION AND USE:

Rehabilitate terminal apron.

Acquire snow removal equipment.

Acquire glycol recovery vehicle.

Improve terminal building—heating, ventilation, and air conditioning system upgrade.

Improve terminal building—passenger security exit lane renovation.

Improve terminal building—restroom renovations.

Improve terminal building—flight information display/paging system.

Acquire security equipment.

Passenger loading bridges.

DECISION DATE: October 3, 2013.

FOR FURTHER INFORMATION CONTACT: Jeffrey Breeden, New York Airports District Office, (703) 661–1363.

PUBLIC AGENCY: City of St. George, Utah.

APPLICATION NUMBER: 14–05–C–00–SGU.

APPLICATION TYPE: Impose and use a PFC.

PFC LEVEL: $4.50.

TOTAL PFC REVENUE APPROVED IN THIS DECISION: $250,000.

EARLIEST CHARGE EFFECTIVE DATE: January 1, 2016.

ESTIMATED CHARGE EXPIRATION DATE: June 1, 2017.

CLASS OF AIR CARRIERS NOT REQUIRED TO COLLECT PFC'S:

None.

BRIEF DESCRIPTION OF PROJECT APPROVED FOR COLLECTION AND USE: Airport movement area pavement preservation.

DECISION DATE: June 11, 2014.

FOR FURTHER INFORMATION CONTACT: Jesse Lyman, Denver Airports District Office, (303) 342–1262.

PUBLIC AGENCY: Rhode Island Airport Corporation, Warwick, Rhode Island.

APPLICATION NUMBER: 14–07–C–00–PVD.

APPLICATION TYPE: Impose and use a PFC.

PFC LEVEL: $4.50.

TOTAL PFC REVENUE APPROVED IN THIS DECISION: $78,377,045.

CHARGE EFFECTIVE DATE: August 1, 2018.

CHARGE EXPIRATION DATE: July 1, 2028.

CLASS OF AIR CARRIERS NOT REQUIRED TO COLLECT PFC'S: Air taxi/commercial operators.

DETERMINATION: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at T. F. Green Airport.

BRIEF DESCRIPTION OF PROJECTS APPROVED FOR COLLECTION AND USE:

Extend runway 5/23.

Noise mitigation program.

Runway 16/34 safety area.

Hangar 1 demolition.

PFC consulting fees.

DECISION DATE: June 19, 2014.

FOR FURTHER INFORMATION CONTACT: Priscilla Scott, New England Region Airports Division, (781) 238–7614.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
08–05–C–02–RAP, Rapid City, SD	06/02/14	$1,048,782	$1,042,422	10/01/09	03/01/09
05–05–C–04–MCI, Kansas City, MO	06/26/14	31,070,953	31,070,953	07/01/16	05/01/18
06–06–C–02–GEG, Spokane, WA	06/26/14	33,574,266	33,210,822	08/01/12	04/01/12

Issued in Washington, DC, on June 30, 2014.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2014–15924 Filed 7–7–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land; Cleveland Hopkins International, Cleveland, Ohio.

SUMMARY: The FAA is considering a proposal to change approximately 0.29 acres of airport land from aeronautical use to non-aeronautical use and to authorize the sale of airport property located at Cleveland Hopkins International, Cleveland, Ohio. The aforementioned land is not needed for aeronautical use.

The property is located at the Cleveland Business Park (Phase-11) near the intersections of Cleveland Business Park Drive West, Springdale Avenue, and West 192th Street. Property is located northeast of the airport and outside the airport fence line. The 3 parcels totaling 0.29 acres were not included in a previous land release of approximately 48.38 acres, which was formalized in 2000 because they were not owned by the City of Cleveland. Subsequently the City of Cleveland acquired the 3 parcels. The parcels are not being used by the airport. The property will be sold for the development of the Cleveland Business Park.

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

ADDRESSES: Documents are available for review by appointment at the FAA Airports District Office, Marlon Peña, Program Manager, Detroit Airport District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174, Telephone: (734) 229–2909/Fax: (734) 229–2950 and Cleveland Hopkins International Airport, 5300 Riverside Drive, Cleveland, Ohio 44181, Telephone: (216) 265–6793.

Written comments on the Sponsor's request must be delivered or mailed to: Marlon Peña, Program Manager, Federal Aviation Administration, Airports District Office, Detroit Airport District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174, Telephone Number: (734) 229–2909/ FAX Number: (734) 229–2950.

FOR FURTHER INFORMATION CONTACT: Marlon Peña, Program Manager, Federal Aviation Administration, Airports District Office, Detroit Airport District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174. Telephone Number: (734) 229–2909/ FAX Number: (734) 229–2950.

SUPPLEMENTARY INFORMATION: In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

The property was originally acquired by the City of Cleveland for potential airport development. The Federal Aviation Administration participated in the acquisition of this property under FAA project Numbers AIP 3–39–0023–29 and AIP 3–39–0023–31. The U.S. Government did not convey the property or transfer under surplus property. The sponsor is now proposing to sell this property for Fair Market Value and utilize the proceeds to help improve the existing airport infrastructure and bring it up to FAA standards.

The disposition of proceeds from the sale of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999 (64 FR 7696).

This notice announces that the FAA is considering the release of the subject

airport property at the Cleveland Hopkins International, Cleveland, Ohio from federal land covenants, subject to a reservation for continuing right of flight as well as restrictions on the released property as required in FAA Order 5190.6B section 22.16. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

Following is a legal description of the property is located in the City of Cleveland, County of Cuyahoga, State of Ohio, and known as being part of Cleveland Business Park development and described as follows:

Parcel Number 029–17–011

Situated in the City of Cleveland, County of Cuyahoga and the State of Ohio and known as being Sublot No. 94 in the Conger-Helper Realty Company's Home Gardens Allotment No. 2 of part of Original Rockport Sections Nos. 3 and 4, as shown by the recorded plat in Volume 67 of maps, page 35 of Cuyahoga County Records, and that portion of Springdale Ave. SW., 50 feet wide, Vacated by Ordinance No. 521–200, and together forming a parcel and being 40 feet front on the Centerline of said Vacated Springdale Avenue SW., and extending back between parallel lines of equal width, 170 feet, be the same more or less, but subject to all legal highways. Excepting there from, that dedicated portion of Cleveland Parkway SW., as shown in the Dedication Plat recorded in Volume 339, Page 42 of Cuyahoga County Records.

Parcel Number 029–18–035

PROPERTY ADDRESS: 19033 SPRINGDALE AVENUE, CLEVELAND, OHIO 44135 Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being Sublot No. 112 in the Conger-Helper Realty Company's Home Gardens Allotment No, 2 of part of original Rockport Township Section Nos. 3 and 4, as shown by the recorded plat in Volume 67 of Maps, Page 35 of Cuyahoga County Records, and that portion of Springdale Ave. SW., 50 feet wide, Vacated by Ordinance No. 521–200 and together forming a parcel land being 40 feet front on the centerline of said Vacated Springdale Ave. SW. and extending back between parallel lines of equal width, 182.70 feet, be the same more or less, but subject to all legal highways.

Parcel Number 029–19–067

Situated in the City of Cleveland, the County of Cuyahoga and the State of Ohio and known as being part of Sublot No. 58 in the Conger-Helper Realty Company's Home Garden Allotment No. 2 of part of Original Rockport Township Section Nos. 3 and further bounded and described as Follows; Beginning at an iron pin in a monument box at the intersection of the centerline of Rocky River Drive (width varies', and the centerline of Cleveland Parkway SW. (width varies) as shown on the Dedication Plat recorded in Volume 339, Page 42 of Cuyahoga County Map Records; Thence North 89°14′41″ West along the centerline of Cleveland Parkway SM., 282.17 feet to a point; 'Thence South 01°46′09″ West, 42.01 feet to the southerly right of way of Cleveland Parkway SW., and being the Principal Place of Beginning of the premises herein described; Thence South 01°46′09″ West, 97.77 feet to a point on the centerline of Springdale Avenue, as vacated by Ordinance No. 2.0521–2000; Thence North 89°12′38″ West along the centerline of vacated Springdale Avenue, 10.00 feet; Thence North 01°46′09″ East, 97.77 feet to the southerly right of way of Cleveland Parkway SW.: Thence South 89°14′41″ East along the southerly line of Cleveland Parkway SW., 10,00 feet to the Principal Place of Beginning and containing 0.0224 acres of land.

Description for the Above Parcel Is Based on Riversitone Registered Surveyor No. 6747

This property contains approximately 0.29 acres.

Issued in Romulus, Michigan, on June 5, 2014.

John L. Mayfield, Jr.,

Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2014–15923 Filed 7–7–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0096]

Commercial Driver's License: Commonwealth of Virginia, Department of Motor Vehicles; Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant the Commonwealth of Virginia Department of Motor Vehicles (Virginia DMV) and all other State Driver Licensing Agencies (SDLAs) a limited exemption from the commercial driver's license (CDL) regulation. The exemption will allow SDLAs to extend to one year the 90-day timeline specified in 49 CFR 383.77(b)(1), thus enabling them to waive the CDL skills test described in 49 CFR 383.113 for up to a year after separation from military service for veterans regularly or previously employed in a military position requiring operation of a commercial motor vehicle (CMV).

DATES: This exemption is effective from July 8, 2014 to July 8, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

Virginia DMV requested an exemption from 49 CFR 383.77(b)(1), which allows States to waive the skills test described in section 383.113 for applicants regularly employed or previously

employed within the last 90 days in a military position requiring operation of a CMV. Virginia DMV proposed that it be allowed to extend the 90-day timeline to one year following the driver's separation from military service. A copy of the application for exemption is available for review in the docket for this notice. A notice of the application was published on April 7, 2014 (79 FR 19170).

Virginia DMV has a comprehensive Troops-to-Trucks' program that assists service members in obtaining a Virginia CDL and civilian employment in the motor carrier industry. Feedback from the Troops-to-Trucks' military partners has identified the 90-day limit as an obstacle to service members transitioning to civilian life.

Virginia DMV contends that the 90-day timeframe is too short for many of the qualified veterans to utilize while reentering civilian life.

According to Virginia DMV, since July 2012, 183 service members have utilized the 90-day waiver through the Virginia Troops-to-Trucks' program. It anticipates that an exemption would allow an additional 60 to 100 recent veterans to participate in the program per year. The one-year timeframe is consistent with FMCSA's November 2013 Report to Congress regarding a program to assist veterans to acquire CDLs. The American Trucking Associations has estimated that the motor carrier industry needs about 96,000 new drivers every year. Providing additional flexibility in section 383.77(b)(1) will help to expedite the transition of fully trained military truck drivers to civilian employment.

Virginia DMV believes this goal is in the Nation's best interest. A more accessible waiver period would greatly benefit returning veterans. This is consistent with FMCSA's belief that the skills test waiver serves an important function for military personnel returning to the civilian workforce, as stated in the May 9, 2011, **Federal Register** notice that created the 90-day waiver (76 FR 26853).

In addition, because the issues concerning the Virginia DMV request could be applicable in each of the States, FMCSA requested public comment on whether the exemption, if granted, should cover all State Driver's Licensing Agencies (SDLAs).

Public Comments

Five comments on the application were received. All supported the application. Mr. Patrick Crandall commented, ''Our brave veterans deserve all of the support that our community can provide. Extending the 90-day waiver to qualified veterans is the right call.'' The Auto Haulers Association of America said, ''The proposal by the Commonwealth of Virginia would not adversely affect the safe operation of commercial motor vehicles on the nation's roadways because applicants with a military CDL have been trained and certified to levels of competency which match those required of new applicants.'' Additionally, the American Association of Motor Vehicle Administrators, American Trucking Associations and New York State DMV all supported Virginia DMV's application for the exemption and extending the exemption to all SDLAs. All comments are available for review in the docket for this notice.

FMCSA Decision

The FMCSA has evaluated Virginia DMV's application on its merits following full consideration of the comments submitted to the docket, and has decided to grant the exemption from 49 CFR 383.77(b)(1) for a period of 2 years. The exemption covers all SDLAs. FMCSA does not believe that the veterans' driving skills would decrease during the additional 9 months in which this exemption allows them to apply for a waiver of the CDL skills test. This exemption only extends the period during which application for the skills test waiver may be made, and does not revise any other provisions of the regulations. FMCSA determined that the exemption would maintain a level of safety equivalent to, or greater than, the level achieved without the exemption (49 CFR 381.305(a)).

Dated: June 30, 2014.

Anne S. Ferro,

Administrator.

[FR Doc. 2014–15957 Filed 7–7–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–26367]

Motor Carrier Safety Advisory Committee (MCSAC): Public Meeting of Subcommittee

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of subcommittee.

SUMMARY: FMCSA announces that the Motor Carrier Safety Advisory Committee's subcommittee on the U.S.-Mexico Cross Border Long Haul Trucking Pilot Program will meet on Monday, July 28, 2014. The meeting is open to the public and there will be a 15-minute public comment period at the end of the day.

DATES: The meeting will be held on Monday, July 28, 2014, from 9 a.m. to 4:30 p.m., Eastern Daylight Time (E.D.T.). The meeting will be held at FMCSA's National Training Center (NTC), 1310 North Courthouse Road, Suite 600, Arlington, VA 22201. The NTC is located near the Courthouse Metro station.

Copies of MCSAC Task Statement 11–3 and an agenda for the meeting will be made available in advance of the meeting at *http://mcsac.fmcsa.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Shannon L. Watson, Senior Advisor to the Associate Administrator for Policy, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 385–2395, *mcsac@dot.gov.*

Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Eran Segev at (617) 494–3174, *eran.segev@dot.gov,* by Monday, July 21, 2014.

SUPPLEMENTARY INFORMATION:

I. Background

MCSAC

Section 4144 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU, Pub. L. 109–59, 119 Stat. 1144, August 10, 2005) required the Secretary of Transportation to establish the MCSAC. The MCSAC provides advice and recommendations to the FMCSA Administrator on motor carrier safety programs and regulations, and operates in accordance with the Federal Advisory Committee Act (5 U.S.C. App 2).

Long-Haul Cross Border Trucking Pilot Program Task

In 2011, FMCSA directed the MCSAC to form a subcommittee consider Task 11–03, regarding Oversight of the Long-Haul Cross Border Trucking Pilot Program. Known as the Cross Border Subcommittee, FMCSA requested that the MCSAC serve as the monitoring Federal advisory committee for the Pilot Program. Specifically, FMCSA requested that MCSAC:

- Assess the safety record of participating Mexico-domiciled motor carriers;

• Continue to advise FMCSA concerning designated tasks related to the pilot program; and

• Issue a final report addressing whether FMCSA conducted the Pilot Program in a manner consistent with the objectives outlined in its **Federal Register** Notice.

Procedurally, the subcommittee would present its recommendations to the full MCSAC for review and discussion with the final report submitted to the Agency. The subcommittee held its first meeting on March 31, 2011, and has held subsequent meetings since that time.

II. Meeting Participation

Oral comments from the public will be heard during the last fifteen minutes of the meeting. Should all public comments be exhausted prior to the end of the specified period, the comment period will close. Members of the public may submit written comments by Monday, July 21, 2014, to Federal Docket Management System (FDMC) Docket Number FMCSA–2006–26367 using any of the following methods:

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

• *Fax:* 202–493–2251.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590.

• *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W12–140, Washington, DC, between 9 a.m. and 5 p.m., E.T. Monday through Friday, except Federal holidays.

Issued on: July 1, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–15953 Filed 7–7–14; 8:45 am]

BILLING CODE

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No FMCSA–2011–0097]

Pilot Program on NAFTA Trucking Provisions

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice.

SUMMARY: FMCSA announces information concerning the Pre-Authorization Safety Audit (PASA) for Trans-Mex Inc., SA de CV (USDOT# 710381) which applied to participate in the Agency's long-haul pilot program to test and demonstrate the ability of Mexico-domiciled motor carriers to operate safely in the United States beyond the municipalities along the United States-Mexico international border or the commercial zones of such municipalities. This motor carrier did not successfully complete the PASA.

FOR FURTHER INFORMATION CONTACT: Marcelo Perez, FMCSA, North American Borders Division, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Telephone (512) 916–5440 Ext. 228; email *marcelo.perez@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

On May 25, 2007, the President signed into law the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (the Act), (Pub. L. 110–28, 121 Stat. 112, 183, May 25, 2007). Section 6901 of the Act requires that certain actions be taken by the Department of Transportation (the Department) as a condition of obligating or expending appropriated funds to grant authority to Mexico-domiciled motor carriers to operate beyond the municipalities in the United States on the United States-Mexico international border or the commercial zones of such municipalities (border commercial zones).

On July 8, 2011, FMCSA announced in the **Federal Register** [76 FR 40420] its intent to proceed with the initiation of a U.S.-Mexico cross-border long-haul trucking pilot program to test and demonstrate the ability of Mexico-domiciled motor carriers to operate safely in the United States beyond the border commercial zones as detailed in the Agency's April 13, 2011, **Federal Register** notice [76 FR 20807]. The pilot program is a part of FMCSA's implementation of the North American Free Trade Agreement (NAFTA) cross-border long-haul trucking provisions in compliance with section 6901(b)(2)(B) of the Act. FMCSA reviewed, assessed, and evaluated the required safety measures as noted in the July 8, 2011, notice and considered all comments received on or before May 13, 2011, in response to the April 13, 2011, notice. Additionally, to the extent practicable, FMCSA considered comments received after May 13, 2011.

In accordance with section 6901(b)(2)(B)(i) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (the Act), FMCSA is required to publish comprehensive data and information on the PASAs conducted of motor carriers domiciled in Mexico that are granted authority to operate beyond the border commercial zones in the **Federal Register** to provide sufficient opportunity for public notice and comment. There is no requirement to provide information to the public on the motor carriers that failed the PASA, and, therefore, will not be granted authority to operate in the pilot program. However, FMCSA committed in previous notices to provide information on the motor carriers that did not pass the PASA.

The Mexico-domiciled motor carrier in Table 1 did not successfully complete the PASA.

Tables 2, 3 and 4 all titled (''Failed Pre-Authorization Safety Audit (PASA) Information'') set out additional information on the carrier noted in Table 1. A narrative description of each column in the tables is provided as follows:

A. *Row Number in the Appendix for the Specific Carrier:* The row number for each line in the tables.

B. *Name of Carrier:* The legal name of the Mexico-domiciled motor carrier that applied for authority to operate in the U.S. beyond the border commercial zones and was considered for participation in the long-haul pilot program.

C. *U.S. DOT Number:* The identification number assigned to the Mexico-domiciled motor carrier and required to be displayed on each side of the motor carrier's power units. If granted provisional operating authority, the Mexico-domiciled motor carrier will be required to add the suffix ''X'' to the ending of its assigned U.S. DOT Number for those vehicles approved to participate in the pilot program.

D. *FMCSA Register Number:* The number assigned to the Mexico-domiciled motor carrier's operating authority as found in the FMCSA Register.

E. *PASA Initiated:* The date the PASA was initiated.

F. *PASA Completed:* The date the PASA was completed.

G. *PASA Results:* The results upon completion of the PASA. The PASA receives a quality assurance review before approval. The quality assurance process involves a dual review by the FMCSA Division Office supervisor of the auditor assigned to conduct the PASA and by the FMCSA Service Center New Entrant Specialist designated for the specific FMCSA Division Office. This dual review ensures the successfully completed PASA was conducted in accordance with FMCSA policy, procedures and

guidance. Upon approval, the PASA results are uploaded into the FMCSA's Motor Carrier Management Information System (MCMIS). The PASA information and results are then recorded in the Mexico-domiciled motor carrier's safety performance record in MCMIS.

H. *FMCSA Register:* The date FMCSA published notice of a successfully completed PASA in the FMCSA Register. The FMCSA Register notice advises interested parties that the application has been preliminarily granted and that protests to the application must be filed within 10 days of the publication date. Protests are filed with FMCSA Headquarters in Washington, DC. The notice in the FMCSA Register lists the following information:

a. Current registration number (e.g., MX–123456);

b. Date the notice was published in the FMCSA Register;

c. The applicant's name and address; and

d. Representative or contact information for the applicant.

The FMCSA Register may be accessed through FMCSA's Licensing and Insurance public Web site at *http://li-public.fmcsa.dot.gov/,* and selecting FMCSA Register in the drop down menu.

I. *U.S. Drivers:* The total number of the motor carrier's drivers approved for long-haul transportation in the United States beyond the border commercial zones.

J. *U.S. Vehicles:* The total number of the motor carrier's power units approved for long-haul transportation in the United States beyond the border commercial zones.

K. *Passed Verification of 5 Elements (Yes/No):* A Mexico-domiciled motor carrier will not be granted provisional operating authority if FMCSA cannot verify all of the following five mandatory elements. FMCSA must:

a. Verify a controlled substances and alcohol testing program consistent with 49 CFR part 40.

b. Verify a system of compliance with hours-of-service rules of 49 CFR part 395, including recordkeeping and retention;

c. Verify the ability to obtain financial responsibility as required by 49 CFR 387, including the ability to obtain insurance in the United States;

d. Verify records of periodic vehicle inspections; and

e. Verify the qualifications of each driver the carrier intends to use under such authority, as required by 49 CFR parts 383 and 391, including confirming the validity of each driver's Licencia Federal de Conductor and English language proficiency.

L. *If No, Which Element Failed:* If FMCSA cannot verify one or more of the five mandatory elements outlined in 49 CFR part 365, Appendix A, Section III, this column will specify which mandatory element(s) cannot be verified.

Please note that for items L through P below, during the PASA, after verifying the five mandatory elements discussed in item K above, FMCSA will gather information by reviewing a motor carrier's compliance with ''acute and critical'' regulations of the Federal Motor Carrier Safety Regulations (FMCSRs) and Hazardous Materials Regulations (HMRs). Acute regulations are those where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall basic safety management controls of the motor carrier. Critical regulations are those where noncompliance relates to management and/or operational controls. These regulations are indicative of breakdowns in a carrier's management controls. A list of acute and critical regulations is included in 49 CFR Part 385, Appendix B, Section VII.

Parts of the FMCSRs and HMRs having similar characteristics are combined together into six regulatory areas called ''factors.'' The regulatory factors are intended to evaluate the adequacy of a carrier's management controls.

M. *Passed Phase 1, Factor 1:* A ''yes'' in this column indicates the carrier has successfully met Factor 1 (listed in part 365, Subpart E, Appendix A, Section IV(f)). Factor 1 includes the General Requirements outlined in parts 387 (Minimum Levels of Financial Responsibility for Motor Carriers) and 390 (Federal Motor Carrier Safety Regulations—General).

N. *Passed Phase 1, Factor 2:* A ''yes'' in this column indicates the carrier has successfully met Factor 2, which includes the Driver Requirements outlined in parts 382 (Controlled Substances and Alcohol Use and Testing), 383 (Commercial Driver's License Standards; Requirements and Penalties) and 391 (Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors).

O. *Passed Phase 1, Factor 3:* A ''yes'' in this column indicates the carrier has successfully met Factor 3, which includes the Operational Requirements outlined in parts 392 (Driving of Commercial Motor Vehicles) and 395 (Hours of Service of Drivers).

P. *Passed Phase 1, Factor 4:* A ''yes'' in this column indicates the carrier has successfully met Factor 4, which includes the Vehicle Requirements outlined in parts 393 (Parts and Accessories Necessary for Safe Operation) and 396 (Inspection, Repair and Maintenance) and vehicle inspection and out-of-service data for the last 12 months.

Q. *Passed Phase 1, Factor 5:* A ''yes'' in this column indicates the carrier has successfully met Factor 5, which includes the hazardous material requirements outlined in parts 171 (General Information, Regulations, and Definitions), 177 (Carriage by Public Highway), 180 (Continuing Qualification and Maintenance of Packagings) and 397 (Transportation of Hazardous Materials; Driving and Parking Rules).

R. *Passed Phase 1, Factor 6:* A ''yes'' in this column indicates the carrier has successfully met Factor 6, which includes Accident History. This factor is the recordable accident rate during the past 12 months. A recordable ''accident'' is defined in 49 CFR 390.5, and means an accident involving a commercial motor vehicle operating on a public road in interstate or intrastate commerce which results in a fatality; a bodily injury to a person who, as a result of the injury, immediately received medical treatment away from the scene of the accident; or one or more motor vehicles incurring disabling damage as a result of the accident requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

S. *Number U.S. Vehicles Inspected:* The total number of vehicles (power units) the motor carrier is approved to operate in the United States beyond the border commercial zones that received a vehicle inspection during the PASA. During a PASA, FMCSA inspected all power units to be used by the motor carrier in the pilot program and applied a current Commercial Vehicle Safety Alliance (CVSA) inspection decal, if the inspection is passed successfully. This number reflects the vehicles that were inspected, irrespective of whether the vehicle received a CVSA inspection at the time of the PASA decal as a result of a passed inspection.

T. *Number U.S. Vehicles Issued CVSA Decal:* The total number of inspected vehicles (power units) the motor carrier is approved to operate in the United States beyond the border commercial zones that received a CVSA inspection decal as a result of an inspection during the PASA.

U. *Controlled Substances Collection:* Refers to the applicability and/or country of origin of the controlled substance and alcohol collection facility

that will be used by a motor carrier that has successfully completed the PASA.

a. ''U.S.'' means the controlled substance and alcohol collection facility is based in the United States.

b. ''MX'' means the controlled substance and alcohol collection facility is based in Mexico.

c. ''Non-CDL'' means that during the PASA, FMCSA verified that the motor carrier is not utilizing commercial motor vehicles subject to the commercial driver's license requirements as defined in 49 CFR 383.5 (Definition of Commercial Motor Vehicle). Any motor carrier that does not operate commercial motor vehicles as defined in § 383.5 is not subject to DOT controlled substance and alcohol testing requirements.

V. *Name of Controlled Substances and Alcohol Collection Facility:* Shows the name and location of the controlled substances and alcohol collection facility that will be used by a Mexico-domiciled motor carrier who has successfully completed the PASA.

TABLE 1— APPLICANT THAT FAILED THE PASA

Row number in Tables 2, 3 and 4 of the Appendix to today's notice	Name of carrier	USDOT No.
1	Trans-Mex Inc., SA de CV	710381

TABLE 2—FAILED PRE-AUTHORIZATION SAFETY AUDIT (PASA) INFORMATION

[See also Tables 3 and 4]

Column A—Row No.	Column B—Name of Carrier	Column C—US DOT No.	Column D—FMCSA Register No.	Column E—PASA Initiated	Column F—PASA Completed	Column G—PASA Results	Column H—FMCSA Register	Column I—US Drivers	Column J—US Vehicles
1	Trans-Mex Inc. SA de CV.	710381	MX–324695	10/22/2013	10/22/2013	Failed	Not published.	10	5

TABLE 3—FAILED PRE-AUTHORIZATION SAFETY AUDIT (PASA) INFORMATION

[See also Tables 2 and 4]

Column A—row No.	Column B—name of Carrier	Column C—US DOT No.	Column D—FMCSA register No.	Column K—passed verification of 5 elements (yes/no)	Column L—If no, which element failed	Column M—passed phase 1 factor 1	Column N—passed phase 1 factor 2	Column O—passed phase 1 factor 3	Column P—passed phase 1 factor 4
1	Trans-Mex, Inc SA de CV.	710381	MX324695	No	Hours of Service.	Not Completed.	Not Completed.	Not Completed.	Not Completed

TABLE 4—FAILED PRE-AUTHORIZATION SAFETY AUDIT (PASA) INFORMATION

[See also Tables 2 and 3]

Column A—Row No.	Column B—Name of carrier	Column C—US DOT No.	Column D—FMCSA Register No.	Column Q—Passed Phase I Factor 5	Column R—Passed Phase I Factor 6	Column S—No. US vehicles inspected	Column T—No. US Vehicles issued CVSA decal	Column U—Controlled substance collection	Column V—Name of controlled substances and alcohol collection facility
1	Trans-Mex Inc. SA de CV.	710381	MX–324695	Not Completed.	Not Completed.	None	None	Not Completed.	Not Completed.

At the point that the Auditor determined that the applicant failed Phase 1, the PASA was discontinued. As a result, other factors were not assessed and are marked ''Not Completed.''

To date, this is the third carrier that has failed the PASA. The Act only requires publication of data for carriers receiving operating authority, as failure to successfully complete the PASA prevents the carrier from being granted authority to participate in the long-haul pilot program. FMCSA agreed to publish this information to show motor carriers that failed to meet U.S. safety standards.

Issued under the authority of delegation in 49 CFR 1.87: June 20, 2014.

Anne S. Ferro,

Administrator.

[FR Doc. 2014–15936 Filed 7–7–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0005]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 26 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective July 8, 2014. The exemptions expire on July 8, 2016.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202)-366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

Background

On May 14, 2014, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (79 FR 27681). That notice listed 26 applicants' case histories. The 26 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 26 applications on their merits and made a determination to grant exemptions to each of them.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 26 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including prosthetic eye, retinal detachment, amblyopia, acute zonal occult outer retinopathy with central scotoma, corneal transplant, retina damage, corneal scar, exotropia, strabismus, cataracts, optic nerve disorder, macular degeneration, retinal scarring, macular scar, hereditary macular dystrophy, complete loss of vision, degenerative myopia, and central vein occlusion. In most cases, their eye conditions were not recently developed. Ten of the applicants were either born with their vision impairments or have had them since childhood.

The sixteen individuals that sustained their vision conditions as adults have had it for a period of 4 to 35 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 26 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision in careers ranging from 2 to 52 years. In the past 3 years, one of the drivers was involved in a crash and two were convicted for moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the May 14, 2014 notice (79 FR 27681).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence

that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 26 applicants, one of the drivers was involved in a crash and two were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 26 applicants listed in the notice of May 14, 2014 (79 FR 27681).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 26 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) that each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received eight comments in this proceeding. The comments are discussed below.

Karen Whitmer, Theo Rumble, Alyce Johnson, Steven Levine, Larry D. Piner, Christopher L. Webb, Joel G. Arnette, Jr., and Rebecca McPhail are all in favor of granting Glenn K. Johnson, Jr. an exemption from the vision standard.

Conclusion

Based upon its evaluation of the 26 exemption applications, FMCSA exempts Lyle R. Bell (NE), Tracy L. Bowers (IA), Bradley E. Buzzell (NH), William C. Christy (FL), Gerard J. Cormier (MA), Joe T. Gage (AR), Hector A. Hernandez (MD), Rex G. Holladay (AR), Chestor E. Jaycox (NY), Danny J. Johnson (MN), Glenn K. Johnson, Jr. (NC), Terry A. Legates (OK), Charles E. Meis (TX), Ronald B. Mohr (IA), Hassan Ourahou (KY), Jesus Penuelas (AZ), Enoc Ramos III (TX), James T. Rohr (MN), DelRay V. Ryckman (SD), Joe Sanchez (TX), James S. Seeno (NV), George W. Thomas (SC), Thomas L. Tveit (SD), Bart M. Valiante (CT), James W. Van Ryswyk (IA), and Drake M. Vendsel (ND) from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: June 30, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–15956 Filed 7–7–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0007]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions, request for comments.

SUMMARY: FMCSA announces receipt of applications from 52 individuals for exemption from the vision requirement for operating a commercial motor vehicle (CMV) in the Federal Motor Carrier Safety Regulations. The applicants are unable to meet the vision requirement in one eye for various reasons. The exemptions will allow these individuals to operate CMVs in interstate commerce without meeting the prescribed vision requirement in one eye. At the end of the comment period, the Agency will grant exemptions to the applicants listed herein if there are no adverse comments that indicate the driver's ability will not achieve a level of safety equivalent to or greater than the level of safety that would be obtained by complying with the regulations. All comments will be reviewed and evaluated by FMCSA. Some individuals appearing in this notice may not receive exemptions based on comments received during the comment period. Individuals not granted an exemption may either be published at a future date based on further evaluation or may not be deemed to meet the aforementioned level of safety if granted an exemption. These individuals will be published in a quarterly notice of exemption denials. As always, any adverse comments received after the exemption is granted will be evaluated, and if they indicate that the driver is not achieving a level of safety equivalent to or greater than the level of safety that would be obtained by complying with the regulation, the exemption will be revoked. When granted, the exemptions will allow these individuals with vision deficiencies in one eye to operate in interstate commerce.

DATES: Comments must be received on or before August 7, 2014. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0007 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 52 individuals listed in this notice have recently requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency has evaluated the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Don R. Alexander

Mr. Alexander, 59, has had a central retinal vein occlusion in his left eye since 2007. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his ophthalmologist stated, ''He has a central retinal vein occlusion in his LEFT EYE which dates back to 2007. In my medical opinion, given his history of exemption in the past and the lack of progression in his disease, he can perform the driving tasks required to operate a commercial vehicle.'' Mr. Alexander reported that he has driven tractor-trailer combinations for 40 years, accumulating 2.17 million miles. He holds a Class A CDL from Oregon. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jimmy A. Baker

Mr. Baker, 50, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/150. Following an examination in 2014, his optometrist stated, ''In my opinion, Mr. Baker has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Baker reported that he has driven tractor-trailer combinations for 19 years, accumulating 1.52 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Robert E. Bebout

Mr. Bebout, 53, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''In my opinion/[*sic*] PT [*sic*] has sufficient vision to perform driving tasks required for a commercial vehichle [*sic*].'' Mr. Bebout reported that he has driven straight trucks for 10 years, accumulating 350,000 miles. He holds a Class B CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Frank B. Belenchia, Jr.

Mr. Belenchia, 55, has had histoplasmosis in his right eye since 2010. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''Finally, in my opinion, I do feel that this gentleman would have sufficient vision to perform a safe driving test to operate a commercial vehicle with his glasses with both eyes [*sic*].'' Mr. Belenchia reported that he has driven tractor-trailer combinations for 14 years, accumulating 1.82 million miles. He holds a Class A CDL from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ricky W. Bettes

Mr. Bettes, 54, has a permanent misshapen pupil in his right eye due to a traumatic incident in 1990. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''I certify in my medical opinion that Mr. Ricky Bettes has sufficient vision to performing the driving tasks required to operate a commercial vehicle.'' Mr. Bettes reported that he has driven straight trucks for 26 years, accumulating 580,320 miles. He holds an operator's license from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Thomas J. Bommer

Mr. Bommer, 38, has had a detached retina in his left eye since 2010. The visual acuity in his right eye is 20/20, and in his left eye, 20/150. Following an examination in 2013, his optometrist stated, ''My medical opinion of Mr. Bommer's visual field certifies that his defect in left gaze of his left eye is overlapped by his right eye ability, effectively making his horizontal binocular visual field at least 150 degrees. I would contest this is certainly sufficient to operate a commercial vehicle.'' Mr. Bommer reported that he has driven straight trucks for 7 years, accumulating 175,000 miles. He holds a Class B CDL from North Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Antonio A. Calixto

Mr. Calixto, 42, has a prosthetic right eye due to a traumatic incident during childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''I [*sic*] my opinion he does have adequate vision for normal everyday driving and for commercial driving.'' Mr. Calixto reported that he has driven straight trucks for 9 years, accumulating 68,796 miles. He holds an operator's license from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James W. Carter, Jr.

Mr. Carter, 44, has amblyopia secondary to strabismus in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2014, his optometrist stated, ''As Mr. Carter's visual status appears to be stable, I would suspect his vision would be adequate to operate a commercial vehicle.'' Mr. Carter reported that he has driven straight trucks for 5 years, accumulating 2,500 miles, and tractor-trailer combinations for 15 years, accumulating 75,000 miles. He holds a Class A CDL from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronald G. Daniels

Mr. Daniels, 32, has had amblyopia in his right eye since birth. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated that, in his medical opinion, Mr. Daniels does have the sufficient vision to operate a commercial motor vehicle. Mr. Daniels reported that he has driven straight trucks for 12 years, accumulating 1.2 million miles. He holds an operator's license from Missouri. His driving record for the last 3 years shows no crashes and 2 convictions for moving violations in a CMV; in one instance he exceeded the speed limit by 14 mph; in another instance he failed to obey a traffic signal.

Larry G. Davis

Mr. Davis, 57, has had high myopia in his right eye since birth. The visual acuity in his right eye is 20/400, and in his left eye, 20/25. Following an examination in 2014, his optometrist stated, ''I have no knowledge of the specific tasks required to operate a commercial vehicle, but I can state that Mr. Davis' vision is stable and that he has been operating such vehicles successfully for many years, so I can see no reason, based on our examination, why he could not continue to do so.'' Mr. Davis reported that he has driven straight trucks for 32 years, accumulating 416,000 miles. He holds a Class A CDL from Tennessee. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael C. Doheny

Mr. Doheny, 48, has vision loss in his left eye due to a traumatic incident in 1991. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his optometrist stated, ''Mr. Doheny has more than sufficient vision to perform the driving tasks required to operate a commercial vehicle locally and across state lines.'' Mr. Doheny reported that he has driven straight trucks for 3 years, accumulating 3,000 miles, and tractor-trailer combinations for less than 1 year, accumulating 100 miles. He holds a Class A CDL from Connecticut. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

William R. Evridge

Mr. Evridge, 49, has optic nerve atrophy in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2014, his optometrist stated, ''I certify that he has adequate peripheral vision to perform driving tasks necessary to drive a commercial vehicle.'' Mr. Evridge reported that he has driven tractor-trailer combinations for 32 years, accumulating 432,000 miles. He holds a Class DA CDL from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

George P. Ford

Mr. Ford, 66, has had a central scar in his left eye since 1975. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his ophthalmologist stated, ''I feel that Mr. Ford has sufficient vision to perform the driving tasks required to

operate a commercial vehicle.'' Mr. Ford reported that he has driven straight trucks for 30 years, accumulating 930,000 miles. He holds an operator's license from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Lawrence A. Fox

Mr. Fox, 59, has had a corneal scar in his left eye since childhood. The visual acuity in his right eye is 20/15, and in his left eye, hand motion. Following an examination in 2014, his ophthalmologist stated, ''Mr. Fox's visual deficiency is stable and in my medical opinion [he] has sufficient vision to perform . . . the driving tasks required to operate a commercial vehicle.'' Mr. Fox reported that he has driven straight trucks for 37 years, accumulating 37,000 miles, and tractor-trailer combinations for 37 years, accumulating 740,000 miles. He holds a Class ABCDM CDL from Wisconsin. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Donald H. Fuller

Mr. Fuller, 75, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/30. Following an examination in 2014, his ophthalmologist stated, ''Poor central vision OD and this has been stable since young childhood and I see no acute deterioration in his vision . . . This letter/note supports Mr [*sic*] Fuller in obtaining and keeping his CDL . . . This is the first time I have evaluated him and due to his clean record I feel he is safe to cont [*sic*] driving under CDL guidelines . . . In my medical opinion I feel he can maintain his CDL . . . He must cont [*sic*] to wear correction.'' Mr. Fuller reported that he has driven tractor-trailer combinations for 30 years, accumulating 1.95 million miles. He holds a Class A CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Viktor V. Goluda

Mr. Goluda, 22, has had refractive amblyopia secondary to injury in his right eye since childhood. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''It is my professional opinion that Viktor Goluda has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Goluda reported that he has driven straight trucks for 4 years, accumulating 120,000 miles. He holds an operator's license from South Carolina. His driving record for the last 3 years shows no crashes and 1 conviction for a moving violation in a CMV; he exceeded that speed limit by 20 mph.

Todd M. Harguth

Mr. Harguth, 55, has had a central retinal vein occlusion in his left eye since 2006. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''Todd has sufficient vision to perform the driving tasks required to operate a commercial vehicle, in my opinion.'' Mr. Harguth reported that he has driven straight trucks for 40 years, accumulating 200,000 miles, and tractor-trailer combinations for 25 years, accumulating 780,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Dennis W. Helgeson

Mr. Helgeson, 59, has vision loss in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''He has sufficient vision to operate a commercial vehicle.'' Mr. Helgeson reported that he has driven straight trucks for 2 years, accumulating 11,000 miles. He holds a Class B CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronnie L. Henry

Mr. Henry, 53, has complete loss of vision in his left eye due to a traumatic incident in 1997. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''I certify that, in my medical opinion, this patient has sufficient vision to operate a commercial motor vehicle.'' Mr. Henry reported that he has driven tractor-trailer combinations for 27 years, accumulating 810,000 miles. He holds a Class A CDL from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Clarence K. Hill

Mr. Hill, 42, has a macular scar with a macular hole in his left eye due to a traumatic incident in 1989. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his optometrist stated, ''I feel that Mr. Hill has sufficient vision at this time to perform the driving tasks to operate a commercial vehicle.'' Mr. Hill reported that he has driven tractor-trailer combinations for 3 years, accumulating 180,546 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James Holmes

Mr. Holmes, 46, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2013, his optometrist stated, ''Regarding his eyes and vision, according to my medial [*sic*] opinion, there is no reason Mr. Holmes cannot safely drive a commercial vehicle.'' Mr. Holmes reported that he has driven straight trucks for 2 years, accumulating 40,000 miles. He holds an operator's license from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Johnny L. Irving

Mr. Irving, 64, has had a macular hole and glaucoma in his right eye since 2007. The visual acuity in his right eye is 20/160, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated that, in his medical opinion, Mr. Irving does have sufficient vision to operate a commercial motor vehicle. Mr. Irving reported that he has driven tractor-trailer combinations for 13 years, accumulating 1.63 million miles. He holds a Class A CDL from Mississippi. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Garfield J. Johnson

Mr. Johnson, 64, has glaucoma in his right eye due to a traumatic incident in 1998. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist stated, ''Mr. Johnson has maintained a commercial license since 1966 per history of patient with good driving record and thus has demonstrated that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle and should qualify for exemption based upon his longstanding good driving history of commercial vehicles per patient with the present visual deficiency in right eye.'' Mr. Johnson reported that he has driven straight trucks for 47 years,

accumulating 235,000 miles, tractor-trailer combinations for 47 years, accumulating 2.35 million miles, and buses for 20 years, accumulating 200,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Kevin L. Jones

Mr. Jones, 41, has a prosthetic left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/15, and in his left eye, no light perception. Following an examination in 2014, his ophthalmologist stated that, in his opinion, Mr. Jones does have sufficient vision to operate a commercial motor vehicle safely. Mr. Jones reported that he has driven straight trucks for 14 years, accumulating 210,000 miles. He holds an operator's license from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael L. Kautz

Mr. Kautz, 51, has had a central vein occlusion in his right eye since 2002. The visual acuity in his right eye is 20/150, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Based on Mr. Keutz's [*sic*] eye exam today, it is in my professional opinion that he demonstrates sufficient vision to perfomr [*sic*] the driving tasks required to operate a commercial vehicle.'' Mr. Kautz reported that he has driven straight trucks for 15 years, accumulating 225,000 miles. He holds an operator's license from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Keith A. Kelley

Mr. Kelley, 56, has had chronic centreal serous chorioretinopathy with early polypoidal choroidal vasculopathy in his left eye since 2005. The visual acuity in his right eye is 20/15, and in his left eye, 20/70. Following an examination in 2014, his ophthalmologist stated, ''In my opinion, he will have no problem performing driving tests or operating a commercial vehicle and has done so without problem for many years with his current minor visual deficit in one eye.'' Mr. Kelley reported that he has driven tractor-trailer combinations for 25 years, accumulating 2.22 million miles. He holds a Class A CDL from Maine. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Stetson W. King

Mr. King, 56, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/70, and in his left eye, 20/25. Following an examination in 2014, his optometrist stated, ''I certify that Mr. Steven [*sic*] King has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. King reported that he has driven straight trucks for 12 years, accumulating 600,000 miles. He holds a Class B CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Bradley E. Loggins

Mr. Loggins, 34, has a macular scar in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/350. Following an examination in 2014, his optometrist stated, ''In my medical opinion, he has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Loggins reported that he has driven straight trucks for 8 years, accumulating 8,000 miles, and tractor-trailer combinations for 8 years, accumulating 640,000 miles. He holds a Class A CDL from Alabama. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Joe C. Mason

Mr. Mason, 66, has complete loss of vision in his left eye due to a traumatic incident in 1989. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his ophthalmologist stated, ''I believe that he has sufficient vision to perform the driving task required to operate a commercial vehicle.'' Mr. Mason reported that he has driven straight trucks for 9 years, accumulating 1,800 miles, and tractor-trailer combinations for 20 years, accumulating 40,000 miles. He holds a Class A CDL from Arkansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David L. Miller

Mr. Miller, 60, has had a subforeal choroidal neovascular membrane in his right eye since 2004. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''David Miller has been under my care since 3/02/1999 and has sufficient vision to perform the driving tasks required to operate a commercial vehicle and obtain a CDL license.'' Mr. Miller reported that he has driven buses for 12 years, accumulating 72,000 miles. He holds a Class C CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Earl L. Mokma

Mr. Mokma, 67, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2014, his optometrist stated, ''In my opinion Earl has sufficient vision to drive a commercial vehicle.'' Mr. Mokma reported that he has driven straight trucks for 43 years, accumulating 860,000 miles, and tractor-trailer combinations for 5 years, accumulating 100,000 miles. He holds a Class CA CDL from Michigan. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Timothy W. Nappier

Mr. Nappier, 50, has had a retinal detachment and bilateral intermediate uveitis in his left eye since 2011. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2014, his optometrist stated that, in his medical opinion, Mr. Nappier does have the sufficient vision to operate a commercial motor vehicle. Mr. Nappier reported that he has driven tractor-trailer combinations for 24 years, accumulating 60,000 miles. He holds a Class CA CDL from Michigan. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he exceeded the speed limit by 5 mph.

Donald L. Nisbet

Mr. Nisbet, 51, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his ophthalmologist stated, ''In my opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Nisbet reported that he has driven straight trucks for 35 years, accumulating 875,000 miles, and buses for 2 years, accumulating 2,000 miles. He holds a Class B CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jace E. Nixon

Mr. Nixon, 49, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2014, his optometrist

stated, ''In my professional opinion, I believe Jace Nixon is visually competent to drive a commercial vehicle.'' Mr. Nixon reported that he has driven straight trucks for 30 years, accumulating 45,000 miles, tractor-trailer combinations for 25 years, accumulating 37,500 miles, and buses for 1 year, accumulating 3,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Don R. Padley

Mr. Padley, 70, has complete loss of vision in his left eye due to a traumatic incident in 1972. The visual acuity in his right eye is 20/40, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''In my opinion, Mr. Padley has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Padley reported that he has driven tractor-trailer combinations for 48 years, accumulating 4.8 million miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and 1 conviction for a moving violation in a CMV; he exceeded the speed limit by 10 mph.

David T. Perkins

Mr. Perkins, 43, has had optic nerve hypoplasia in his right eye since birth. The visual acuity in his right eye is no light perception, and in his left eye, 20/15. Following an examination in 2014, his ophthalmologist stated, ''I do not believe his visual disability in the right eye significantly impairs his ability to drive a commercial vehicle with reasonable safety.'' Mr. Perkins reported that he has driven straight trucks for 25 years, accumulating 212,500 miles. He holds a Class B CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Donald W. Rich

Mr. Rich, 80, has had aphakia and an optic nerve pallor in his left eye since 1964. The visual acuity in his right eye is 20/25, and in his left eye, no light perception. Following an examination in 2014, his ophthalmologist stated that he certifies that, in his medical opinion, Mr. Rich has sufficient vision to perform the driving tasks required to operate a commercial vehicle. Mr. Rich reported that he has driven straight trucks for 42 years, accumulating 504,000 miles, and tractor-trailer combinations for 10 years, accumulating 120,000 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Joaquin C. Rodriguez

Mr. Rodriguez, 46, has had cellophane retinopathy in his right eye since 2008. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Joaquin sees well enough to perform the driving tasks required to operate a commercial vehicle.'' Mr. Rodriguez reported that he has driven straight trucks for 30 years, accumulating 720,000 miles. He holds an operator's license from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Harry W. Root

Mr. Root, 54, has optic nerve atrophy in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/2000, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''His vision is adequate to operate a commercial vehicle in my opinion.'' Mr. Root reported that he has driven tractor-trailer combinations for 4 years, accumulating 60,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David A. Shaw

Mr. Shaw, 53, has aphakia with a corneal scar and iris rupture in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is counting fingers, and in his left eye, 20/15. Following an examination in 2014, his optometrist stated, ''It is my medical opinion that David has the necessary vision required to operate a commercial vehicle.'' Mr. Shaw reported that he has driven tractor-trailer combinations for 20 years, accumulating 2.16 million miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Kenneth C. Smith

Mr. Smith, 54, has had glaucoma and macular degeneration in his left eye since 2010. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2014, his ophthalmologist stated, ''It is my opinion that Mr. Smith has sufficient vision to operate a commercial vehicle.'' Mr. Smith reported that he has driven tractor-trailer combinations for 13 years, accumulating 1.01 million miles. He holds a Class A CDL from Mississippi. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Paul W. Sorenson

Mr. Sorenson, 58, has had retinal detachment in his right eye since 2012. The visual acuity in his right eye is 20/50, and in his left eye, 20/25. Following an examination in 2014, his optometrist stated, ''In my opinion, he has sufficient and adequate vision needed to operate a commercial vehicle.'' Mr. Sorenson reported that he has driven tractor-trailer combinations for 36 years, accumulating 5.62 million miles. He holds a Class A CDL from Utah. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Randall H. Tempel

Mr. Tempel, 61, has a retinal detachment and cataract in his right eye due to a traumatic incident in 1998. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In my opinion he has sufficient vision to perform the driving tasks required to operative [*sic*] a commercial vehicle.'' Mr. Tempel reported that he has driven straight trucks for 38 years, accumulating 76,000 miles, tractor-trailer combinations for 18 years, accumulating 1.98 million miles, and buses for 1 year, accumulating 1,000 miles. He holds a Class A CDL from Montana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Christopher P. Thornby

Mr. Thornby, 50, has a prosthetic right eye due to a traumatic incident during childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''I had the pleasure of seeing Chris Thornby in my office on Monday, April 7, 2014 for a comprehensive eye examination for his interstate commercial DOT license . . . In my professional opinion, Mr. Thornby can safely perform the driving tasks required to operate a motor vehicle with or without a corrective lens for his remaining eye (left). His prosthetic right eye, other than limited depth perception, does not limit this ability.'' Mr. Thornby reported that he has driven straight trucks for 5 years, accumulating 115,000 miles, and buses for 1 year, accumulating 20,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows

no crashes and no convictions for moving violations in a CMV.

Cory J. Tivnan

Mr. Tivnan, 37, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2014, his optometrist stated, ''In my opinion, this man has sufficient vision to perform the driving tasks required to operate a Commercial Motor Vehicle [*sic*].'' Mr. Tivnan reported that he has driven straight trucks for 1 year, accumulating 35,000 miles, and tractor-trailer combinations for 12 years, accumulating 1.2 million miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Melvin V. VanMeter

Mr. VanMeter, 55, has had longstanding optic nerve atrophy in his left eye since childhood. The visual acuity in his right eye is 20/25, and in his left eye, counting fingers. Following an examination in 2014, his ophthalmologist stated, ''I certify, that in my professional opinion, Mr. Van Meter's [*sic*] visual deficiency is stable, and it is my professional opinion, based on his many years operating a commercial vehicle with this current level of vision, that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. VanMeter reported that he has driven tractor-trailer combinations for 33 years, accumulating 165,000 miles. He holds an operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Kent J. VanRoekel

Mr. VanRoekel, 52, has had complete loss of vision in his right eye since birth. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, ''I certify in my medical opinion that Kent VanRoekel has sufficient stable vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. VanRoekel reported that he has driven straight trucks for 5 years, accumulating 125,000 miles, and buses for 5 months, accumulating 20,000 miles. He holds a Class C CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Wilbert Walden

Mr. Walden, 51, has had optic atrophy in his right eye since childhood. The visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Hand motion vision in right eye. Right eye vision reduction since he was 4 years old. Fine to operate a commercial motor vehicle.'' Mr. Walden reported that he has driven straight trucks for 5 years, accumulating 150,000 miles, and tractor-trailer combinations for 6 years, accumulating 240,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Patrick J. Ward

Mr. Ward, 64, has had strabismic amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''Mr [*sic*] Ward has a corrected visual acuity right eye of 20/400 for distance, left eye corrected visual acuity 20/20 for distance . . . In my opinion the patient, with this history, can continue driving a commercial vehicle and should be given the exemption.'' Mr. Ward reported that he has driven straight trucks for 40 years, accumulating 800,000 miles. He holds a Class B CDL from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ricky W. Witt

Mr. Witt, 60, has a prosthetic left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''I feel that Mr. Witt has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Witt reported that he has driven tractor-trailer combinations for 40 years, accumulating 1.56 million miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

John D. Woods

Mr. Woods, 47, has had a retinal detachment his right eye since 1987. The visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''His vision is stable and with his left eye unaffected, Mr. Woods is very capable of operating a commercial motorized vehicle while wearing his prescription glasses.'' Mr. Woods reported that he has driven straight trucks for 2 years, accumulating 110,000 miles, and tractor-trailer combinations for 24 years, accumulating 1.44 million miles. He holds a Class CA CDL from Michigan. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Zachary J. Workman

Mr. Workman, 27, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In my medical opinion Mr [*sic*] Workman has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Workman reported that he has driven straight trucks for 4 years, accumulating 208,000 miles. He holds a Class B CDL from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

FMCSA has evaluated the eligibility of the 52 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(10). Absent the receipt of comments indicating that a driver's ability would not achieve the aforementioned level of safety, the Agency will grant the drivers an exemption the day after the comment period closes.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 52 exemption applicants listed in this notice are in this category.

They are unable to meet the vision requirement in one eye for various reasons, and in most cases their eye conditions were not recently developed. Twenty-nine of the applicants were either born with their vision impairments or have had them since childhood. The 23 individuals that sustained their vision conditions as adults have had it for a period of 2 to 50 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 52 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. The qualifications, experience, and medical condition of each applicant is stated and discussed in detail above.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and non-concurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 52 applicants, none of the drivers were involved in crashes and four were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

FMCSA believes that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 52 applicants listed in this notice.

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 52 individuals consistent with the Grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye

continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business August 7, 2014. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0007 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2014–0007 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: June 30, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–15930 Filed 7–7–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0147]

Driver Qualifications: Skill Performance Evaluation; Virginia Department of Motor Vehicles' Application for an Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to grant an exemption to the Virginia Department of Motor Vehicles (Virginia), on behalf of truck and bus drivers who are licensed in the Commonwealth of Virginia and need a Skill Performance Evaluation (SPE) certificate from FMCSA to operate commercial motor vehicles (CMVs) in interstate commerce. The exemption will enable Virginia-licensed drivers subject to the Federal SPE requirements under 49 CFR 391.49, to fulfill the Federal requirements with a State-issued SPE. The State-issued SPE will be based on standards, processes and procedures comparable to those used by FMCSA, and the State will maintain copies of all evaluation forms and certificates issued to enable FMCSA to conduct periodic reviews of the State's program. Virginia licensed drivers who receive the State-issued SPE are allowed to operate CMVs in interstate commerce, anywhere in the United States.

DATES: The exemption is effective July 8, 2014. The exemption will expire on July 8, 2016 but may be renewed.

FOR FURTHER INFORMATION CONTACT: Ms. Eileen Nolan, Office of Carrier, Driver and Vehicle Safety, Medical Programs Division, (202) 366–4001, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Electronic Access

The FMCSA received 2 comments in response to the July 9, 2013 (78 FR 41187), notice requesting public comment on Virginia's application for an exemption. A copy of Virginia's application is in the docket referenced at the beginning of this notice and any comments or additional information submitted to the Agency following publication of this notice may be accessed online through *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to Room W12–140, DOT Building, New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Document Management System (FDMS) is available 24 hours each day, 365 days each year.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the FDMS published in the **Federal Register** published on January 17, 2008 (73 FR 3316), or you may visit *http://edocket/access.gpo.gov/2008/pdf/E8-785.pdf.*

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor

Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Virginia's Exemption Application

The Virginia DMV requested an exemption from 49 CFR 391.49 concerning FMCSA's SPE process for drivers who have experienced an impairment or loss of a limb, on behalf of CMV drivers licensed in the Commonwealth of Virginia. Instead of requiring such drivers to apply to FMCSA for an SPE, Virginia would establish its own SPE program essentially identical to the current FMCSA program. Virginia would establish an application process modeled on the FMCSA process and State personnel who have completed SPE training identical to that of FMCSA personnel currently administering the Federal SPE program would conduct the skill evaluation following the same procedures and testing criteria used by FMCSA. If the driver passed the skill evaluation, the State would issue the SPE certificate. Virginia would maintain records of applications, testing, and certificates issued for periodic review by FMCSA.

On July 9, 2013, FMCSA published a notice in the **Federal Register** requesting public comment on Virginia's exemption application (78 FR 41187). The Agency received comments from the Advocates for Highway and Auto Safety (Advocates) and the American Trucking Associations (ATA).

The Advocates expressed opposition to the exemption, stating:

> the VA DMV application does not request an exemption from any particular driver qualification standard or requirement on behalf of any particular driver or class of drivers, but instead seeks to transfer federal authority to grant or deny SPE certifications from federal officials to the VA DMV Commissioner. Because the exemption provisions of federal law are not intended to permit a transfer of federal administrative and regulatory authority to state officials, Advocates opposes the application.

The ATA supports the concept of the exemption but expressed concerns regarding the precedent the exemption might set for other States that are not prepared to handle the SPE process. The ATA believes FMCSA needs to ensure any subsequent State authorities that may be granted a similar exemption adhere to strict standards for program design and implementation. The ATA asked whether drivers in an authorized State would be required to apply in that State or would the Federal SPE process still be available? The ATA also asked whether a driver who fails the SPE test in an authorized State could reapply to FMCSA?

FMCSA Response

The FMCSA acknowledges Advocates' concerns, but disagrees with its conclusions. The Virginia DMV is seeking an exemption on behalf of a class of drivers, and the proposed exemption would not involve the delegation of Federal authority to Virginia.

Currently, 49 CFR 391.49 prescribes alternative physical qualification standards for drivers with a loss or impairment of a limb(s). A person who is not physically qualified to drive under 49 CFR 391.41(b)(1) or (b)(2) concerning loss of limbs or impairment of limbs, respectively, may apply for an SPE from the FMCSA Division Administrator in the State in which the driver is licensed. The current regulations does not provide an alternative to an FMCSA-issued SPE certificate for drivers who have experienced the loss or impairment of a limb(s). In the absence of an FMCSA-issued SPE certificate, such drivers are prohibited from operating CMVs in interstate commerce.

The FMCSA continues to view Virginia's request as an appropriate application for an exemption on behalf of Virginia-licensed drivers who have experienced the loss or impairment of a limb, and wish to operate CMVs in interstate commerce. Through the exemption process, FMCSA would accept a State-issued SPE certificate in lieu of requiring these drivers to obtain an FMCSA-issued SPE certificate, as specified in the current regulations. Therefore, the exemption would provide an alternative to the current regulations for the class of drivers described by Virginia's application. As such, Virginia's request is no different from other applications submitted by entities on behalf of a class of persons or class of carriers. Under this scenario, the State is not seeking relief from any rules applicable to the State, rather it is seeking relief on behalf of the class of drivers who would otherwise have to seek individual exemptions to obtain a variance from the Federal SPE requirement.

FMCSA acknowledges that the same terms and conditions of the exemption that ensure it would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulations, may have led Advocates to conclude the exemption represents a transfer of authority from FMCSA to the State. However, no such transfer of authority would take place through the exemption. Each driver who has experienced a loss or impairment of a limb(s) remains subject to 49 CFR 391.49 and only the subset of such drivers who are licensed in Virginia may seek a State-issued SPE in lieu of the FMCSA-issued SPE certificate. The fact that the State would adhere to the same strict standards for the personnel administering the test and the same performance-based testing standards for each SPE applicant does not mean there is a transfer of authority. What the exemption provides is a streamlined alternative through which this limited class of drivers may pursue a State-issued SPE from the same entity that issued their driver's license rather than having to undertake a two-step process where the license is issued by the State and the SPE is issued by FMCSA.

The exemption is analogous to long-standing regulations governing the roles of (1) medical examiners who qualify drivers (49 CFR part 391, subpart E), and (2) State officials who can trigger FMCSA's emergency exemptions (49 CFR 390.23).

The Federal Motor Carrier Safety Regulations (FMCSRs) have long entrusted private medical personnel with the task of applying the Agency's medical standards to determine whether drivers are physically qualified to operate commercial motor vehicles (CMVs). No one contends that this amounts to a delegation of Federal authority to private individuals. Agency rules simply specify the types of medical professional who may be ''medical examiners'' (as defined in 49 CFR 390.5) and accept (or ratify) their judgment as to whether a driver meets the physical qualification standards in

49 CFR part 391, subpart E. No Federal authority is transferred to medical examiners.

Similarly, while the relief from regulations provided by 49 CFR 390.23 is often triggered by the declaration of an emergency by a State official, FMCSA has not thereby delegated its exemption authority to the State. On the contrary, § 390.23 represents an FMCSA decision, made in advance of any particular incident, that events serious enough to qualify as an ''emergency'' justify regulatory exemptions for motor carriers and drivers providing ''direct assistance'' to supplement the ''emergency relief'' efforts of State and local governments, as those terms are defined in § 390.5. FMCSA has not delegated its authority to the States; it accepts (with rare exceptions) the factual conclusion of State officials that a given event qualifies as an ''emergency'' under Federal rules.

The exemption granted the Virginia DMV is of the same type. Because of Virginia's well-documented training of its personnel to apply FMCSA's SPE standards and its commitment to maintaining compliance with those standards, the Agency is simply accepting (and ratifying) the State's conclusions about the applicant's qualifications in the same way that it accepts the conclusions of medical examiners. But FMCSA retains and will exercise the authority to review Virginia's adherence to the Federal SPE standards, just as it has undertaken to review the adherence of medical examiners to Federal qualification standards.

With regard to the ATA's comments, FMCSA believes its oversight of the exemption process would ensure adherence to the terms and conditions of the exemption, and provide for an effective FMCSA-Virginia partnership in streamlining the SPE process for Virginia-licensed drivers. If, for whatever reason, a Virginia-licensed driver would prefer not to opt for the streamlined SPE process, he or she may still apply for an FMCSA-issued SPE. However, FMCSA may still exercise its discretion and call upon the State licensing agency to provide assistance in conducting the road test needed to complete an SPE application, depending on the volume of applications.

In response to the ATA's question about drivers who fail the SPE certification process, the current regulations do not prohibit drivers from reapplying for SPE certification. In this case, FMCSA would work with the State to reevaluate a driver who fails to obtain a State-issued SPE. FMCSA would consult with the State for any SPE application from a Virginia-domiciled driver to determine whether the driver had previously applied for an SPE from the State and request the results of that application before making any decision in the matter.

Finally, FMCSA emphasizes that the Agency does not intend its decision to serve as pressure upon other States to take action to implement State-run SPE programs. Virginia is the first State to submit an application on behalf of its drivers to provide an alternative to the Federal SPE process. Other States are welcome to take similar actions if they believe it is appropriate to do so and they have the resources to meet terms and conditions comparable to those provided in this exemption.

FMCSA Decision

Based upon its analysis of the application, FMCSA has determined that there are no safety vulnerabilities associated with Virginia's request and that the exemption should be granted. The Agency has determined that the exemption will achieve a level of safety equivalent to, or greater than, the level achieved by the current SPE requirements.

As indicated above, Virginia will establish its own SPE program essentially identical to the current FMCSA program. Virginia will establish an application process modeled on the FMCSA process. State personnel who conduct the skill evaluation will complete the same training as FMCSA personnel conducting the test and will follow the same procedures and testing criteria used by FMCSA. And Virginia will maintain records of applications, testing, and certificates issued for periodic review by FMCSA.

Because Virginia's program will be essentially identical to the current FMCSA program, FMCSA has concluded that the program will achieve the level of safety required by 49 U.S.C. § 31315.

Terms and Conditions of the Exemption

The FMCSA grants an exemption to the Virginia DMV on behalf of drivers who have experienced an impairment or loss of a limb, and are licensed in the Commonwealth of Virginia. The following terms and conditions apply to the State and any drivers who receive a State-issued SPE certificate.

- Virginia must establish and maintain its own SPE program essentially identical to the current FMCSA program.
- The State must establish an application process modeled on the FMCSA process and must submit information concerning the application process to FMCSA's Medical Programs Division for review.
- State personnel who conduct the skill test must complete SPE training identical to that of FMCSA personnel currently administering the Federal SPE program.
- The skill evaluation and scoring for the SPE must be done using the same procedures and testing criteria used by FMCSA.
- Virginia must maintain records of applications, testing, and certificates issued for periodic review by FMCSA.
- Virginia must submit a monthly report to FMCSA listing the names and license number of each driver tested by the State and the result of the test (pass or fail).
- Each driver who receives a State-issued SPE must keep a copy of the certificate when driving, for presentation to authorized Federal, State, or local law enforcement officials.

Preemption of State Laws and Regulations

An exemption granted under the authority of 49 U.S.C. 31315(b) preempts State laws and regulations that conflict with or are inconsistent with the exemption. The decision to grant Virginia's request amounts to automatic Federal ratification of the State issued SPE certificate and therefore prohibits other jurisdictions from requiring a separate FMCSA-issued SPE. The State-issued certificate must be treated as if it had been issued by FMCSA. Virginia-licensed drivers who receive the State-issued SPE are allowed to operate CMVs in interstate commerce, anywhere in the United States.

Issued on: July 1, 2014.

Anne S. Ferro,

Administrator.

[FR Doc. 2014–15958 Filed 7–7–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–5578; FMCSA–2004–17195; FMCSA–2005–21254; FMCSA–2006–24015; FMCSA–2010–0082; FMCSA–2011–0379; FMCSA–2012–0106; FMCSA–2012–0159]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 12 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective August 6, 2014. Comments must be received on or before August 7, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–1999–5578; FMCSA–2004–17195; FMCSA–2005–21254; FMCSA–2006–24015; FMCSA–2010–0082; FMCSA–2011–0379; FMCSA–2012–0106; FMCSA–2012–0159], using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 12 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 12 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Dale W. Coblentz (WA), Hazel L. Hopkins, Jr. (MD), Derek L. Jones, Sr. (GA), Mearl C. Kennedy (OH), William L. Martin (OR), Richard L. Miller (IN), Gerardus C. Molenaar (PA), James R. Morgan (MI), Lance C. Phares (NY), Willard L. Riggle (IN), Richard D. Tucker II (NC), Jay Turner (OH).

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 12 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 27027; 64 FR 51568; 69 FR 17263; 69 FR 31447; 70 FR 30999; 70 FR 46567; 71 FR 14566; 71 FR 27033; 71 FR 30227; 72 FR 40359; 73 FR 27014; 73 FR 36955; 75 FR 19674; 75 FR 25918; 75 FR 36779; 75 FR 38602; 75 FR 39729; 77 FR 15184; 77 FR 27850; 77 FR 29447; 77 FR 33017; 77 FR 36336; 77 FR 36338; 77 FR 38384; 77 FR 40946; 77 FR 44708; 77 FR 46795). Each of these 12 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by August 7, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 12 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–1999–5578; FMCSA–2004–17195; FMCSA–2005–21254; FMCSA–2006–24015; FMCSA–2010–0082; FMCSA–2011–0379; FMCSA–2012–0106; FMCSA–2012–0159 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, to submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–1999–5578; FMCSA–2004–17195; FMCSA–2005–21254; FMCSA–2006–24015; FMCSA–2010–0082; FMCSA–2011–0379; FMCSA–2012–0106; FMCSA–2012–0159 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: June 30, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–15954 Filed 7–7–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0212]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption, request for comments.

SUMMARY: FMCSA announces receipt of applications from 8 individuals for an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition which is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce. The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs for 2 years in interstate commerce.

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

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2014–0212 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment

page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on January 17, 2008 (73 FR 3316; January 17, 2008). This information is also available at *http://Docketinfo.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Elaine Papp, Chief, Medical Programs Division, (202) 366–4001, or via email at *fmcsamedical@dot.gov,* or by letter to FMCSA, Room W64–113, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statutes also allow the Agency to renew exemptions at the end of the 2-year period. The 8 individuals listed in this notice have recently requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers who operate CMVs as defined in 49 CFR 390.5, in interstate commerce. Section 391.41(b)(8) states that a person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

FMCSA provides medical advisory criteria for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate CMVs in intrastate commerce. The advisory criteria indicate that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause which did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition, has no existing residual complications, and is not taking anti-seizure medication. Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission. To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2014–0212'' and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, or to submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2014–0212'' and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Summary of Applications

Ruben Alcantar

Mr. Alcantar is a 39-year-old driver in Oregon. He has a history of a single seizure in 1992 and has remained seizure free since that time. He takes anti-seizure medication with the dosage and frequency remaining the same since 1992. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Alcantar receiving an exemption.

Charles Barnett

Mr. Barnett is a 67-year-old driver in Virginia. He has a history of seizures and has remained seizure free since 2011. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted an exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Barnett receiving an exemption.

Peter Bender

Mr. Bender is a 58-year-old class A CDL holder in Minnesota. He has a history of seizures and has remained seizure free since 1996. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted an exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Bender receiving an exemption.

James Boyd

Mr. Boyd is a 56-year-old driver in Kansas. He has a history of a single seizure in 2011 following surgery of a traumatic brain injury and has remained seizure free since that time. He takes anti-seizure medication with the dosage and frequency remaining the same since for 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Boyd receiving an exemption.

Terry Hamby

Mr. Hamby is a 44-year-old class A CDL holder in North Carolina. He has a history of seizures and has remained seizure free since 1981. He takes anti-seizure medication with the dosage and

frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Hamby receiving an exemption.

Louis Lerch

Mr. Lerch is a 62-year-old class A CDL holder in Iowa. He has a history of seizures and has remained seizure free since 1978. He takes anti-seizure medication with the dosage and frequency remaining the same since 2007. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Lerch receiving an exemption.

Joaquin Polin

Mr. Polin is a 47-year-old driver in New York. He has a history of epilepsy and has remained seizure free since 2010. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Polin receiving an exemption.

Angel Velez-Cruz

Mr. Velez-Cruz is a 30-year-old class B CDL holder in New Jersey. He has a history of seizures and has remained seizure free since 2004. He takes anti-seizure medication with the dosage and frequency remaining the same since 2009. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Velez-Cruz receiving an exemption.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption applications described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued on: June 25, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–15955 Filed 7–7–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2014–0016]

Notice of Proposed Buy America Waiver for Waterjets

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of proposed Buy America waiver and request for comment.

SUMMARY: The Federal Transit Administration (FTA) received a request for a waiver to permit the purchase of new waterjets that are non-compliant with Buy America requirements using FTA funding. The request is from the Golden Gate Bridge Highway & Transportation District (Golden Gate Bridge) for its M.V. Mendocini ferry vessel. In accordance with 49 U.S.C. 5323(j)(3)(A), FTA is providing notice of the waiver request and seeks public comment before deciding whether to grant the request. If granted, the waiver only would apply to a one-time FTA-funded procurement by Golden Gate Bridge.

DATES: Comments must be received by July 15, 2014. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FTA–2014–0016:

1. *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site.

2. *Fax:* (202) 493–2251.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the ''Federal Transit Administration'' and include docket number FTA–2014–0016. Due to the security procedures in effect since October 2011, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to *http://www.regulations.gov.* For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477), or you may visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mary J. Lee, FTA Attorney-Advisor, at (202) 366–0985 or *mary.j.lee@dot.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this notice is to provide notice and seek comment on whether the FTA should a grant non-availability waiver for Golden Gate Bridge's procurement of replacement waterjets for its M.V. Mendocini ferry vessel.

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless ''the steel, iron, and manufactured goods used in the project are produced in the United States.'' 49 U.S.C. 5323(j)(1). A manufactured product is considered produced in the United States if: (1) all of the manufacturing processes for the product take place in the United States; and (2) all of the components of the product are of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d). If, however, FTA determines that ''the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality,'' then FTA may issue a waiver (non-availability waiver). 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

Golden Gate Bridge provides ferry service to an average of 7,000 passengers per day. According to Golden Gate Bridge, ridership continues to increase and continued maintenance of its fleet of ferry vessels, such as the M.V. Mendocini, is necessary to provide reliable service. At this time, Golden Gate Bridge needs to replace the waterjets in the M.V. Mendocini. Golden Gate Bridge asserts that there is only one manufacturer of commercial waterjets in the United States, NAMjet of Arkansas, but this manufacturer only provides waterjets for smaller ferry vessels that have no more than 800 brake horsepower (bhp), which is less than half the amount of bhp needed for Golden Gate Bridge's M.V. Mendocini ferry vessel. In addition, the M.V. Mendocini ferry vessel's design and control system configuration only permits a waterjet such as the one HamiltonJet of New Zealand manufactures, which is not Buy America compliant.

The purpose of this notice is to publish Golden Gate Bridge's request and seek public comment from all interested parties in accordance with 49 U.S.C. 5323(j)(3)(A). Comments will help FTA understand completely the

facts surrounding the request, including the effects of a potential waiver and the merits of the request. A full copy of the request has been placed in docket number FTA–2014–0016.

Dana C. Nifosi,

Deputy Chief Counsel.

[FR Doc. 2014–15903 Filed 7–7–14; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for projects in Chicago, IL. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of FTA actions announced herein for the listed public transportation projects will be barred unless the claim is filed on or before December 5, 2014.

FOR FURTHER INFORMATION CONTACT: Nancy-Ellen Zusman, Assistant Chief Counsel, Office of Chief Counsel, (312) 353–2577 or Terence Plaskon, Environmental Protection Specialist, Office of Human and Natural Environment, (202) 366–0442. FTA is located at 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 9:00 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation projects listed below. The actions on the projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with the project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the projects. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information on the project. Contact information for FTA's Regional Offices may be found at *http://www.fta.dot.gov.*

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period for challenges of project decisions subject to previous notices published in the **Federal Register.** The projects and actions that are the subject of this notice are:

1. *Project name and location:* Washington/Wabash Loop Elevated Station Project, Chicago, IL. *Project sponsor:* City of Chicago Department of Transportation (CDOT). *Project description:* The proposed project would replace two existing stations on the east leg of the Loop Elevated at Randolph/Wabash and Madison/Wabash by constructing a new station within limits that extend along North Wabash Avenue, from East Washington Street to 150 feet South of East Madison Street. The new station would improve service for people with disabilities, provide greater passenger capacity, and modernize station amenities. *Final agency actions:* Section 4(f) determination; Section 106 finding of no adverse effect; project-level air quality conformity; and Finding of No Significant Impact (FONSI), dated June 6, 2014. *Supporting documentation:* Environmental Assessment, dated February 2014.

2. *Project name and location:* Wilson Transfer Station Project, Chicago, IL. *Project sponsor:* Chicago Transit Authority (CTA). *Project description:* The proposed project would replace the outdated and deteriorated current Wilson Station on CTA's Red Line with a new, reconstructed station that offers longer and wider platforms to allow transfers between the Red and Purple Lines and would improve capacity, circulation, and safety in the passenger boarding areas. *Final agency actions:* Section 4(f) determination; a Section 106 Memorandum of Agreement; project-level air quality conformity; and Finding of No Significant Impact (FONSI), dated June 10, 2014. *Supporting documentation:* Environmental Assessment, dated January 2014.

Lucy Garliauskas,

Associate Administrator Planning and Environment.

[FR Doc. 2014–15898 Filed 7–7–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0079]

Evaluation of FMVSS No. 301, ''Fuel System Integrity,'' as Upgraded in 2005 to 2009

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Request for comments on technical report.

SUMMARY: This notice announces NHTSA's publication of a technical report evaluating the upgraded FMVSS No. 301. The report's title is: *Evaluation of FMVSS No. 301, ''Fuel System Integrity,'' as Upgraded in 2005 to 2009.*

DATES: Comments must be received no later than November 5, 2014.

ADDRESSES:

Report: The technical report is available on the Internet for viewing in PDF format at *http://www-nrd.nhtsa.dot.gov/Pubs/812038.pdf.* You may obtain a copy of the report free of charge by sending a self-addressed mailing label to Jia-Ern Pai (NVS–431), National Highway Traffic Safety Administration, Room W53–440, 1200 New Jersey Avenue SE., Washington, DC 20590.

Comments: You may submit comments [identified by Docket Number NHTSA–2014–0079] by any of the following methods:

- *Internet:* To submit comments electronically, go to the U.S. Government regulations Web site at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* Written comments may be faxed to 202–366–3189.
- *Mail:* Send comments to Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Hand Delivery:* If you plan to submit written comments by hand or courier, please do so at 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC

between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except federal holidays.

• You may call Docket Management at 1–800–647–5527.

Instructions: For detailed instructions on submitting comments and additional information see the Comments heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Jia-Ern Pai, Mathematical Statistician, Evaluation Division, NVS–431, National Center for Statistics and Analysis, National Highway Traffic Safety Administration, Room W53–440, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–366–2570. Email: *Jia-Ern.Pai@dot.gov.*

SUPPLEMENTARY INFORMATION: NHTSA issued a final rule to upgrade FMVSS No. 301, Fuel System Integrity, on December 1, 2003, to amend the prior standards in rear and side impacts. By increasing the impact speeds and using a moving deformable barrier, the amended test conditions are more comparable with real-world crashes than the prior standards. The rear impact upgrade phased in during model years 2007 to 2009, whereas the new side impact test went into effect in model year 2005.

The analysis of the rear impact upgrade shows a statistically significant reduction in post-crash fires ranging from 50 to 60 percent. In addition, the rear impact upgrade would reduce 35 percent of the fatalities caused by rear impact fires. NHTSA believes that the rear impact upgrade will save an estimated 23 lives per year, if all vehicles meet the rear impact upgrade. However, the data do not currently show that the side impact upgrade resulted in a statistically significant reduction in side impact fires.

The statistical analysis does not show any significant affiliated effect of the rear impact upgrade on frontal impact fires and first-event-rollover fires. The statistical inference of the rear impact upgrade should not apply to other crash modes.

Comments

How can I influence NHTSA's thinking on this subject?

NHTSA welcomes public review of the technical report. NHTSA will submit to the Docket a response to the comments and, if appropriate, will supplement or revise the report.

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the Docket number of this document (NHTSA–2014–0079) in your comments.

Your primary comments must not be more than 15 pages long (49 CFR 553.21). However, you may attach additional documents to your primary comments. There is no limit on the length of the attachments.

Please submit one copy of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg_reproducible.* DOT's guidelines may be accessed at *http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject_areas/statistical_policy_and_research/data_quality_guidelines/index.html.*

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://www.regulations.gov.*

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail. You may also periodically access *http://www.regulations.gov* and enter the number for this docket (NHTSA–2014–0079) to see if your comments are on line.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Will the agency consider late comments?

In our response, we will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Federal Docket Management System (FDMS) at *http://www.regulations.gov.*

(2) FDMS provides two basic methods of searching to retrieve dockets and docket materials that are available in the system: (a) ''Quick Search'' to search using a full-text search engine, or (b) ''Advanced Search,'' which displays various indexed fields such as the docket name, docket identification number, phase of the action, initiating office, date of issuance, document title, document identification number, type of document, **Federal Register** reference, CFR citation, etc. Each data field in the advanced search may be searched independently or in combination with other fields, as desired. Each search yields a simultaneous display of all available information found in FDMS that is relevant to the requested subject or topic.

(3) You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the ''pdf''

versions of the documents are word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

Authority: 49 U.S.C. 30111, 30181–83 delegation of authority at 49 CFR 1.95 and 501.8.

Terry Shelton,

Associate Administrator for the National Center for Statistics and Analysis.

[FR Doc. 2014–15783 Filed 7–7–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 360X)]

Yadkin Railroad Company—Abandonment Exemption—in Stanly County, NC

Yadkin Railroad Company (YRC) [1] has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a 4.14-mile line of railroad between milepost N 27.50 in North Albemarle and the end of the line at milepost N 31.64 in Albemarle, Stanly County, N.C. (the Line).[2] The Line traverses United States Postal Service Zip Code 28001.

YRC has certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years, and if there were any, it could be rerouted over other lines; (3) no formal complaint has been filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line and no such complaint is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 7, 2014, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 18, 2014. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 28, 2014, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to YRC's representative: William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

YRC has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by July 11, 2014. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), YRC shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by YRC's filing of a notice of consummation by July 8, 2015, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: July 2, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2014–15862 Filed 7–7–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Open Meeting of the Financial Research Advisory Committee

AGENCY: Office of Financial Research, Department of the Treasury.

ACTION: Notice of Open Meeting.

SUMMARY: The Financial Research Advisory Committee for the Treasury's Office of Financial Research (OFR) is convening for its fourth meeting on Thursday, July 24, 2014 in the Benjamin Strong Room, Federal Reserve Bank of New York, 33 Liberty Street, New York, NY 10045, beginning at 9:45 a.m. Eastern Time. The meeting will be open to the public via live webcast at *http://www.treasury.gov/ofr* and limited seating will also be available.

DATES: The meeting will be held on Thursday, July 24, 2014, beginning at 9:45 a.m. Eastern Time.

ADDRESSES: The meeting will be held in the Benjamin Strong Room, Federal

[1] YRC is a wholly owned subsidiary of Norfolk Southern Railway Company.

[2] YRC states that the Line was the subject of a 2006 abandonment proceeding invoked under the class exemption procedures for rail lines that have been out of service for at least two years. *Yadkin R.R.—Aban. Exemption—in Stanly Cnty., N.C.,* AB 290 (Sub-No. 281X) (STB served Nov. 14, 2006) (2006 Proceeding). YRC also states that the exemption that Yadkin had invoked in the 2006 Proceeding has lapsed and there has been no further service or requests for service since that time. Therefore, Yadkin has invoked the abandonment class exemption procedures anew here. YRC notes that the portion of the Line between milepost N 27.50, just south of Bethany Road, and milepost N 29.60 will be reclassified as industrial lead track excepted under 49 U.S.C. 10906. YRC also notes that the rail and track materials on the 2.04-mile portion of the Line between milepost N 29.60 and the end of the Line at milepost N 31.64 were removed in conjunction with the 2006 Proceeding and that, to the best of its knowledge, YRC complied with the salvage conditions imposed in that proceeding. *See Yadkin R.R.—Aban. Exemption—in Stanly Cnty., N.C.,* AB 290 (Sub-No. 281X) (STB served Dec. 13, 2006).

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

Reserve Bank of New York, 33 Liberty Street, New York, NY 10045. The meeting will be open to the public via live webcast at *http://www.treasury.gov/ofr.* A limited number of seats will be available for those interested in attending the meeting in person, and those seats would be on a first-come, first-served basis. Because the meeting will be held in a secured facility, members of the public who plan to attend the meeting must contact the OFR by email at *andrea.b.ianniello@treasury.gov* by 5 p.m. Eastern Time on July 17, 2014 to inform the OFR of their desire to attend the meeting and to receive further instructions about building clearance.

FOR FURTHER INFORMATION CONTACT: Andrea Ianniello, Designated Federal Officer, Office of Financial Research, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, (202) 622–3002 (this is not a toll-free number), *andrea.b.ianniello@treasury.gov.* Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, 10(a)(2), through implementing regulations at 41 CFR 102–3.150, *et seq.*

Public Comment: Members of the public wishing to comment on the business of the Financial Research Advisory Committee are invited to submit written statements by any of the following methods:

- *Electronic Statements.* Email the Committee's Designated Federal Officer at *andrea.b.ianniello@treasury.gov.*
- *Paper Statements.* Send paper statements in triplicate to the Financial Research Advisory Committee, Attn: Andrea Ianniello, Office of Financial Research, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

The OFR will post statements on the Committee's Web site, *http://www.treasury.gov/initiatives/ofr/about/Pages/Financial-Research-Advisory-Committee.aspx*, including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. The OFR will also make such statements available for public inspection and copying in the Department of the Treasury's library, Annex Room 1020, 1500 Pennsylvania Avenue NW., Washington, DC 20220 on official business days between the hours of 8:30 a.m. and 5:30 p.m. Eastern Time. You may make an appointment to inspect statements by telephoning (202) 622–0990. All statements, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

Tentative Agenda/Topics for Discussion: The Committee provides an opportunity for researchers, industry leaders, and other qualified individuals to offer their advice and recommendations to the OFR, which, among other things, is responsible for collecting and standardizing data on financial institutions and their activities and for supporting the work of Financial Stability Oversight Council.

This is the fourth meeting of the Financial Research Advisory Committee. At this meeting, new Committee members will be introduced and briefed on the Committee operations. Topics to be discussed among all members will include OFR progress on prior Committee recommendations, current activities of the OFR, Subcommittee reports to the Committee, and Committee recommendations. For more information on the OFR and the Committee, please visit the OFR Web site at *http://www.treasury.gov/ofr.*

Dated: July 1, 2014.

Barbara Shycoff,

Chief of External Affairs.

[FR Doc. 2014–15918 Filed 7–7–14; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–C

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

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

DATES: Written comments should be received on or before September 8, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Gerald J. Shields, LL.M. at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224 or through the Internet at *Gerald.J.Shields@irs.gov*.

SUPPLEMENTARY INFORMATION: *Title:* Cancellation of Debt.

OMB Number: 1545–1424.

Form Number: 1099–C.

Abstract: Form 1099–C is used by Federal government agencies, financial institutions, and credit unions to report the cancellation or forgiveness of a debt of $600 or more, as required by section 6050P of the Internal Revenue Code. The IRS uses the form to verify compliance with the reporting rules and to verify that the debtor has included the proper amount of canceled debt in income on his or her income tax return.

Current Actions: There are no major changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and the Federal government.

Estimated Number of Responses: 3,885,872.

Estimated Time Per Response: 13 min.

Estimated Total Annual Burden Hours: 854,892.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate

of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 25, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–15894 Filed 7–7–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8453–EMP, Form 8453–F, Form 8453–FE, Form 8879–F, and 8879–EMP

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8453–F, U.S. Estate of Trust Income Tax Declaration and Signature for Electronic and Magnetic Made Filing; Form 8453–FE, U.S. Estate or Trust Declaration and Signature for an IRS e-file Return; Form 8453–EMP, Employment Tax Declaration for an IRS e-file Return; Form 8879–EMP, IRS e-file Signature Authorization for Forms 940, 941, 941–PR, 941–SS, 943, 943–PR, 944, and 945; and Form 8879–F, IRS e-file Signature Authorization for Form 1041.

DATES: Written comments should be received on or before September 8, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Gerald J. Shields, LL.M., Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224 or through the internet at *Gerald.J.Shields@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Employment Tax Declaration for an IRS e-file Return.

OMB Number: 1545–0967.

Form Numbers: 8453–EMP.

Abstract: This process would allow CI, Exam, Audit, and other IRS employees' immediate access to the signature document (tax return), instead of submitting a manual request for the document and waiting for someone to manually search, find, and copy/fax/mail the document to them. Data will be used to verify and affirm the 94X series of forms (excluding the amended series of returns) taxpayer's signature. The expected respondents will be taxpayers, who file a 94X series of form.

Title: U.S. Estate of Trust Income Tax Declaration and Signature for Electronic and Magnetic Media Filing.

OMB Number: 1545–0967.

Form Numbers: 8453–F.

Abstract: This form is used to secure taxpayer signatures and declarations in conjunction with electronic or magnetic media filing of trust and fiduciary income tax returns, Form 8453–F, together with the electronic or magnetic media transmission, will comprise the taxpayer's income tax return (Form 1041).

Title: U.S. Estate or Trust Declaration and Signature for an IRS e-File Return.

OMB Number: 1545–0967.

Form Numbers: 8453–FE.

Abstract: This is a new form for the SB/SE division of the IRS. It is very similar to existing IRS Form 8453–F, U.S. Estate or Trust Income Tax Declaration and Signature for Electronic Filing. This form will only be used as a signature letter to Form 1041.

This new form was requested by the Mod-E file division of the IRS, and approved by the SB/SE. It is used as an electronic signature letter for Form 1041, whenever Form 1041 is filed electronically. Form 8453–FE is associated with E-file, while Form 8453–F is associated with Legacy. For 2013, both forms will be used. However, in the future, Form 8453–F will be retired when Legacy is no longer used by the IRS. The authorizing statute is 26 USC Section 7502, Electronic Filing.

Title: IRS e-file Signature Authorization for Form 1041.

OMB Number: 1545–0967.

Form Number: 8879–F.

Abstract: This form has been created to provide e-file signature authorization for Form 1041 to foster IRS policy promoting e-filing of returns. The form is necessary to support modernized e-file initiatives. This form will reduce paper processing and handling of forms 1041, schedule K–1 (Form 1041), and related forms and schedules.

Title: IRS e-file Signature Authorization for Forms 940, 941, 941–PR, 941–SS, 943, 943–PR, 944, and 945.

OMB Number: 1545–0967.

Form Number: 8879–EMP.

Abstract: This process would allow CI, Exam, Audit, and other IRS employees' immediate access to the signature document (tax return), instead of submitting a manual request for the document and waiting for someone to manually search, find, and copy/fax/mail the document to them. Data will be used to verify and affirm the 94X series of Forms (excluding the amended series of returns) taxpayer's signature. Form 8879–EMP will enable an ERO to file and sign electronically.

Current Actions: There are changes being made to the information collection at this time.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals, or households.

Estimated Number of Respondents: 21,001,881.

Estimated Time per Respondent: 2 hours and 34 minutes.

Estimated Total Annual Burden Hours: 53,784,707.

The following paragraph applies to all of the collections of information covered by this notice: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to

minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 1, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–15902 Filed 7–7–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 3921 and 3922

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning exercise of an incentive stock option under Section 422(b), information reporting requirements under Internal Revenue Service Code section. 6039, and transfer of stock acquired through an employee stock purchase plan under Section 423(c).

DATES: Written comments should be received on or before September 8, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Gerald J. Shields, LL.M. at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Gerald.J.Shields@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Form 3921, Exercise of an Incentive Stock Option Under Section 422(b). Form 3922, Transfer of Stock Acquired Through an Employee Stock Purchase Plan Under Section 423(c).

OMB Number: 1545–2129.

Form Number: 3921 and 3922.

Abstract: Form 3921 is a copy of the information return filed with the Internal Revenue Service by the corporation which transferred shares of stock to a recipient. Form 3922 is used by the corporation to record a transfer of the legal title of a share of stock acquired by the employee where the stock was acquired pursuant to the exercise of an option described in Internal Revenue Code section 423(c). These forms are required to be filed for stock transfers occurring after 2008. Treasury Decision 9470 contains the final regulations relating to the return and information statement requirements under Internal Revenue Code section 6039. These regulations reflect changes to section 6039 made by section 403 of the Tax Relief and Health Care Act of 2006. These regulations affect corporations that issue statutory stock options and provide guidance to assist corporations in complying with the return and information statement requirements under section 6039.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households, Businesses and other for-profit organizations.

Estimated Number of Respondents: 51,000.

Estimated Time per Respondent: 29 minutes.

Estimated Total Annual Burden Hours: 25,205 hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 25, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–15891 Filed 7–7–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1041–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

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

DATES: Written comments should be received on or before September 8, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Gerald J. Shields, LL.M. at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Gerald.J.Shields@irs.gov*.

SUPPLEMENTARY INFORMATION: *Title:* U.S. Information Return-Trust Accumulation of Charitable Amounts.

OMB Number: 1545–0094.

Form Number: 1041–A.

Abstract: Form 1041–A is used to report the information required in

Internal Revenue Code section 6034 concerning accumulation and distribution of charitable amounts. The data is used to verify the amounts for which a charitable deduction was allowed are used for charitable purposes.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, and individuals.

Estimated Number of Respondents: 119,936.

Estimated Time per Respondent: 36 hrs, 40 minutes.

Estimated Total Annual Burden Hours: 4,396,854.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 20, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–15892 Filed 7–7–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 12311

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning a notice regarding repayment of a buyout prior to re-employment with the Federal Government.

DATES: Written comments should be received on or before September 8, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to, R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Gerald J. Shields, LL.M., Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Gerald.J.Shields@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Notice Regarding Repayment of a Buyout Prior to Re-employment with the Federal Government.

OMB Number: 1545–1920.

Form Number: Form 12311.

Abstract: This form requests applicants to certify if they ever worked for the Federal Government and if they received a Buyout within the last 5 years. This is to ensure that applicants who meet the criteria are counseled that they are required to pay back the entire Buyout prior to entering on duty with the IRS.

Current Actions: There are no changes being made to these forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and Federal Government.

Estimated Number of Responses: 33,085.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 2,757.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 25, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–15883 Filed 7–7–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Agency Information Collection Activity; Proposed Collection; U.S. Coinage Practices

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice and comment.

SUMMARY: The United States Mint, a bureau of the Department of the Treasury, is announcing an opportunity for public comment on the proposed collection of certain information regarding the public's use of U.S. coins with special emphasis on low denomination coins. Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to publish notice in the **Federal Register**

concerning each proposed collection of information and to allow 30 days for public comment in response to the notice. This notice solicits comments on a proposed information collection concerning U.S. coinage practices as required to determine the public's interest according to the Coin Modernization, Oversight, and Continuity Act of 2010 (Pub. L. 111–302).

DATES: Submit either electronic or written comments on the collection of information by 30 days after the notice is published.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov*.

FOR FURTHER INFORMATION CONTACT: Yvonne Pollard; Compliance Branch; United States Mint; 801 9th Street NW., 6th Floor; Washington, DC 20220; 202–354–8400 (this is not a toll-free number); *YPollard@usmint.treas.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2) (A)) requires Federal agencies to provide a 60-day notice of the proposed collection of information before submitting the proposed collection of information to OMB for approval. To comply with this requirement, we are publishing notice of the proposed collection of information described in this document.

With respect to the following collection of information, the United States Mint invites comments on—(1) whether the proposed collection of information is necessary for the proper performance of the United States Mint's functions, including whether the information will have practical utility; (2) the accuracy of the United States Mint's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

U.S. Coinage Practices Survey

The Coin Modernization, Oversight, and Continuity Act of 2010, Public Law 111–302, section 2(b)(3), authorizes the Secretary of the Treasury to consider such factors he deems appropriate and in the public interest when preparing a report and recommendations to Congress with respect to the nation's circulating coins.

Understanding the public's use and perception of United States circulating coins and coin usage is necessary for the United States Mint to carry out its mission to mint and issue circulating coins in amounts that the Secretary of the Treasury determines are necessary to meet the needs of the United States and to prepare recommendations to Congress as authorized by Public Law 111–302. The information collected will cover the following topics, with special emphasis on low denomination coins:

1. Use of coins as payment,
2. general payment preferences,
3. general awareness concerning low denomination coins,
4. attitudes regarding potential changes in coinage,
4. the use of rounding retail transactions, and
6. demographic characteristics.

The data will be used to understand the public's use and perception of specific U.S. circulating coinage for the purpose of analyzing options and proposing recommendations for possible changes to the nation's circulating coins.

To obtain this information, the United States Mint will conduct a nationally representative random-digit-dial (RDD) survey of 1,000 U.S. adults. The proposed survey will include both landline (700 interviews) and cellular (300 interviews) telephones. Interviewing will be conducted in both English and Spanish. The questionnaire should take 12 minutes to complete, including two minutes to screen for eligible participants (adults in the cellular telephone sample, the adult with the most recent birthday in the household in the landline telephone survey). The United States Mint estimates the burden of this collection of information will be as described in the table below.

Survey component	Estimated time to complete (minutes)	Population	Total burden (hours)
Screener	2	1,250	41.67
Main survey	10	1,000	166.67

Authority: 31 U.S.C. 5112(p)(3)(A); Public Law 111–302, section 2(b)(3).

Dated: July 1, 2014.

Robert Dahl,

Treasury Departmental Clearance Officer.

[FR Doc. 2014–15819 Filed 7–7–14; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0776]

Agency Information Collection (Disability Benefits Questionnaires—Group 2) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 7, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0776'' 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. 2900–0776.''

Titles:

a. Arteries and Veins Conditions (Vascular Diseases including Varicose Veins) Disability Benefits Questionnaire, VA Form 21–0960A–2.

b. Hypertension Disability Benefits Questionnaire, VA Form 21–0960A–3.

c. Non-Ischemic Heart Disease (including Arrhythmias and Surgery, Disability Benefits Questionnaire, VA Form 21–0960A–4.

d. Diabetic Peripheral Neuropathy (Diabetic Sensory-Motor Peripheral Neuropathy), Disability Benefits Questionnaire, VA Form 21–0960C–4.

e. Diabetes Mellitus Disability Benefits Questionnaire, VA Form 21–0960E–1.

f. Scar/Disfigurement Disability Benefits Questionnaire, VA Form 21–0960F–1.

g. Skin Diseases Disability Benefits Questionnaire, VA Form 21–0960F–2.

h. Amputations Disability Benefits Questionnaire, VA Form 21–0960M–1.

i. Muscle Injuries Disability Benefits Questionnaire, VA Form 21–0960M–10.

j. Temporomandibular Joint (TMJ) Conditions Disability Benefits Questionnaire, VA Form 21–0960M–15.

k. Eye Conditions Disability Benefits Questionnaire, VA Form 21–0960N–2.

OMB Control Number: 2900–0776.

Type of Review: Revision of a Currently Approved Collection.

Abstract: Data collected on VA Form 21–0960 series will be used obtain information from claimants treating physician that is necessary to adjudicate a claim for disability benefits.

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 17, 2014, at pages 3275–3276.

Affected Public: Individuals or households.

Estimated Annual Burden:

a. VA Form 21–0960A–2—10,000.

b. VA Form 21–0960A–3—12,500.

c. VA Form 21–0960A–4—10,000.

d. VA Form 21–0960C–4—37,500.

e. VA Form 21–0960E–1—18,750.

f. VA Form 21–0960F–1– 6,250.

g. VA Form 21–0960F–2—6,250.

h. VA Form 21–0960M–1—12,500.

i. VA Form 21–0960M–10—15,000.

j. VA Form 21–0960M–15—3,750.

k. VA Form 21–0960N–2—30,000.

Estimated Average Burden Per Respondent:

a. VA Form 21–0960A–2—30 minutes.

b. VA Form 21–0960A–3—15 minutes.

c. VA Form 21–0960A–4—30 minutes.

d. VA Form 21–0960C–4—30 minutes.

e. VA Form 21–0960E–1—15 minutes.

f. VA Form 21–0960F–1—15 minutes.

g. VA Form 21–0960F–2—15 minutes.

h. VA Form 21–0960M–1—30 minutes.

i. VA Form 21–0960M–10—30 minutes.

j. VA Form 21–0960M–15—15 minutes.

k. VA Form 21–0960N–2—45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. VA Form 21–0960A–2—20,000.

b. VA Form 21–0960A–3—50,000.

c. VA Form 21–0960A–4—20,000.

d. VA Form 21–0960C–4—75,000.

e. VA Form 21–0960E–1—75,000.

f. VA Form 21–0960F–1—25,000.

g. VA Form 21–0960F–2—25,000.

h. VA Form 21–0960M–1—25,000.

i. VA Form 21–0960M–10—30,000.

j. VA Form 21–0960M–15—15,000.

k. VA Form 21–0960N–2—40,000.

Dated: July 1, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–15791 Filed 7–7–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0660]

Agency Information Collection (Request for Contact Information) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 7, 2014.

ADDRESSES: Submit written comments on the collection of information through www.Regulations.gov, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0660'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

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. 2900–0660'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Request for Contact Information, VA Form 21–30.

OMB Control Number: 2900–0660.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–30 is used to locate individuals when contact information cannot be obtained by other means or when travel funds may be significantly impacted in cases where an individual resides in a remote location and is not home during the day or when visited. VA uses the data collected determine whether a fiduciary of a beneficiary is properly executing his or her duties.

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 16, 2014, at page 2945.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,250 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 5,000.

Dated: July 1, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2014–15786 Filed 7–7–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 79 Tuesday,
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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Status for the Northern Mexican Gartersnake and Narrow-Headed Gartersnake; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2013–0071: 4500030113]

RIN 1018–AY23

Endangered and Threatened Wildlife and Plants; Threatened Status for the Northern Mexican Gartersnake and Narrow-Headed Gartersnake

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened species status under the Endangered Species Act of 1973 (Act), as amended, for the northern Mexican gartersnake (*Thamnophis eques megalops*) and the narrow-headed gartersnake (*Thamnophis rufipunctatus*), native species from Arizona and New Mexico in the United States. We also finalize a rule under authority of section 4(d) of the Endangered Species Act of 1973, as amended (Act), that provides measures that are necessary and advisable to provide for the conservation of the northern Mexican gartersnake. Both species are listed as threatened throughout their range, which, for the northern Mexican gartersnake, also includes the Mexican states of Sonora, Chihuahua, Durango, Coahuila, Zacatecas, Guanajuato, Nayarit, Hidalgo, Jalisco, San Luis Potosí, Aguascalientes, Tlaxacala, Puebla, México, Veracruz, and Querétaro. The effect of this regulation will be to add these species to the lists of Endangered and Threatened Wildlife and Plants.

DATES: This rule becomes effective August 7, 2014.

ADDRESSES: This final rule is available on the internet at *http://www.regulations.gov* (Docket No. FWS–R2–ES–2013–0071) and *http://www.fws.gov/southwest/es/arizona.* Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *http://www.regulations.gov.* All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021; telephone: 602–242–0210; facsimile: 602–242–2513.

FOR FURTHER INFORMATION CONTACT: Steve Spangle, Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Field Office, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021; telephone: 602–242–0210; facsimile: 602–242–2513. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act, a species may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species requires issuing a rule. This rule will finalize the listing of the northern Mexican gartersnake (*Thamnophis eques megalops*) and narrow-headed gartersnake (*Thamnophis rufipunctatus*) as threatened species, initiated with our proposed listing rule published on July 10, 2013 (78 FR 41500), and finalize a rule under authority of section 4(d) of the Act that provides measures that are necessary and advisable to provide for the conservation of the northern Mexican gartersnake.

The basis for our action. Under the Endangered Species Act, we can determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence. We have determined that predation from and competition with nonnative species such as bass (*Micropterus* sp.), flathead catfish (*Pylodictis* sp.), channel catfish (*Ictalurus* sp.), Chihuahuan catfish (*Ictalurus chihuahua*), bullheads (*Ameiurus* sp.), sunfish (*Lepomis* sp.), and crappie (*Pomoxis* sp.), brown trout (*Salmo trutta*), American bullfrogs (*Lithobates catesbeiana*), and crayfish (northern (virile) crayfish (*Orconectes virilis*) and red swamp crayfish (*Procambarus clarkia*)) are the most significant threat affecting these gartersnakes across their range. Throughout the remainder of this final rule, the nonnative species identified immediately above will be referred to collectively as ''harmful nonnative species.'' Large-scale wildfires and land uses that divert, dry up, or significantly pollute aquatic habitat have also been found to be significant threats. Collectively, these threats have adversely affected gartersnake populations, and most of their native prey species, such that the gartersnakes' resiliency, redundancy, and representation across their ranges have been significantly compromised.

Peer review and public comment. We sought comments from independent specialists to ensure that our designation is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our listing proposal. We also considered all other comments and information received during the comment period on the proposed listing rule. All comments are available at *http://www.regulations.gov* (Docket No. FWS–R2–ES–2013–0071).

Previous Federal Action

Please refer to the proposed listing rule for the northern Mexican gartersnake and narrow-headed gartersnake (78 FR 41500; July 10, 2013) for a detailed description of previous Federal actions concerning this species.

We will also be finalizing the designation of critical habitat for the northern Mexican gartersnake and narrow-headed gartersnake in a separate rule in the future. Information regarding designation of critical habitat for these species is available at *http://www.regulations.gov* (Docket No. FWS–R2–ES–2013–0022).

Background

Northern Mexican Gartersnake

Subspecies Description

The northern Mexican gartersnake ranges in color from olive to olive-brown or olive-gray with three lighter-colored stripes that run the length of the body, the middle of which darkens toward the tail. This species may inhabit the same area as other native gartersnake species and can be difficult for people without specific expertise to identify. The snake may reach a maximum known length of 44 inches (in) (112 centimeters (cm)). The pale yellow to light-tan lateral (side of body) stripes distinguish the northern Mexican gartersnake from other sympatric (co-occurring) gartersnake species because a portion of the lateral stripe is found on the fourth scale row, while it is confined to lower scale rows for other species. Paired black spots extend along the olive dorsolateral fields (region adjacent to the top of the

snake's back) and the olive-gray ventrolateral fields (region adjacent to the area of the snake's body in contact with the ground). The scales are keeled (possessing a ridge down the center of each scale). A more detailed subspecies description can be found in our September 26, 2006 (71 FR 56227), or November 25, 2008 (73 FR 71788) 12-month findings for this subspecies, or by reviewing Rosen and Schwalbe (1988, p. 4), Rossman *et al.* (1996, pp. 171–172), Ernst and Ernst (2003, pp. 391–392), or Manjarrez and Garcia (1993, pp. 1–5).

Taxonomy

The northern Mexican gartersnake (*Thamnophis eques megalops*) is a member of the family Colubridae and subfamily Natricinae (harmless live-bearing snakes) (Lawson *et al.* 2005, p. 596; Pyron *et al.* 2013, p. 31). The taxonomy of the genus *Thamnophis* has a complex history, partly because many of the species are similar in appearance and arrangement of scales and many of the early museum specimens were in such poor and faded condition that it was difficult to study them (Conant 2003, p. 6).

Prior to 2003, *Thamnophis eques* was considered to have three subspecies, *T. e. eques, T. e. megalops,* and *T. e. virgatenuis* (Rossman *et al.* 1996, p. 175). In 2003, an additional seven new subspecies were identified under *T. eques:* (1) *T. e. cuitzeoensis;* (2) *T. e. patzcuaroensis;* (3) *T. e. insperatus;* (4) *T. e. obscurus;* (5) *T. e. diluvialis;* (6) *T. e. carmenensis;* and (7) *T. e. scotti* (Conant 2003, p. 3). Common names were not provided, so in this final rule, we use the scientific name for all subspecies of Mexican gartersnake other than the northern Mexican gartersnake. These seven new subspecies were described based on morphological differences in coloration and pattern, have highly restricted distributions, and occur in isolated wetland habitats within the mountainous Transvolcanic Belt region of southern Mexico, which contains the highest elevations in the country (Conant 2003, pp. 7–8). Additional information regarding this subspecies' taxonomy can be found in de Queiroz *et al.* (2002, p. 323), de Queiroz and Lawson (1994, p. 217), Rossman *et al.* (1996, pp. xvii–xviii, 171–175), Rosen and Schwalbe (1988, pp. 2–3), Liner (1994, p. 107), and Crother *et al.* (2012, p. 70). A description of the taxonomy of the northern Mexican gartersnake is found in our September 26, 2006 (71 FR 56227) and November 25, 2008 (73 FR 71788) 12-month findings for this subspecies.

Habitat and Natural History

Throughout its rangewide distribution, the northern Mexican gartersnake occurs at elevations from 130 to 8,497 feet (ft) (40 to 2,590 meters (m)) (Rossman *et al.* 1996, p. 172) and is considered a ''terrestrial-aquatic generalist'' (Drummond and Marcías-García 1983, pp. 24–26). The northern Mexican gartersnake is a riparian obligate (generally found in riparian areas when not engaged in dispersal, gestation, or hibernation behaviors) and occurs chiefly in the following general habitat types: (1) Small, often isolated wetlands (e.g., cienegas (mid-elevation wetlands with highly organic, reducing (basic or alkaline) soils), or stock tanks (small earthen impoundment)); (2) large-river riparian woodlands and forests; and (3) streamside gallery forests (as defined by well-developed broadleaf deciduous riparian forests with limited, if any, herbaceous ground cover or dense grass) (Hendrickson and Minckley 1984, p. 131; Rosen and Schwalbe 1988, pp. 14–16). Emmons and Nowak (2013, p. 14) found this subspecies most commonly in protected backwaters, braided side channels and beaver ponds, isolated pools near the river mainstem, and edges of dense emergent vegetation that offered cover and foraging opportunities when surveying in the upper and middle Verde River region. Additional information on the habitat requirements of the northern Mexican gartersnake within the United States and Mexico can be found in our 2006 (71 FR 56227) and 2008 (73 FR 71788) 12-month findings for this subspecies and in Rosen and Schwalbe (1988, pp. 14–16), Rossman *et al.* (1996, p. 176), McCranie and Wilson (1987, pp. 11–17), Ernst and Ernst (2003, p. 392), and Cirett-Galan (1996, p. 156).

The northern Mexican gartersnake is surface active at ambient (air) temperatures ranging from 71 degrees Fahrenheit (°F) to 91 °F (22 degrees Celsius (°C) to 33 °C) and forages along the banks of waterbodies (Rosen 1991, p. 305, Table 2). While conducting visual surveys, Rosen (1991, pp. 308–309) found that northern Mexican gartersnakes spent up to 60 percent of their time moving, 13 percent of their time basking on vegetation, 18 percent of their time basking on the ground, and 9 percent of their time under surface cover. However, preliminary telemetry data from a population of northern Mexican gartersnakes at the Bubbling Ponds State Fish Hatchery show individuals were surface active during 16 percent of telemetry observations, not surface active during 64 percent of telemetry observations, and surface activity was undetermined for 20 percent of the telemetry observations (Boyarsky 2013, pers. comm.); at Tavasci Marsh along the upper Verde River, they were inactive 60 percent of the time (Emmons 2013b, pers. comm.). In the northern-most part of its range, the northern Mexican gartersnake appears to be most active during July and August, followed by June and September (Emmons and Nowak 2013, p. 14). Northern Mexican gartersnakes may use different sites as hibernacula during a single cold-season and will bask occasionally (Emmons 2014, pers. comm.).

Although considered a highly aquatic species, the northern Mexican gartersnake uses terrestrial habitat for hibernation (Young and Boyarski 2012b, pp. 25–28), gestation, seeking mates, and dispersal. Along the middle Verde River preliminary telemetry data for the northern Mexican gartersnake found that the species may travel at least 528 feet (161 m) from the nearest water and as much as 0.4 mi (0.6 km) in a single day (total distance traveled) (Emmons 2014, pers. comm.). Terrestrial habitat use in open, grassland-dominated landscapes with scattered livestock tanks, such as in southern Arizona, may reflect that greater distances are traveled as suggested by the observation of a large female northern Mexican gartersnake observed in O'Donnell Canyon, which was far from source populations and may have been dispersing overland (Rosen and Schwalbe 1988, p. 14). Preliminary data from the population at Bubbling Ponds State Fish Hatchery show that home ranges vary from 1.7 acres (0.7 ha) to 10.4 acres (4.2 ha), with a mean home range size of 6.2 acres (2.51 ha) (Young and Boyarski 2012b, p. 23).

The northern Mexican gartersnake is an active predator and depends on smaller animals for its prey base (Rosen and Schwalbe 1988, pp. 18, 20). Northern Mexican gartersnakes forage along vegetated banklines, searching for prey in water and on land, using different strategies (Alfaro 2002, p. 209), or may forage along the edges of open water and thick stands of vegetation such as cattails. Generally, its diet consists of native amphibians and fishes, such as adult and larval (tadpoles) native leopard frogs (e.g., lowland leopard frog (*Lithobates yavapaiensis*) and Chiricahua leopard frog (*Lithobates chiricahuensis*)), as well as juvenile and adult native fish species (e.g., Gila topminnow (*Poeciliopsis occidentalis occidentalis*), desert pupfish (*Cyprinodon macularius*), Gila chub (*Gila intermedia*), and roundtail chub (*Gila robusta*)) (Rosen and

Schwalbe 1988, p. 18). Drummond and Marcías-García (1983, pp. 25, 30) found that as a subspecies, Mexican gartersnakes fed primarily on frogs. The northern Mexican gartersnake may congregate at ephemeral amphibian breeding ponds to exploit high-density prey populations as observed at New Mexican spadefoot toads (*Spea multiplicata*) breeding sites (d'Orgeix *et al.* 2013, pp. 213–215). Auxiliary prey items may also include young Woodhouse's toads (*Anaxyrus woodhousei*), treefrogs (Family Hylidae), earthworms, deermice (*Peromyscus* spp.), lizards of the genera *Aspidoscelis* and *Sceloporus,* larval tiger salamanders (*Ambystoma tigrinum*), and leeches (Rosen and Schwalbe 1988, p. 20; Holm and Lowe 1995, pp. 30–31; Degenhardt *et al.* 1996, p. 318; Rossman *et al.* 1996, p. 176; Manjarrez 1998, p. 465). Salamanders (*Ambystoma* spp.) may be particularly important as prey for northern Mexican gartersnake populations in northern Mexico, both at lower elevations and along the Sierra Madre Occidental (Lemos-Espinal 2013, pers. comm.).

In situations where native prey species are rare or absent, this snake's diet may be almost completely comprised of nonnative species, including larval and juvenile bullfrogs (*Lithobates catesbeianus*), mosquitofish (*Gambusia affinis*) (Holycross *et al.* 2006, p. 23), or subadult green sunfish, bluegill, or largemouth bass (Emmons and Nowak 2013, p. 5; Emmons 2013a, pers. comm.). The most recent observations of northern Mexican gartersnakes attempting to eat predatory fish was discussed in Emmons and Nowak (2013, p. 6) where they found fish inside traps with gartersnakes, and the fish appeared to have been partially consumed and then regurgitated. These observations suggest that, while northern Mexican gartersnakes may attempt to eat predatory fish (at least in the artificial confines of a wire trap), they may often be spontaneously regurtitated, potentially causing harm to the snake (Nowak and Santana-Bendix 2002, p. 24), and may not be compatible prey for northern Mexican gartersnakes. Interestingly, in a 2012 trapping effort along the upper Santa Cruz River, minnow traps that become self-baited with bullfrogs, mosquitofish, or macroinvertebrates captured snakes, but those which contained green sunfish or largemouth bass never caught a single northern Mexican gartersnake (Lashway 2012, p. 6).

Chinese mystery snails (*Cipangopaludina chinensis*) have also been reported as a prey item for northern Mexican gartersnakes at the Page Springs and Bubbling Ponds State Fish Hatcheries in Arizona, but some predation attempts on snails have proven fatal for gartersnakes because of their lower jaw becoming permanently lodged in the snails' shell (Young and Boyarski 2012a, p. 498). Venegas-Barrera and Manjarrez (2001, p. 187) reported the first observation of a snake in the natural diet of any species of *Thamnophis* after documenting the consumption of a Mexican alpine blotched gartersnake (*Thamnophis scalaris*) by a Mexican gartersnake (*T. eques;* subspecies not reported); a behavior termed ophiophagy. Ophiophagy has not been specifically reported in northern Mexican gartersnakes, although they are a subspecies of the Mexican gartersnake.

Marcías-García and Drummond (1988, pp. 129–134) sampled the stomach contents of Mexican gartersnakes and the prey populations at (ephemeral) Lake Tecocomulco, Hidalgo, Mexico. Field observations indicated, with high statistical significance, that larger Mexican gartersnakes fed primarily upon aquatic vertebrates (fishes, frogs, and larval salamanders) and leeches, whereas smaller Mexican gartersnakes fed primarily upon earthworms and leeches (Marcías-García and Drummond 1988, p. 131). Marcías-García and Drummond (1988, p. 130) also found that the birth of newborn *T. eques* tended to coincide with the annual peak density of annelids (earthworms and leeches). There is also preliminary evidence that birth may coincide with a pronounced influx of available prey in a given area, especially with that of explosive breeders, such as toads, but more research is needed to confirm such a relationship (Boyarski 2012, pers. comm.). Positive correlations were also made with respect to capture rates (which are correlated with population size) of *T. eques* to lake levels and to prey scarcity; that is, when lake levels were low and prey species scarce, Mexican gartersnake capture rates declined (Marcías-García and Drummond 1988, p. 132). While prey scarcity could have driven snakes to become active or take shelter underground, their results suggest the importance of available water and an adequate prey base to maintaining viable populations of Mexican gartersnakes. Marcías-García and Drummond (1988, p. 133) found that, while certain prey items were positively associated with size classes of snakes, the largest of specimens consume any prey available.

Native predators of the northern Mexican gartersnake include birds of prey, other snakes (kingsnakes (*Lampropeltis* sp.), whipsnakes (*Coluber* sp.), regal ring-necked snakes (*Diadophis punctatus regalis*), etc.), wading birds, mergansers (*Mergus merganser*), belted kingfishers (*Megaceryle alcyon*), raccoons (*Procyon lotor*), skunks (*Mephitis* sp.), and coyotes (*Canis latrans*) (Rosen and Schwalbe 1988, pp. 18, 39; Brennan *et al.* 2009, p. 123). Historically, large, highly predatory native fish species such as Colorado pikeminnow (*Ptychocheilus lucius*) may have preyed upon northern Mexican gartersnake where the subspecies co-occurred. Native chubs (*Gila* sp.) may also prey on neonatal gartersnakes, but has not been documented in the literature to our knowledge.

Sexual maturity in northern Mexican gartersnakes occurs at 2 years of age in males and at 2 to 3 years of age in females (Rosen and Schwalbe 1988, pp. 16–17). Northern Mexican gartersnakes are viviparous (bringing forth living young rather than eggs). Mating has been documented in April and May followed by the live birth of between 7 and 38 newborns (average is 13.6) in June, July, and August (Rosen and Schwalbe 1988, p. 16; Nowak and Boyarski 2012, pp. 351–352; Boyarski 2013, pers. comm.). However, field observations in Arizona provide preliminary evidence that mating may also occur during the fall, but further research is required to confirm this hypothesis (Boyarski 2012, pers. comm.). Unlike other gartersnake species, which typically breed annually, one study suggests that only half of the sexually mature females within a population of northern Mexican gartersnake might reproduce in any one season (Rosen and Schwalbe 1988, p. 17). We found no information on the longevity of northern Mexican gartersnakes but presume they may live as long as 10 years in the wild.

Historical Distribution

Within the United States, the northern Mexican gartersnake historically occurred predominantly in Arizona at elevations ranging from 130 to 6,150 ft (40 to 1,875 m). It was generally found where water was relatively permanent and supported suitable habitat. The northern Mexican gartersnake has been documented historically in every county and nearly every subbasin within Arizona, but its historical distribution was essentially the southern two-thirds of Arizona. It was known from several perennial or intermittent creeks, streams, and rivers as well as lentic (still, non-flowing water) wetlands such as cienegas, ponds, or stock tanks. Records documenting northern Mexican

gartersnake exist within the following subbasins in Arizona: Colorado River, Bill Williams River, Agua Fria River, Salt River, Tonto Creek, Verde River, Santa Cruz River, Cienega Creek, San Pedro River, Babocomari River, and the Rio San Bernardino (Black Draw) (Woodin 1950, p. 40; Nickerson and Mays 1970, p. 503; Bradley 1986, p. 67; Rosen and Schwalbe 1988, Appendix I; 1995, p. 452; 1997, pp. 16–17; Holm and Lowe 1995, pp. 27–35; Sredl *et al.* 1995b, p. 2; 2000, p. 9; Rosen *et al.* 2001, Appendix I; Holycross *et al.* 2006, pp. 1–2, 15–51; Brennan and Holycross 2006, p. 123; Radke 2006, pers. comm.; Rosen 2006, pers. comm.; Holycross 2006, pers. comm.; Cotton *et al.* 2013, p. 111). Numerous records for the northern Mexican gartersnake (through 1996) in Arizona are maintained in the Arizona Game and Fish Department's (AGFD) Heritage Database (1996a).

Historically, the northern Mexican gartersnake had a limited distribution in New Mexico that consisted of scattered locations throughout the Upper Gila River watershed in Grant and western Hidalgo Counties, including the Upper Gila River, Mule Creek in the San Francisco River subbasin, and the Mimbres River (Price 1980, p. 39; Fitzgerald 1986, Table 2; Degenhardt *et al.* 1996, p. 317; Holycross *et al.* 2006, pp. 1–2).

One record for the northern Mexican gartersnake exists for the State of Nevada, opposite Fort Mohave, in Clark County along the shore of the Colorado River that was dated 1911 (De Queiroz and Smith 1996, p. 155). The subspecies may have occurred historically in the lower Colorado River region of California, although we were unable to verify any museum records for California. Any populations of northern Mexican gartersnakes that may have historically occurred in either Nevada or California were likely associated directly with the Colorado River, and we believe the northern Mexican gartersnake to be currently extirpated in Nevada and California.

Within Mexico, northern Mexican gartersnakes historically occurred within the Sierra Madre Occidental and the Mexican Plateau in the Mexican states of Sonora, Chihuahua, Durango, Coahuila, Zacatecas, Guanajuato, Nayarit, Hidalgo, Jalisco, San Luis Potosí, Aguascalientes, Tlaxacala, Puebla, México, Veracruz, and Querétaro, comprising approximately 85 percent of the total rangewide distribution of the subspecies (Conant 1963, p. 473; 1974, pp. 469–470; Van Devender and Lowe 1977, p. 47; McCranie and Wilson 1987, p. 15; Rossman *et al.* 1996, p. 173; Lemos-Espinal *et al.* 2004, p. 83). We are not aware of any systematic, rangewide survey effort for the northern Mexican gartersnake in Mexico. Therefore, we use other related ecological surrogates (such as native freshwater fish) to inform discussion on the status of aquatic communities and aquatic habitat in Mexico, and therefore on the likely status of northern Mexican gartersnake populations. We believe that gartersnakes and native fish are closely ecologically connected because of the high level of dependency of the gartersnakes on the fish as a food source. This discussion is found below in the subheadings pertinent to Mexico.

Current Distribution and Population Status

Data on population status of northern Mexican gartersnakes in the United States are largely summarized in unpublished agency reports. In our literature review we found that reductions in range and population densities have affected the status of the northern Mexican gartersnake significantly in the last 30 years. We found that, in as much as 90 percent of the northern Mexican gartersnakes' historical distribution in the United States, the subspecies occurs at low to very low population densities or may even be extirpated. For example, Holycross *et al.* (2006, p. 66) detected the northern Mexican gartersnake at only 2 of 11 historical localities within the northern-most part of its range in the United States. The degraded status of the northern Mexican gartersnake, in a rangewide context, is primarily the result of predation by and competition with harmful nonnative species, that have been legally released, illegally released, or have naturally dispersed (explained below). However, ecological circumstances and potential threats vary from site to site, and the same threats do not affect every population with the same magnitude across their range. Regardless of how they got into the wild, harmful nonnative species are now widespread and present throughout the range of the northern Mexican gartersnake. Land uses that result in the dewatering of habitat, combined with increasing drought, have destroyed significant amounts of habitat throughout the northern Mexican gartersnake's range and have, therefore, reduced its distribution within several subbasins.

Where northern Mexican gartersnakes are locally abundant, they are usually reliably detected with significantly less effort than populations characterized as having low densities. Northern Mexican gartersnakes are well-camouflaged, secretive, and can be very difficult to detect in structurally complex, dense habitat (Emmons and Nowak 2013, p. 13) or where they occur at very low population densities, which characterizes most occupied sites in lotic habitat. We considered factors such as the date of the last known records for northern Mexican gartersnakes in an area, as well as records of one or more native prey species in making a conclusion on occupancy of the subspecies. We used the year 1980 to qualify occupancy because the 1980s marked the first systematic survey efforts for northern Mexican gartersnakes across their range in the United States (see Rosen and Schwalbe (1988, entire) and Fitzgerald (1986, entire)) and the last, previous records were often dated several decades prior and may not accurately represent the likelihood for current occupation. Several areas where northern Mexican gartersnakes were known to occur have received no, or very little, survey effort in the past several decades. Variability in survey design and effort makes it difficult to compare population sizes or trends among sites and between sampling periods. For each of the sites discussed in Appendix A (available at *http://www.regulations.gov,* Docket No. FWS–R2–ES–2013–0071), we have attempted to translate and quantify search and capture efforts into comparable units (*i.e.,* person-search hours and trap-hours) and have cautiously interpreted those results. Because the presence of suitable prey species in an area may provide evidence that the northern Mexican gartersnake may still persist in low density where survey data are sparse, a record of a native prey species was considered in our determination of occupancy of this subspecies.

Currently, there are only five northern Mexican gartersnake populations in the United States, where the subspecies remains reliably detected and is considered viable, and all are located in Arizona. The five known populations are: (1) The Page Springs and Bubbling Ponds State Fish Hatcheries along Oak Creek, (2) lower Tonto Creek, (3) the upper Santa Cruz River in the San Rafael Valley, (4) the Bill Williams River, and (5) the upper and middle Verde River. In New Mexico, the northern Mexican gartersnake was last documented in 2013 along the Gila River in the vicinity of the Highway 180 crossing (Hotle 2013, entire) and is considered to occur in extremely low population densities within its historical distribution along the Gila River and Mule Creek. While

historically known to occur on tribal lands, the status of the northern Mexican gartersnake on tribal lands, such as those owned by the White Mountain or San Carlos Apache Tribes, is poorly known due to limited survey access. As stated previously, less is known specifically about the current distribution of the northern Mexican gartersnake in Mexico due to limited access to information on survey efforts and field data from Mexico.

In Table 1 below, we summarize the population status of northern Mexican gartersnakes at all known 29 historical localities throughout their United States distribution, as supported by museum records or reliable observations. We categorized each population as either likely viable, likely not viable, or likely extirpated based on the historical survey records, suitable habitat, presence of native prey species, and the presence of harmful nonnative species. For a detailed discussion that explains the rationale for site-by-site conclusions on occupancy, please see Appendix A (available at *http://www.regulations.gov,* Docket No. FWS–R2–ES–2013–0071). General rationale is provided in the introductory paragraph to this section, ''Current Distribution and Population Status.''

TABLE 1—CURRENT POPULATION STATUS OF THE NORTHERN MEXICAN GARTERSNAKE IN THE UNITED STATES

[References for This Information Are Provided in Appendix A]

Location	Last record	Suitable physical habitat present	Native prey species present	Harmful nonnative species present	Population status
Gila River (NM, AZ)	2013	Yes	Yes	Yes	Likely not viable.
Spring Canyon (NM)	1937	Yes	Possible	Likely	Likely extirpated.
Mule Creek (NM)	1983	Yes	Yes	Yes	Likely not viable.
Mimbres River (NM)	Likely early 1900s.	Yes	Yes	Yes	Likely extirpated.
Lower Colorado River (AZ)	1904	Yes	Yes	Yes	Likely extirpated.
Bill Williams River (AZ)	2012	Yes	Yes	Yes	Likely viable.
Agua Fria River (AZ)	1986	Yes	Yes	Yes	Likely not viable.
Little Ash Creek (AZ)	1992	Yes	Yes	Yes	Likely not viable.
Lower Salt River (AZ)	1964	Yes	Yes	Yes	Likely extirpated.
Black River (AZ)	1982	Yes	Yes	Yes	Likely not viable.
Big Bonito Creek (AZ)	1986	Yes	Yes	Yes	Likely not viable.
Tonto Creek (AZ)	2005	Yes	Yes	Yes	Likely viable.
Upper Verde River (AZ)	2012	Yes	Yes	Yes	Likely viable.
Oak Creek (AZ) (Page Springs and Bubbling Ponds State Fish Hatcheries)	2012	Yes	Yes	Yes	Likely viable.
Spring Creek (AZ)	1986	Yes	Yes	Yes	Likely not viable.
Sycamore Creek (Yavapai/Coconino Co., AZ)	1954	Yes	Possible	Yes	Likely extirpated.
Upper Santa Cruz River/San Rafael Valley (AZ)	2013	Yes	Yes	Yes	Likely viable.
Redrock Canyon (AZ)	2008	Yes	Yes	Yes	Likely not viable.
Sonoita Creek (AZ)	2013	Yes	Possible	Yes	Likely not viable.
Scotia Canyon (AZ)	2009	Yes	Yes	No	Likely not viable.
Parker Canyon (AZ)	1986	Yes	Possible	Yes	Likely not viable.
Las Cienegas National Conservation Area and Cienega Creek Natural Preserve (AZ).	2012	Yes	Yes	Possible	Likely not viable.
Lower Santa Cruz River (AZ)	1956	Yes	Yes	Yes	Likely extirpated.
Buenos Aires National Wildlife Refuge (AZ)	2000	Yes	Yes	Yes	Likely not viable.
Bear Creek (AZ)	1987	Yes	Yes	Yes	Likely not viable.
San Pedro River (AZ)	1996	Yes	Yes	Yes	Likely not viable.
Babocomari River and Cienega (AZ)	1986	Yes	Possible	Yes	Likely not viable.
Canelo Hills-Sonoita Grasslands Area (AZ)	2012	Yes	Yes	Yes	Likely not viable.

TABLE 1—CURRENT POPULATION STATUS OF THE NORTHERN MEXICAN GARTERSNAKE IN THE UNITED STATES—Continued

[References for This Information Are Provided in Appendix A]

Location	Last record	Suitable physical habitat present	Native prey species present	Harmful nonnative species present	Population status
San Bernardino National Wildlife Refuge (AZ)	1997	Yes	Yes	Yes	Likely not viable.

Notes: ''Possible'' means there were no conclusive data found. ''Likely extirpated'' means the last record for an area pre-dated 1980, and existing threats suggest the species is likely extirpated. ''Likely not viable'' means there is a post-1980 record for the species, it is not reliably found with minimal to moderate survey effort, and threats exist which suggest the population may be low density or could be extirpated, but there is insufficient evidence to support extirpation. ''Likely viable'' means that the species is reliably found with minimal to moderate survey effort, and the population is generally considered to be somewhat resilient.

We conclude that as many as 24 of 29 known northern Mexican gartersnake localities in the United States (83 percent) are likely not viable and may exist at low population densities that could be threatened with extirpation or may already be extirpated. In most localities where the species may occur at low population densities, existing survey data are insufficient to support a conclusion of extirpation. Only five populations of northern Mexican gartersnakes in the United States are considered likely viable where the species remains reliably detected. In our November 25, 2008, 12-month finding, we evaluated the total number of stream miles in the United States that historically supported the northern Mexican gartersnake that are now permanently dewatered (except in the case of temporary flows in response to heavy precipitation), and we concluded that the subspecies has been extirpated from or occurs at low densities in as much as 90 percent of its historical range in the United States (73 FR 71788, pp. 71792–71793). As shown in Table 1, harmful nonnative species are present in all but one northern Mexican gartersnake locality in the United States.

The northern Mexican gartersnake is listed as threatened throughout its range in Mexico by the Mexican Government. However, our understanding of the northern Mexican gartersnake's specific population status throughout its range in Mexico is less precise than that known for its United States distribution because survey efforts are less and available records do not exist or are difficult to obtain for many regions. Some specific geographic distribution records for the Mexican states of Sonora, Chihuahua, and San Luis Potosí were presented in Lemos-Espinal (2013, pers. comm.). Lemos-Espinal (2013 pers. comm), a Mexican herpetologist whose work is focused on the states of Sonora, Chihuahua, and Coahuila, commented that the number and magnitude of threats are not equal across the subspecies' range in Mexico. Habitat alteration or removal, as a circumstance of human population growth in Mexico, is reported as a primary concern for populations that occur in the Sierra Madre Occidental (Lemos-Espinal 2013, pers. comm.). In other regions of Mexico, such as the states of Sonora and Chihuahua, Lemos-Espinal (2013, pers. comm.) observed the northern Mexican gartersnake to be quite common. Another gartersnake researcher from Mexico has observed the decline or disappearance of some populations in central Mexico (Manjerrez 2008).

Narrow-Headed Gartersnake

Species Description

The narrow-headed gartersnake is a small to medium-sized gartersnake with a maximum total length of 44 in (112 cm) (Painter and Hibbitts 1996, p. 147). Its eyes are set high on its unusually elongated head, which narrows to the snout, and it lacks striping on the dorsum (top) and sides, which distinguishes its appearance from other gartersnake species with which it could co-occur (Rosen and Schwalbe 1988, p. 7). The base color is usually tan or grey-brown (but may darken) with conspicuous brown, black, or reddish spots that become indistinct towards the tail (Rosen and Schwalbe 1988, p. 7; Boundy 1994, p. 126). The scales are keeled. Degenhardt *et al.* (1996, p. 327), Rossman *et al.* (1996, pp. 242–244), and Ernst and Ernst (2003, p. 416) further describe the species.

Taxonomy

We recognize the narrow-headed gartersnake, *Thamnophis rufipunctatus,* as a monotypic species (no currently recognized subspecies exist). The narrow-headed gartersnake is a member of the family Colubridae and subfamily Natricinae (harmless live-bearing snakes) (Lawson *et al.* 2005, p. 596). The taxonomy of the genus *Thamnophis* has a complex history partly because many of the species are similar in appearance and scutelation (arrangement of scales) and because many of the early museum specimens were in such poor and faded condition that it was difficult to study them (Conant 2003, p. 6). There are approximately 30 species described in the gartersnake genus *Thamnophis* (Rossman *et al.* 1996, pp. xvii–xviii). Two large overlapping clades (related taxonomic groups) of gartersnakes have been identified called the ''Mexican'' and ''widespread'' clades, supported by allozyme and mitochondrial DNA genetic analyses (de Queiroz *et al.* 2002, p. 321). The narrow-headed gartersnake (*Thamnophis rufipunctatus*) is a member of the ''Mexican'' clade and is most closely related taxonomically to the southern Durango spotted gartersnake (*Thamnophis nigronuchalis*) (de Queiroz and Lawson 1994, p. 217; de Queiroz *et al.* 2002; p. 321).

Due to the narrow-headed gartersnake's morphology and feeding habits, there has been considerable deliberation among taxonomists about the correct association of this species within seven various genera over time (Rosen and Schwalbe 1988, pp. 5–6); chiefly, between the genera *Thamnophis* (the ''gartersnakes'') and *Nerodia* (the ''watersnakes'') (Pierce 2007, p. 5). Chaisson and Lowe (1989, pp. 110–118) argued that the pattern of ultrastructural (as revealed by an electron microscope) pores in the scales of narrow-headed gartersnakes provided evidence that the species is more appropriately placed within the genus *Nerodia.* However, De Queiroz and Lawson (1994, p. 217) rejected this premise using mitochondrial DNA (mtDNA) genetic analyses to refute the inclusion of the narrow-headed gartersnake in the genus *Nerodia* and maintain the species within the genus *Thamnophis.*

The narrow-headed gartersnake was first described as *Chilopoma rufipunctatum* by E. D. Cope (in Yarrow, 1875). Recently, *Thamnophis*

rufipunctatus nigronuchalis and *T. r. unilabialis* were recognized as subspecies under *T. rufipunctatus* and comprised what was considered the *T. rufipunctatus* complex (Rossman *et al.* 1996, p. 245). However, Rossman *et al.* (1996, pp. 244–246) elevated *T. r. nigronuchalis* to full species designation and argued that recognition of *T. r. unilabialis* be discontinued due to the diagnostic differences being too difficult to discern. Wood *et al.* (2011, p. 14) used genetic analysis of the *T. rufipunctatus* complex to propose the elevation of these three formerly recognized subspecies as three distinct species, as a result of a combination of interglacial warming, ecological and life-history constraints, and genetic drift, which promoted differentiation of these three species throughout the warming and cooling periods of the Pleistocene epoch (Wood *et al.* 2011, p. 15). We use these most recent and complete data in acknowledging these three entities as unique species: *T. rufipunctatus* (along the Mogollon Rim of Arizona and New Mexico, the narrow-headed gartersnake, which is the subject of this rule), *T. unilabialis* (Chihuahua, eastern Sonora, and northern Durango, Mexico), and *T. nigronuchalis* (southern Durango, Mexico).

Several common names have been used for this species including the red-spotted gartersnake, the brown-spotted gartersnake, and the currently used, narrow-headed gartersnake (Rosen and Schwalbe 1988, p. 5). Further discussion of the taxonomic history of the narrow-headed gartersnake is available in Crother (2012, p. 71), Degenhardt *et al.* (1996, p. 326), Rossman *et al.* (1996, p. 244), De Queiroz and Lawson (1994, pp. 213–229), Rosen and Schwalbe (1988, pp. 5–7), and De Queiroz *et al.* (2002, p. 321).

Habitat and Natural History

The narrow-headed gartersnake, distributed across the Mogollon Rim of Arizona and New Mexico, is widely considered to be one of the most aquatic of the gartersnakes (Drummond and Marcias Garcia 1983, pp. 24, 27; Rossman *et al.* 1996, p. 246). This species is strongly associated with clear, rocky streams, using predominantly pool and riffle habitat that includes cobbles and boulders (Rosen and Schwalbe 1988, pp. 33–34; Degenhardt *et al.* 1996, p. 327; Rossman *et al.* 1996, p. 246; Nowak and Santana-Bendix 2002, pp. 26–37; Ernst and Ernst 2003, p. 417). Rossman *et al.* (1996, p. 246) also note the species has been observed using lake shoreline habitat in New Mexico. Narrow-headed gartersnakes occur at elevations from approximately 2,300 to 8,000 ft (701 to 2,430 m), inhabiting Petran Montane Conifer Forest, Great Basin Conifer Woodland, Interior Chaparral, and the Arizona Upland subdivision of Sonoran Desertscrub communities (Rosen and Schwalbe 1988, p. 33; Brennan and Holycross 2006, p. 122).

An extensive evaluation of habitat use of narrow-headed gartersnakes along Oak Creek in Arizona is provided in Nowak and Santana-Bendix (2002, pp. 26–37). In the upper reaches of Oak Creek, occupied habitat is found in a steep-walled, confined canyon with shallow, braided stream segments, minimal silt, and good canopy coverage, vegetated islands and significant amounts of aquatic vegetation (Nowak and Santana-Bendix 2002, pp. 29–30). In the middle reaches of Oak Creek, occupied habitat is found in a wider canyon with less stream braiding, deeper pools, more silt, and high canopy coverage and stream-side vegetation, but less aquatic vegetation (Nowak and Santana-Bendix 2002, pp. 30–31). In the lower reaches of Oak Creek, historically occupied habitat occurred outside of the canyon proper, with predominant pool-run sequences, rare channel braiding, much silt, significantly less canopy coverage or streamside vegetation and few areas with aquatic vegetation (Nowak and Santana-Bendix 2002, p. 31).

Nowak and Santana-Bendix (2002, pp. 29–31) found the most narrow-headed gartersnakes in the upper reaches of Oak Creek, followed by the middle reaches; no narrow-headed gartersnakes were found in the lower reaches. Nowak and Santana-Bendix (2002, p. 33) found that, in general, narrow-headed gartersnakes in Oak Creek were more likely to be found within reaches without crayfish and without silt. Population densities of warm-water predatory fish increase on a gradient from the upper to the lower reaches of Oak Creek, while the inverse is true for native fish populations, and their presence confounds the analysis of physical habitat preference of narrow-headed gartersnakes. Rosen and Schwalbe (1988, p. 35) found that the relative abundance of narrow-headed gartersnakes may be highest at the conjunction of cascading riffles with pools, where waters were deeper than 20 in (0.5 m) in the riffle and deeper than 40 in (1 m) in the immediately adjoining area of the pool. However, more than twice the number of snakes was found in pools rather than riffles, but this observation may not translate for smaller streams. Despite their highly aquatic behavior, narrow-headed gartersnakes in Oak Creek have been shown to use upland habitat within 328 feet (100 m) during early fall and spring months, strongly associate with boulders in the floodplain during summer months, and use upland habitat up to 656 feet (200 m) out of the floodplain as hibernation sites (Nowak 2006, pp. 20, 26).

Bank-line vegetation is an important component to suitable habitat for this species (Nowak and Santana-Bendix 2002, pp. 26–37). Narrow-headed gartersnakes will usually bask in situations where a quick escape can be made, whether that is into the water or under substrate such as rocks (Fleharty 1967, p. 16). Common plant species associations include Arizona alder (*Alnus oblongifolia*) (highest correlation with occurrence of the narrow-headed gartersnake), velvet ash (*Fraxinus pennsylvanica*), willows (*Salix* ssp.), canyon grape (*Vitis arizonica*), blackberry (*Rubus* ssp.), Arizona sycamore (*Platanus wrightii*), Arizona black walnut (*Juglans major*), Freemont cottonwood (*Populus fremontii*), Gambel oak (*Quercus gambelii*), and ponderosa pine (*Pinus ponderosa*) (Rosen and Schwalbe 1988, pp. 34–35). Rosen and Schwalbe (1988, p. 35) noted that the composition of bank-side plant species and canopy structure may be less important to the species' needs than was the size class of the plant species present; narrow-headed gartersnakes use shrub- and sapling-sized plants for thermoregulating (basking) at the waters' edge (Degenhardt *et al.* 1996, p. 327), as well as islands within the stream channel that are created by sedge (*Carex* spp.) tussocks (Nowak and Santana-Bendix 2002, p. 34).

Narrow-headed gartersnakes may opportunistically forage within dammed reservoirs formed by streams that are occupied habitat, such as at Wall Lake, New Mexico, (located at the confluence of Taylor Creek, Hoyt Creek, and the East Fork Gila River) (Fleharty 1967, p. 207) and most recently at Snow Lake in 2012 (located near the confluence of Snow Creek and the Middle Fork Gila River) (Hellekson 2012b, pers. comm.) in New Mexico, but records from impoundments are rare. The species evolved in the absence of such habitat, and impoundments are generally managed as sport fisheries (Wall Lake and Snow Lake are) and often maintain populations of harmful nonnative species that are incompatible with narrow-headed gartersnakes.

The narrow-headed gartersnake is surface-active generally between March and November (Nowak 2006, p. 16). Little information on suitable temperatures for surface activity of the narrow-headed gartersnake exists;

however, it is presumed to be rather cold-tolerant based on its natural history and foraging behavior that often involves clear, cold streams at higher elevations. Along Oak Creek in Arizona, Nowak (2006, Appendix 1) found the species to be active in air temperatures ranging from 52 to 89 °F (11 to 32 °C) and water temperatures ranging from 54 to 72 °F (12 to 22 °C). Jennings and Christman (2011, pp. 12–14) found body temperatures of narrow-headed gartersnakes along the Tularosa River averaged approximately 68 °F (20 °C) during the mid-morning hours and 81 °F (27 °C) in the late afternoon during the period from late July and August. Variables that affect their body temperature include the temperature of the microhabitat used and water temperature (most predictive), but slope aspect and the surface area of cover used also influenced body temperatures (Jennings and Christman 2011, p. 13). Narrow-headed gartersnakes have a lower preferred temperature for activity as compared to other species of gartersnakes (Fleharty 1967, p. 228), which may facilitate their highly aquatic nature in cold streams.

Narrow-headed gartersnakes specialize on fish as their primary prey item (Rosen and Schwalbe 1988, p. 38; Degenhardt *et al.* 1996, p. 328; Rossman *et al.* 1996, p. 247; Nowak and Santana-Bendix 2002, pp. 24–25; Nowak 2006, p. 22). They are believed to be mainly visual hunters (Hibbitts and Fitzgerald 2005, p. 364) heavily dependent on visual cues when foraging based on comparative analyses among other species of gartersnakes (de Queiroz 2003, p. 381). Unlike many other species of gartersnakes that are active predators (actively crawl about in search of prey), narrow-headed gartersnakes are considered to be ambush predators (sit-and-wait method) (Brennan and Holycross 2006, p. 122; Pierce *et al.* 2007, p. 8). The specific gravity (ratio of the mass of a solid object to the mass of the same volume of water) of the narrow-headed gartersnake was found to be nearly 1, which means that the snake can maintain its desired position in the water column with ease, an adaptation to facilitate foraging on the bottom of streams (Fleharty 1967, pp. 218–219).

Native fish species most often associated as prey items for the narrow-headed gartersnake include Sonora sucker (*Catostomus insignis*), desert sucker (*C. clarki*), speckled dace (*Rhinichthys osculus*), roundtail chub (*Gila robusta*), Gila chub (*Gila intermedia*), and headwater chub (*Gila nigra*) (Rosen and Schwalbe 1988, p. 39; Degenhardt *et al.* 1996, p. 328). Nonnative predatory fish species in their fingerling size classes are also used as prey by narrow-headed gartersnakes, including brown trout (Rosen and Schwalbe 1988, p. 39; Nowak and Santana-Bendix 2002, p. 24; Nowak 2006, pp. 22–23), green sunfish (Fleharty 1967, p. 223), and smallmouth bass (*Micropterus dolomieu*) (M. Lopez, 2010, pers. comm.). Reports suggest that brown trout are consumed more frequently than smallmouth bass. Trout species are commonly stocked in, or near, occupied narrow-headed gartersnake habitat. Fleharty (1967, p. 223) reported narrow-headed gartersnakes eating green sunfish. But nonnative fish with spiny dorsal fins are not generally considered suitable prey items due to the risk of injury to the gartersnake during ingestion and because of where they tend to occur in the water column (see discussion in the subsection ''Fish'' under the subheading ''Decline of the Gartersnake Prey Base'' and Nowak and Santana-Bendix (2002, p. 24)).

Although the narrow-headed gartersnake has been reported to also prey upon amphibians such as frogs, tadpoles, and salamanders (Stebbins 1985, p. 199; Deganhardt *et al.* 1996, p. 328; Ernst and Ernst 2003, p. 418), we believe these are not important items in their diet. Despite several studies focusing on the ecology of narrow-headed gartersnakes in recent times, there are no other records of narrow-headed gartersnakes, under current taxonomic recognition, feeding on prey items other than fish. Fitzgerald (1986, p. 6) referenced the Stebbins (1985) account as the only substantiated account of the species eating something other than fish as prey, apparently as the result of finding a small salamander larvae in the stomach of an individual in Durango, Mexico. Formerly recognized as a subspecies of *Thamnophis rufipunctatus,* that individual is now recognized as *T. unilabialis* (Wood *et al.* 2011, p. 3). We found one account of narrow-headed gartersnakes consuming red-spotted toads in captivity (Woodin 1950, p. 40). Amphibian larvae (i.e. *Hyla* sp., *Anaxyrus* sp., *Ambystoma* sp.) are generally available to narrow-headed gartersnakes as prey, yet observations of narrow-headed gartersnakes using them are rare. Therefore, we do not consider amphibians as ecologically important prey for this species.

Native predators of the narrow-headed gartersnake include birds of prey, such as black-hawks (Etzel *et al.* 2014, p. 56), other snakes such as regal ring-necked snakes (Brennan *et al.* 2009, p. 123), wading birds, mergansers, belted kingfishers, raccoons (Rosen and Schwalbe 1988, p. 39), and possibly other generalist mammalian predators. Historically, large, highly predatory native fish species, such as Colorado pikeminnow, may have preyed upon narrow-headed gartersnakes where the species co-occurred. Native chubs (*Gila* spp.) may also prey on neonatal gartersnakes.

Sexual maturity in narrow-headed gartersnakes occurs at 2.5 years of age in males and at 2 years of age in females (Deganhardt *et al.* 1996, p. 328). Narrow-headed gartersnakes are viviparous. Narrow-headed gartersnakes breed annually, and females give birth to 4 to 17 offspring from late July into early August, perhaps earlier at lower elevations (Rosen and Schwalbe 1988, pp. 35–37). Narrow-headed gartersnakes may live as long as 10 years in the wild (Rosen and Schwalbe 1988, p. 38).

Historical Distribution

The historical distribution of the narrow-headed gartersnake ranged across the Mogollon Rim and along associated perennial stream drainages from central and eastern Arizona, southeast to southwestern New Mexico at elevations ranging from 2,300 to 8,000 ft (700 to 2,430 m) (Rosen and Schwalbe 1988, p. 34; Rossman *et al.* 1996, p. 242; Holycross *et al.* 2006, p. 3). The species was historically distributed in headwater streams of the Gila River subbasin that drain the Mogollon Rim and White Mountains in Arizona, and the Gila Wilderness in New Mexico. Major subbasins in its historical distribution included the Salt and Verde River subbasins in Arizona, and the San Francisco and Gila River subbasins in New Mexico (Holycross *et al.* 2006, p. 3). Holycross *et al.* (2006, p. 3) suspect the species was likely not historically present in the lowest reaches of the Salt, Verde, and Gila Rivers, even where perennial flow persists. Numerous records for the narrow-headed gartersnake (through 1996) in Arizona are maintained in the AGFD's Heritage Database (1996b). The narrow-headed gartersnake as currently recognized does not occur in Mexico.

Current Distribution and Population Status

Population status information suggests that the narrow-headed gartersnake has experienced significant declines in population density and distribution along streams and rivers where it was formerly well-documented and reliably detected. Many areas where the species may occur likely rely on emigration of individuals from occupied habitat into those areas to maintain the species, provided there are no potential

barriers to movement, such as extensive stretches of dewatered habitat, or high densities of harmful nonnative species. Holycross *et al.* (2006, entire) represents the most recent, comprehensive survey effort for narrow-headed gartersnakes in Arizona. Narrow-headed gartersnakes were detected in 5 of 16 historical localities in Arizona and New Mexico surveyed by Holycross *et al.* (2006) in 2004 and 2005. Population densities have noticeably declined in many populations, as compared to previous survey efforts (Holycross *et al.* 2006, p. 66). Holycross *et al.* (2006, pp. 66–67) compared narrow-headed gartersnake detections based on results from their effort and that of previous efforts in the same locations and found that significantly more effort is required to detect this species in areas where it was formerly robust, such as along Eagle Creek (AZ), the East Verde River (AZ), the San Francisco River (NM), the Black River (AZ), and the Blue River (AZ).

Where narrow-headed gartersnakes are locally abundant, they can usually be detected reliably and with significantly less effort than populations characterized as having low densities. Narrow-headed gartersnakes are well-camouflaged, secretive, and very difficult to detect in structurally complex, dense habitat where they could occur at very low population densities, which characterizes most occupied sites. We considered factors such as the date of the last known records for narrow-headed gartersnakes in an area, as well as records of one or more native prey species, in making a conclusion on species occupancy. We used all records that were dated 1980 or later because the 1980s marked the first systematic survey efforts for narrow-headed gartersnake species across their range (see Rosen and Schwalbe (1988, entire) and Fitzgerald (1986, entire)), and the last, previous records were often dated several decades prior and may not accurately represent the likelihood for current occupation. Several areas where narrow-headed gartersnakes were known to occur have received no, or very little, survey effort in the past several decades. Variability in survey design and effort makes it difficult to compare population sizes or trends among sites and between sampling periods. Thus, for each of the sites discussed in Appendix A (available at *http://www.regulations.gov,* Docket No. FWS–R2–ES–2013–0071), we have attempted to translate and quantify search and capture efforts into comparable units (*i.e.,* person-search hours and trap-hours) and have cautiously interpreted those results. Where survey data are sparse, the presence of suitable prey species in an area may provide evidence that narrow-headed gartersnakes may still persist at low densities. Therefore, a record of a native prey species was considered in our determination of occupancy of this species.

As of 2011, the only remaining narrow-headed gartersnake populations where the species could reliably be found were located at: (1) Whitewater Creek (NM), (2) Tularosa River (NM), (3) Diamond Creek (NM), (4) Middle Fork Gila River (NM), and (5) Oak Creek Canyon (AZ). However, populations found in Whitewater Creek and the Middle Fork Gila River were likely significantly affected by the large Whitewater–Baldy Complex Fire, which occurred in June 2012. In addition, salvage efforts were initiated for these two populations, which included the removal of 25 individuals from Whitewater Creek and 14 individuals from the Middle Fork Gila River before the onset of summer rains in 2012. These 39 individuals were transported to the Albuquerque BioPark where 22 remain in captivity. The other 17 of the salvaged individuals were translocated to Saliz Creek, where the resident native prey base appears adequate, and beyond the effects from the Whitewater-Baldy Complex Fire. The status of those populations in Whitewater Creek and the Middle Fork Gila River has likely deteriorated as a result of subsequent declines in resident fish communities due to heavy ash and sediment flows, resulting fish kills, and the removal of snakes, but subsequent survey data have not been collected. If the Whitewater Creek and Middle Fork Gila River populations did decline as a result of these factors, only three remaining populations of this species remain viable today across their entire distribution. While historical records confirm the narrow-headed gartersnake was found on tribal lands, its current status on tribal land is poorly known due to limited survey access.

In Table 2 below, we summarize the population status of the narrow-headed gartersnake at all known localities throughout its distribution, as supported by museum records or reliable observations. For a detailed discussion that explains the rationale for site-by-site conclusions on occupancy and status, please see Appendix A (available at *http://www.regulations.gov,* Docket No. FWS–R2–ES–2013–0071). General rationale is provided in the introductory paragraph to this section, ''Current Distribution and Population Status.''

TABLE 2—CURRENT POPULATION STATUS OF THE NARROW-HEADED GARTERSNAKE

[References for this information are provided in appendix A]

Location	Last record	Suitable physical habitat present	Native prey species present	Harmful nonnative species present	Population status
West Fork Gila River (NM)	2011	Yes	Yes	Yes	Likely not viable.
Middle Fork Gila River (NM)	2012	Yes	Yes	Yes	Likely not viable.
East Fork Gila River (NM)	2006	Yes	Yes	Yes	Likely not viable.
Gila River (AZ, NM)	2009	Yes	Yes	Yes	Likely not viable.
Snow Creek/Snow Lake (NM)	2012	Yes	No	Yes	Likely not viable.
Gilita Creek (NM)	2009	Yes	Yes	No	Likely not viable.
Iron Creek (NM)	2009	Yes	Yes	No	Likely not viable.
Little Creek (NM)	2010	Yes	Possible	Yes	Likely not viable.
Turkey Creek (NM)	1985	Yes	Yes	Possible	Likely not viable.
Beaver Creek (NM)	1949	Yes	Possible	Yes	Likely extirpated.
Black Canyon (NM)	2010	Yes	Yes	Yes	Likely not viable.
Taylor Creek (NM)	1960	Yes	No	Yes	Likely extirpated.
Diamond Creek (NM)	2011	Yes	Yes	Yes	Likely viable.
Tularosa River (NM)	2012	Yes	Yes	Yes	Likely viable.
Whitewater Creek (NM)	2012	Yes	Yes	Yes	Likely not viable.
San Francisco River (NM)	2011	Yes	Yes	Yes	Likely not viable.
South Fork Negrito Creek (NM)	2011	Yes	Possible	Yes	Likely not viable.
Blue River (AZ)	2007	Yes	Yes	Yes	Likely not viable.

TABLE 2—CURRENT POPULATION STATUS OF THE NARROW-HEADED GARTERSNAKE—Continued

[References for this information are provided in appendix A]

Location	Last record	Suitable physical habitat present	Native prey species present	Harmful nonnative species present	Population status
Dry Blue Creek (AZ, NM)	2010	Yes	Possible	Yes	Likely not viable.
Campbell Blue Creek (AZ, NM)	2010	Yes	Possible	Yes	Likely not viable.
Saliz Creek (NM)	2013	Yes	Possible	Yes	Likely not viable.
Eagle Creek (AZ)	2013	Yes	Possible	Yes	Likely not viable.
Black River (AZ)	2013	Yes	Yes	Yes	Likely not viable.
East Fork Black River (AZ)	2004	Yes	Possible	Yes	Likely not viable.
Fish Creek (Tributary to East Fork Black River; AZ).	2004	Yes	Yes	Possible	Likely viable.
White River (AZ)	1986	Yes	Yes	Possible	Likely not viable.
Diamond Creek (AZ)	1986	Yes	Possible	Possible	Likely not viable.
Tonto Creek (tributary to Big Bonita Creek, AZ).	1915	Yes	Possible	Possible	Likely extirpated.
Canyon Creek (AZ)	1991	Yes	Yes	No	Likely not viable.
Upper Salt River (AZ)	1985	Yes	Yes	Yes	Likely not viable.
Cibeque Creek (AZ)	1991	Yes	Yes	Possible	Likely not viable.
Carrizo Creek (AZ)	1997	Yes	Yes	Possible	Likely not viable.
Big Bonito Creek (AZ)	1957	Yes	Yes	Yes	Likely extirpated.
Haigler Creek (AZ)	2008	Yes	Yes	Yes	Likely not viable.
Houston Creek (AZ)	2005	Yes	Yes	Yes	Likely not viable.
Tonto Creek (tributary to Salt River, AZ).	2005	Yes	Yes	Yes	Likely not viable.
Deer Creek (AZ)	1995	No	No	No	Likely extirpated.
Upper Verde River (AZ)	2012	Yes	Yes	Yes	Likely not viable.
Oak Creek (AZ)	2012	Yes	Yes	Yes	Likely viable.
West Fork Oak Creek (AZ)	2012	Yes	Yes	Yes	Likely viable.
East Verde River (AZ)	1992	Yes	Yes	Yes	Likely not viable.

Notes: ''Possible'' means there were no conclusive data found. ''Likely extirpated'' means the last record for an area pre-dated 1980, and existing threats suggest the species is likely extirpated. ''Likely not viable'' means there is a post-1980 record for the species, it is not reliably found with minimal to moderate survey effort, and threats exist which suggest the population may be low density or could be extirpated, but there is insufficient evidence to support extirpation. ''Likely viable'' means that the species is reliably found with minimal to moderate survey effort, and the population is generally considered to be somewhat resilient.

Table 2 lists the 41 known localities for narrow-headed gartersnakes throughout their range. We have concluded that, in as many as 31 of 41 known localities (76 percent), the narrow-headed gartersnake population is likely not currently viable and may exist at low population densities that could be threatened with extirpation or may already be extirpated, but survey data are lacking in areas where access is restricted. In most localities where the species may occur at low population densities, existing survey data are insufficient to conclude extirpation. As of 2014, narrow-headed gartersnake populations are considered currently likely viable in five localities (12 percent). The remaining five populations (12 percent) are considered currently likely extirpated. As displayed in Table 2, harmful nonnative species are a concern for all but four narrow-headed gartersnake populations. The status of these populations is expected to continue to decline.

Summary of Biological Status and Threats

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on any of the following five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination.

In the following threats analysis, we treat both gartersnake species in a combined discussion because of partially overlapping ranges, similar natural histories, similar responses to threats, and the fact that many threats are shared in common throughout their ranges.

Weakened Status of Native Aquatic Communities (Northern Mexican and Narrow-Headed Gartersnakes) (Factors A, C, and E)

The presence of harmful nonnative species constitutes the most significant threat to the two gartersnake species. Harmful nonnative species directly prey upon both species of gartersnake and compete with them for prey. Harmful nonnative species also compete with gartersnake prey species as well as modify habitat for both the gartersnakes and their prey, to the detriment of both gartersnakes. Landscape-level effects from the continued expansion of harmful nonnative species have changed the spatial orientation of these gartersnakes' distributions, creating greater isolation between populations. We expect the viability of extant gartersnake populations to continue to degrade into the foreseeable future as a result of ecological interactions with harmful nonnative species. Riparian and aquatic communities in both the southwestern United States and Mexico have been significantly impacted by a shift in species' composition, from one of primarily native fauna, to one dominated by an expanding assemblage of harmful nonnative animal species. Harmful nonnative species have been introduced or have spread into new areas through a variety of mechanisms, including intentional and accidental releases, sport stocking, aquaculture, aquarium releases, bait-bucket releases, or natural dispersal (Welcomme 1984, entire). The ecological ramifications of

the adversarial relationships within southwestern aquatic communities have been discussed and described in a broad body of literature, extending from 1985 to the present (Meffe 1985, pp. 179–185; Propst *et al.* 1986, pp. 14–31, 82; 1988, p. 64; 2009, pp. 5–17; Rosen and Schwalbe 1988, pp. 28, 32; 1997, p. 1; Clarkson and Rorabaugh 1989, pp. 531, 535; Douglas *et al.* 1994, pp. 9–19; Rosen *et al.* 1995, pp. 257–258; 2001, p. 2; Degenhardt *et al.* 1996, p. 319; Fernandez and Rosen 1996, pp. 8, 23–27, 71, 96; Richter *et al.* 1997, pp. 1089, 1092; Inman *et al.* 1998, p. 17; Rinne *et al.* 1998, pp. 4–6; Nowak and Santana-Bendix 2002, Table 3; Propst 2002, pp. 21–25; DFT 2003, pp. 1–3, 5–6, 19; 2004, pp. 1–2, 4–5, 10, Table 1; Bonar *et al.* 2004, pp. 13, 16–21; Rinne 2004, pp. 1–2; Clarkson *et al.* 2005, p. 20; Fagan *et al.* 2005, pp. 34, 34–41; Knapp 2005, pp. 273–275; Olden and Poff 2005, pp. 82–87; Turner 2007, p. 41; Holycross *et al.* 2006, pp. 13–15; Brennan 2007, pp. 5, 7; Caldwell 2008a, 2008b; d'Orgeix 2008; Luja and Rodríguez-Estrella 2008, pp. 17–22; Propst *et al.* 2008, pp. 1242–1243; Rorabaugh 2008a, p. 25; Brennan and Rosen 2009, pp. 8–9; Minckley and Marsh 2009, pp. 50–51; Pilger *et al.* 2010, pp. 311–312; Stefferud *et al.* 2009, pp. 206–207; 2011, pp. 11–12; Young and Boyarski 2013, pp. 159–160).

Decline of the Gartersnake Prey Base (Northern Mexican and Narrow-Headed Gartersnakes) (Factors A and E)

The prey base of these gartersnakes includes native amphibians and fish populations. Declines in their prey base have led to subsequent declines in the distribution and density of gartersnake populations. In most areas across their ranges, prey base declines are largely attributed to the introduction and expansion of harmful nonnative species.

Northern Mexican and narrow-headed gartersnakes may be particularly vulnerable to the loss of native prey species (Rosen and Schwalbe 1988, pp. 20, 44–45). Rosen *et al.* (2001, pp. 10, 13, 19) theorized that the northern Mexican gartersnake: (1) Is unlikely to increase foraging efforts at the risk of increased predation; and (2) needs adequate food on a regular basis to maintain its weight and health. If forced to forage more often for smaller prey items, a reduction in growth and reproductive rates can result (Rosen *et al.* 2001, pp. 10, 13). Rosen *et al.* (2001, p. 22) hypothesized that the presence and expansion of nonnative predators (mainly bullfrogs, crayfish, and green sunfish (*Lepomis cyanellus*)) are the primary causes of decline in northern Mexican gartersnakes and in their prey in southeastern Arizona. In another example, Drummond and Macías Garcia (1989, pp. 25, 30) found that Mexican gartersnakes fed primarily on frogs, and when frogs became unavailable, the species simply ceased major foraging activities. This led the authors to conclude that frog abundance is probably the most important correlate, and main determinant, of foraging behavior in northern Mexican gartersnakes.

With respect to narrow-headed gartersnakes, the relationship between harmful nonnative species, a declining prey base, and gartersnake populations is clearly depicted in one population along Oak Creek. Nowak and Santana-Bendix (2002, Table 3) found a strong correlation in the distribution of fish communities and narrow-headed gartersnake communities in the vicinity of Midgely Bridge. Downstream of that point, nonnative, predatory fish species increase in abundance, and narrow-headed gartersnakes notably decrease in abundance. Upstream of that point, native fish and nonnative, soft-rayed fish species increase in abundance as do narrow-headed gartersnakes (Nowak and Santana-Bendix 2002, p. 23).

Fish (Northern Mexican and Narrow-headed Gartersnakes)—Fish are an important prey item for the northern Mexican gartersnake and are the only prey for the narrow-headed gartersnake. Native fish communities throughout the range of these gartersnake have been on the decline, both in terms of species composition and biomass, for many decades, and largely as a result of predation and competition from and with nonnative, predatory fish species. Stocked for sport, forage, or biological control, nonnative fishes have been shown to become invasive where released and do not require the natural flow regimes that native species do (Kolar *et al.* 2003, p. 9), which has contributed to their expansion in the Gila River basin and elsewhere. Northern Mexican and narrow-headed gartersnakes can successfully use nonnative, soft-rayed fish species as prey, such as mosquitofish, red shiner, and introduced trout species, such as rainbow trout (*Oncorynchus mykiss*), brook trout (*Salvelinus fontinalis*), or brown trout (Nowak and Santana-Bendix 2002, pp. 24–25; Holycross *et al.* 2006, p. 23). However, predatory fish are not generally considered prey species for northern Mexican or narrow-headed gartersnakes and, in addition, are known to prey on neonatal and juvenile gartersnakes (Young and Boyarski 2013, pp. 158–159). Nowak and Santana-Bendix (2002, p. 24) propose two hypotheses regarding the reluctance of narrow-headed gartersnakes to prey on nonnative, predatory fish: (1) The laterally compressed shape and presence of sharp, spiny dorsal spines of many nonnative, predatory fish present a choking hazard to gartersnakes that can be fatal; and (2) nonnative, predatory fish (with the exception of catfish) tend to occupy the middle and upper zones in the water column, while narrow-headed gartersnakes typically hunt along the bottom (where native suckers and minnows often occur). As a result, nonnative, predatory fish may be less ecologically available as prey.

Brown trout are highly predatory in all size classes in a wide range of water temperatures, and they adversely affect native fish communities wherever they are introduced (Taylor *et al.* 1984, pp. 343–344). Predation on gartersnakes by adult brown trout may be a particular problem for narrow-headed gartersnakes due to their overlapping distributions and habitat preferences, both in terms of direct predation on neonatal gartersnakes and through competitive pressures for gartersnakes by preying on their food source. Specifically, the younger age classes of brown trout present competition problems for the narrow-headed gartersnake by eating small fish. As brown trout mature into the medium to larger size classes, they may prey upon neonatal narrow-headed gartersnakes. These issues are confounded by the fact that young brown trout are also eaten by narrow-headed gartersnakes and may represent an important component of their prey base, depending on fish species composition and age classes represented within the resident fish community. However, whatever benefits fingerling brown trout present for narrow-headed gartersnakes are likely off-set by effects of brown trout predation on important native fish species, and possible effects to recruitment of narrow-headed gartersnakes through predation.

Harmful nonnative species invasions can indirectly affect the health, maintenance, and reproduction of northern Mexican and narrow-headed gartersnakes by altering their foraging strategy and compromising foraging success. Rosen *et al.* (2001, p. 19), in addressing the northern Mexican gartersnake, proposed that an increase in energy expended in foraging, coupled by the reduced number of small to medium-sized prey fish available, results in deficiencies in nutrition, affecting growth and reproduction. This occurs because energy is allocated to maintenance and the increased energy costs of intense foraging activity, rather than to growth and reproduction. In

contrast, a northern Mexican gartersnake diet that includes both fish and amphibians, such as leopard frogs, reduces the necessity to forage at a higher frequency, allowing metabolic energy gained from larger prey items to be allocated instead to growth and reproductive development. Myer and Kowell (1973, p. 225) experimented with food deprivation in common gartersnakes, and found significant reductions in lengths and weights of juvenile snakes that were deprived of regular feedings versus the control group that were fed regularly at natural frequencies. Reduced foraging success of both northern Mexican and narrow-headed gartersnakes means that individuals are likely to become vulnerable to effects from starvation, which may increase fatality rates of juveniles and, consequently, affect recruitment.

Northern Mexican gartersnakes have a more varied diet than narrow-headed gartersnakes. We are not aware of any studies that have addressed the direct relationship between prey base diversity and northern Mexican gartersnake recruitment and survivorship. However, Krause and Burghardt (2001, pp. 100–123) discuss the benefits and costs that may be associated with diet variability in the common gartersnake (*Thamnophis sirtalis*), an ecologically similar species to the northern Mexican gartersnake. Foraging for mixed-prey species may impede predator learning, as compared to specialization on a certain prey species, but it may also provide long-term benefits such as the ability to capture prey throughout their lifespan (Krause and Burghardt 2001, p. 101).

A wide variety of native fish species (many of which are now listed as endangered, threatened, or candidates for listing under the Act) were historically primary prey species for northern Mexican and narrow-headed gartersnakes (Rosen and Schwalbe 1988, pp. 18, 39). Marsh and Pacey (2005, p. 60) predict that, despite the significant physical alteration of aquatic habitat in the southwestern United States, native fish species could flourish in these altered environments but for the presence of harmful nonnative fish species. Northern Mexican and, in particular, narrow-headed gartersnakes depend largely on native fish as a principal part of their prey base, although nonnative, soft-rayed predatory fish have also been documented as prey where they overlap in distribution with these gartersnakes (Nowak and Santana-Bendix 2002, pp. 24–25; Holycross *et al.* 2006, p. 23; Emmons and Nowak 2013, p. 6). Nonnative, predatory fish compete with northern Mexican and narrow-headed gartersnakes for prey. In their extensive surveys, Rosen and Schwalbe (1988, p. 44) only found narrow-headed gartersnakes in abundance where native fish species predominated but did not find them abundant in the presence of robust nonnative, predatory fish populations. Minckley and Marsh (2009, pp. 50–51) found nonnative fishes to be the single-most significant factor in the decline of native fish species and also their primary obstacle to recovery. Of the 48 conterminous States in the United States, Arizona has the highest proportion of nonnative fish species (66 percent) represented by approximately 68 species (Turner and List 2007, p. 13).

Collier *et al.* (1996, p. 16) note that interactions between native and nonnative fish have significantly contributed to the decline of many native fish species from direct predation and, indirectly, from competition (which has adversely affected the prey base for northern Mexican and narrow-headed gartersnakes). Holycross *et al.* (2006, pp. 52–61) documented depressed or extirpated native fish prey bases for northern Mexican and narrow-headed gartersnakes along the Mogollon Rim in Arizona and New Mexico. Rosen *et al.* (2001, Appendix I) documented the decline of several native fish species in several locations visited in southeastern Arizona, further affecting the prey base of northern Mexican gartersnakes in that area.

Harmful nonnative fish species tend to be nest-builders and actively guard their young, which may provide them another ecological advantage over native species that are broadcast spawners and provide no parental care to their offspring (Marsh and Pacey 2005, p. 60). In fact, nesting smallmouth bass will attack gartersnakes (Winemiller and Taylor 1982, p. 270). It is, therefore, likely that recruitment and survivorship is greater in nonnative species than native species where they overlap, providing nonnative species with an ecological advantage. Table 2–1 in Kolar *et al.* (2003, p. 10) provides a map depicting the high degree of overlap in the distribution of native and nonnative fishes within the Gila River basin of Arizona and New Mexico as well as watersheds thought to be dominated by nonnative fish species.

The widespread decline of native fish species from the arid southwestern United States and Mexico has resulted largely from interactions with nonnative species and has been noted in the listing rules of 11 fishes under the Act, and their historical ranges overlap with the historical distribution of northern Mexican and narrow-headed gartersnakes. Native fish species that were likely prey species for these gartersnakes and are now listed under the Act, include the bonytail chub (*Gila elegans,* 45 FR 27710, April 23, 1980), Yaqui chub (*Gila purpurea,* 49 FR 34490, August 31, 1984), Yaqui topminnow (*Poeciliopsis occidentalis sonoriensis,* 32 FR 4001, March 11, 1967), beautiful shiner (*Cyprinella formosa,* 49 FR 34490, August 31, 1984), Gila chub (*Gila intermedia,* 70 FR 66663, November 2, 2005), Colorado pikeminnow (*Ptychocheilus lucius,* 32 FR 4001, March 11, 1967), spikedace (*Meda fulgida,* 77 FR 10810, February 23, 2012), loach minnow (*Tiaroga cobitis,* 77 FR 10810, February 23, 2012), razorback sucker (*Xyrauchen texanus,* 56 FR 54957, October 23, 1991), desert pupfish (*Cyprinodon macularius,* 51 FR 10842, March 31, 1986), woundfin (*Plagopterus argentissiums,* 35 FR 16047, October 13, 1970), and Gila topminnow (*Poeciliopsis occidentalis,* 32 FR 4001, March 11, 1967). In total within Arizona, 19 of 31 (61 percent) native fish species are listed under the Act. Arizona ranks the highest of all 50 States in the percentage of native fish species with declining trends (85.7 percent), and New Mexico ranks sixth (48.1 percent) (Stein 2002, p. 21; Warren and Burr 1994, p. 14).

The fastest expanding nonnative species are red shiner (*Cyprinella lutrensis*), fathead minnow (*Pimephales promelas*), green sunfish, largemouth bass (*Micropterus salmoides*), western mosquitofish, and channel catfish (*Ictalurus punctatus*). A nonnative species can become invasive if ecological advantages exist for broad physical tolerances, feeding habits and diet, or reproductive behavior (Taylor *et al.* 1984, Table 16–1). These species are considered to be the most invasive in terms of their negative impacts on native fish communities (Olden and Poff 2005, p. 75). Many nonnative fishes, in addition to those listed immediately above, including yellow and black bullheads (*Ameiurus* sp.), flathead catfish (*Pylodictis olivaris*), and smallmouth bass, have been introduced into formerly and currently occupied northern Mexican or narrow-headed gartersnake habitat and are predators on these species (Young and Boyarski 2013, pp. 158–159) and their prey (Bestgen and Propst 1989, pp. 409–410; Marsh and Minckley 1990, p. 265; Sublette *et al.* 1990, pp. 112, 243, 246, 304, 313, 318; Abarca and Weedman 1993, pp. 6–12; Stefferud and Stefferud 1994, p. 364; Weedman and Young 1997, pp. 1,

Appendices B, C; Rinne *et al.* 1998, pp. 3–6; Voeltz 2002, p. 88; Bonar *et al.* 2004, pp. 1–108; Fagan *et al.* 2005, pp. 34, 38–39, 41; Propst *et al.* 2008, pp. 1242–1243). Nonnative, predatory fish species, such as flathead catfish, may be especially dangerous to narrow-headed gartersnake populations through competition and direct predation because they are primarily piscivorous (fish-eating) (Pilger *et al.* 2010, pp. 311–312), have large mouths, and have a tendency to occur along the stream bottom, where narrow-headed gartersnakes principally forage.

Rosen *et al.* (2001, Appendix I) and Holycross *et al.* (2006, pp. 15–51) conducted large-scale surveys for northern Mexican gartersnakes in southeastern and central Arizona and narrow-headed gartersnakes in central and east-central Arizona, and documented the presence of nonnative fish at many locations. Holycross *et al.* (2006, pp. 14–15) found nonnative fish species in 64 percent of the sample sites in the Agua Fria subbasin, 85 percent of the sample sites in the Verde River subbasin, 75 percent of the sample sites in the Salt River subbasin, and 56 percent of the sample sites in the Gila River subbasin. In total, nonnative fish were observed at 41 of the 57 sites surveyed (72 percent) across the Mogollon Rim (Holycross *et al.* 2006, p. 14). Entirely native fish communities were presumed in only 8 of 57 sites surveyed (14 percent) (Holycross *et al.* 2006, p. 14). It is well documented that nonnative fish have now infiltrated the majority of aquatic communities in the southwestern United States as depicted in Tables 1 and 2, above, as well as in Appendix A (available at *http://www.regulations.gov,* Docket No. FWS–R2–ES–2013–0071).

Several authors have identified both the presence of nonnative fish as well as their deleterious effects on native species within Arizona. Many areas have seen a shift from a predominance of native fishes to a predominance of nonnative fishes. On the upper Verde River, native species dominated the total fish community at greater than 80 percent from 1994 to 1996, before dropping to approximately 20 percent in 1997 and 19 percent in 2001. At the same time, three nonnative species increased in abundance between 1994 and 2000 (Rinne *et al.* 2005, pp. 6–7). In an assessment of the Verde River, Bonar *et al.* (2004, p. 57) found that, in the Verde River mainstem, nonnative fishes were approximately 2.6 times more dense per unit volume of river than native fishes, and their populations were approximately 2.8 times that of native fishes per unit volume of river. Similar changes in the dominance of nonnative fishes have occurred on the Middle Fork Gila River, with a 65 percent decline of native fishes between 1988 and 2001 (Propst 2002, pp. 21–25). Abarca and Weedman (1993, pp. 6–12) found that the number of nonnative fish species was twice the number of native fish species in Tonto Creek in the early 1990s, with a stronger nonnative species influence in the lower reaches, where the northern Mexican gartersnake is considered to still occur (Burger 2010, p. 1, Madera-Yagla 2010, p. 6, 2011, p. 6).

Beginning in 2014, the AGFD plans to stock 4.6 million Florida-strain largemouth bass, 3.3 million bluegill, and 4.5 million black crappie annually into Roosevelt Lake in order to control the gizzard shad (*Dorosoma cepedianum*) population, which is currently the most prevalent fish species in the lake and is thought to be depressing sport fish populations in the reservoir (AGFD 2014, p. 3). Roosevelt Lake is not, and will never be, suitable habitat for the northern Mexican gartersnake because of its management as a sport fishery. However, if the goal of this effort is achieved, we expect a higher risk of predation of gartersnakes in lower Tonto Creek when a suitable hydrologic connection is made between Tonto Creek and the lake body (providing the opportunity for predatory nonnative fish to move into lower Tonto Creek). We also expect high risk of predation of individual snakes that may disperse downstream into the lake itself. Fish surveys in the Salt River above Lake Roosevelt already indicate a decline of roundtail chub and other native fishes, with an increase in flathead and channel catfish numbers (Voeltz 2002, p. 49).

In New Mexico, nonnative fish have been identified as the main cause for declines observed in native fish populations (Voeltz 2002, p. 40; Propst *et al.* 2008, pp. 1242–1243). Fish experts from the U.S. Forest Service, U.S. Bureau of Reclamation, U.S. Bureau of Land Management (BLM), University of Arizona, Arizona State University, The Nature Conservancy, and others declared the native fish fauna of the Gila River basin to be critically imperiled, and they cite habitat destruction and nonnative species as the primary factors for the declines (DFT 2003, p. 1). They call for the control and removal of nonnative fish as an overriding need to prevent the decline, and possible extinction, of native fish species within the basin (DFT 2003, p. 1). In some areas, nonnative fishes may not dominate the system, but their abundance has increased. This is the case for the Cliff-Gila Valley area of the Gila River where nonnative fishes increased from 1.1 percent to 8.5 percent, while native fishes declined steadily over a 40-year period (Propst *et al.* 1986, pp. 27–32). At the Redrock and Virden Valleys on the Gila River, the relative abundance in nonnative fishes in the same time period increased from 2.4 percent to 17.9 percent (Propst *et al.* 1986, pp. 32–34). Four years later, the relative abundance of nonnative fishes increased to 54.7 percent at these sites (Propst *et al.* 1986, pp. 32–36). The percentage of nonnative fishes increased by almost 12 percent on the Tularosa River between 1988 and 2003, while on the East Fork Gila River, nonnative fishes increased to 80.5 percent relative abundance in 2003 (Propst 2005, pp. 6–7, 23–24).

In addition to harmful nonnative species, various parasites may affect native fish species that are prey for northern Mexican and narrow-headed gartersnakes. Parasites affecting various species of native fishes within the range of these gartersnakes include Asian tapeworm (U.S. Fish and Wildlife Service (USFWS) National Wild Fish Health Survey 2010), *Ichthyophthirius multifiliis* (Ich) (Mpoame 1982, p. 46; Robinson *et al.* 1998, p. 603), anchor worm (*Lernaea cyprinacea*) (Robinson *et al.* 1998, pp. 599, 603–605; Hoffnagle and Cole 1999, p. 24), yellow grub (*Clinostomum marginatum*) (Amin 1969, p. 436; Mpoame and Rinne 1983, pp. 400–401; Bryan and Robinson 2000, p. 19; Maine Department of Inland Fisheries and Wildlife 2002a, p. 1), and black grub (*Neascus spp.*), also called black spot (Robinson *et al.* 1998, p. 603; Bryan and Robinson 2000, p. 21; Lane and Morris 2000, pp. 2–3; Maine Department of Inland Fisheries and Wildlife 2002b, p. 1; Paroz 2011, pers. comm.). However, currently, we have no information on what effect parasite infestation in native fish might have on gartersnake populations.

Decline of Native Fish Communities in Mexico (Northern Mexican Gartersnake)—The first tabulations of freshwater fish species at risk in Mexico occurred in 1961, when 11 species were identified as being at risk (Contreras-Balderas *et al.* 2003, p. 242). As of 2003, of the 506 species of freshwater fish recorded in Mexico, 185 (37 percent) have been listed by the Mexican Federal Government as either endangered, facing extinction, under special protection, or likely extinct (Alvarez-Torres *et al.* 2003, p. 323), almost a 17-fold increase in slightly over four decades; 25 species are believed to have gone extinct (Contreras-Balderas *et al.* 2003, p. 241). In the lower elevations of

Mexico, within the distribution of the northern Mexican gartersnake, there are approximately 200 species of native freshwater fish documented, with 120 native species under some form of threat and an additional 15 that have gone extinct (Contreras-Balderas and Lozano 1994, pp. 383–384). The Fisheries Law in Mexico empowered the country's National Fisheries Institute to compile and publish the National Fisheries Chart in 2000, which found that Mexico's fish fauna has seriously deteriorated as a result of environmental impacts (pollution), water basin degradation (dewatering, siltation), and the introduction of nonnative species (Alvarez-Torres *et al.* 2003, pp. 320, 323). The National Fisheries Chart is regarded as the first time the Mexican Government has openly revealed the status of its freshwater fisheries and described their management policies (Alvarez-Torres *et al.* 2003, pp. 323–324).

Industrial, municipal, and agricultural water pollution, dewatering of aquatic habitat, and the proliferation of nonnative species are widely considered to be the greatest threats to freshwater ecosystems in Mexico (Branson *et al.* 1960, p. 218; Conant 1974, pp. 471, 487–489; Miller *et al.* 1989, pp. 25–26, 28–33; 2005, pp. 60–61; DeGregorio 1992, p. 60; Contreras Balderas and Lozano 1994, pp. 379–381; Lyons *et al.* 1995, p. 572; 1998, pp. 10–12; Landa *et al.* 1997, p. 316; Mercado-Silva *et al.* 2002, p. 180; Contreras-Balderas *et al.* 2003, p. 241; Domínguez-Domínguez *et al.* 2007, Table 3). A shift in land use policies in Mexico to encourage free market principles in rural, small-scale agriculture has been found to promote land use practices that threaten local biodiversity (Ortega-Huerta and Kral 2007, p. 2; Randall 1996, pp. 218–220; Kiernan 2000, pp. 13–23).

These threats have been documented throughout the distribution of the northern Mexican gartersnake in Mexico and are best represented in the scientific literature in the context of fisheries studies. Contreras-Balderas *et al.* (2003, pp. 241, 243) named Chihuahua (46 species), Coahuila (35 species), Sonora (19 species), and Durango (18 species) as Mexican states that had some of the most reports of freshwater fish species at risk. These states are all within the distribution of the northern Mexican gartersnake, indicating an overlapping trend of declining prey bases and threatened ecosystems within the range of the northern Mexican gartersnake in Mexico. Contreras-Balderas *et al.* (2003, Appendix 1) found various threats to be adversely affecting the status of freshwater fish and their habitat in several states in Mexico: (1) Habitat reduction or alteration (Sonora, Chihuahua, Durango, Coahuila, San Luis Potosí, Jalisco, Guanajuato); (2) water depletion (Chihuahua, Durango, Coahuila, Sonora, Guanajuato, Jalisco, San Luis Potosí); (3) harmful nonnative species (Durango, Chihuahua, Coahuila, San Luis Potosí, Sonora, Veracruz); and (4) pollution (México, Jalisco, Chihuahua, Coahuila, Durango). Within the states of Chihuahua, Durango, Coahuila, Sonora, Jalisco, and Guanajuato water depletion is considered serious, with entire basins having been dewatered, or conditions have been characterized as ''highly altered'' (Contreras-Balderas *et al.* 2003, Appendix 1). All of the Mexican states with the highest numbers of fish species at risk are considered arid, a condition hastened by increasing desertification (Contreras-Balderas *et al.* 2003, p. 244).

Aquaculture and Nonnative Fish Proliferation in Mexico (Northern Mexican Gartersnake)—Nonnative fish compete with and prey upon northern Mexican gartersnakes and their native prey species. The proliferation of nonnative fish species throughout Mexico happened mainly by natural dispersal, intentional stockings, and accidental breaches of artificial or constructed barriers by nonnative fish (Welcomme 1984, entire). Lentic water bodies such as lakes, reservoirs, and ponds are often used for flood control, agricultural purposes, and most commonly to support commercial fisheries. The most recent estimates indicate that Mexico has 13,936 of such water bodies, where approximately 96 percent are between 2.47–247 acres (1–100 hectares) and approximately half are artificial (Sugunan 1997, Table 8.3; Alvarez-Torres *et al.* 2003, pp. 318, 322). Areas where these landscape features are most prevalent occur within the distribution of the northern Mexican gartersnake. For example, Jalisco and Zacatecas are listed as two of four states with the highest number of reservoirs, and Chihuahua is one of two states known for a high concentration of lakes (Sugunan 1997, Section 8.4.2).

Based on the data presented in Sugunan (1997, Table 8.5), a total of 422 dammed reservoirs are located within the 16 Mexican states where the northern Mexican gartersnake is thought to occur. Mercado-Silva *et al.* (2006, p. 534) found that, within the state of Guanajuato, ''Practically all streams and rivers in the (Laja) basin are truncated by reservoirs or other water extraction and storage structures.'' On the Laja River alone, there are two major reservoirs and a water diversion dam; 12 more reservoirs are located on its tributaries (Mercado-Silva *et al.* 2006, p. 534). As a consequence of dam operations, the main channel of the Laja remains dry for extensive periods of time (Mercado-Silva *et al.* 2006, p. 541). The damming and modification of the lower Colorado River in Mexico, where the northern Mexican gartersnake occurred, has facilitated the replacement of the entire native fishery with nonnative species (Miller *et al.* 2005, p. 61). Each reservoir created by a dam is either managed as a nonnative commercial fishery or has become a likely source population of nonnative species, which have naturally or artificially colonized the reservoir, dispersed into connected riverine systems, and damaged native aquatic communities.

Mexico depends in large part on freshwater commercial fisheries as a source of protein for both urbanized and rural human populated areas. Commercial and subsistence fisheries rely heavily on introduced, nonnative species in the largest freshwater lakes (Soto-Galera *et al.* 1999, p. 133) down to rural, small ponds (Tapia and Zambrano 2003, p. 252). At least 87 percent of the species captured or cultivated in inland fisheries of Mexico from 1989–1999 included tilapia (*Tilapia* spp.), common carp (*Cyprinus carpio*), channel catfish, trout, and black bass (*Micropterus* sp.), all of which are nonnative (Alvarez-Torres *et al.* 2003, pp. 318, 322). In fact, the northern and central plateau region of Mexico (which comprises most of the distribution of the northern Mexican gartersnake's distribution in Mexico) is considered ideal for the production of harmful, predatory species such as bass and catfish (Sugunan 1997, Section 8.3). Largemouth bass are now produced and stocked in reservoirs and lakes throughout the distribution of the northern Mexican gartersnake (Sugunan 1997, Section 8.8.1).

The Secretariat for Environment, Natural Resources and Fisheries (SEMARNAP), formed in 1995, is the Mexican federal agency responsible for management of the country's environment and natural resources. SEMARNAP dictates the stocking rates of nonnative species into the country's lakes and reservoirs. For example, the permitted stocking rate for largemouth bass in Mexico is one fish per square meter in large reservoirs (Sugunan 1997, Table 8.8); therefore, a 247-acre (100-ha) reservoir could be stocked with 1,000,000 largemouth bass. The common carp, the subject of significant aquaculture investment since the 1960s in Mexico, is known for altering aquatic habitat and consuming the eggs and fry of native fish species, and is now

established in 95 percent of Mexico's freshwater systems (Tapia and Zambrano 2003, p. 252).

Basins in northern Mexico, such as the Rio Yaqui, have been found to be significantly compromised by harmful nonnative fish species. Unmack and Fagan (2004, p. 233) compared historical museum collections of nonnative fish species from the Gila River basin in Arizona and the Yaqui River basin in Sonora, Mexico, to gain insight into the trends in distribution, diversity, and abundance of nonnative fishes in each basin over time. They found that nonnative species are slowly, but steadily, increasing in all three parameters in the Yaqui Basin (Unmack and Fagan 2004, p. 233). Unmack and Fagan (2004, p. 233) predicted that, in the absence of aggressive management intervention, significant extirpations or range reductions of native fish species are expected to occur in the Yaqui Basin of Sonora, Mexico, which may have extant populations of the northern Mexican gartersnake, as did much of the Gila Basin before the introduction of nonnative species. Loss of native fishes impacts prey availability for the northern Mexican gartersnake and threatens its persistence in these areas. Black bullheads (*Ameiurus melas*) were reported as abundant, and common carp were detected from the Rio Yaqui in southern Sonora, Mexico (Branson *et al.* 1960, p. 219). Bluegill (*Lepomis macrochirus*) were also reported at this location, representing a significant range expansion that the authors expected was the result of escaping nearby farm ponds or irrigation ditches (Branson *et al.* 1960, p. 220). Largemouth bass, green sunfish, and an undetermined crappie species have also been reported from this area (Branson *et al.* 1960, p. 220).

Documented problems with aquatic habitats in Mexico include water pollution, harmful nonnative species, and physical habitat alteration. All of these factors lead to declines in native fish abundance and, therefore, a decline in the food source for the northern Mexican gartersnake. Domínguez-Domínguez *et al.* (2007, p. 171) sampled 52 localities for a rare freshwater fish, the Picotee goodeid (*Zoogoneticus quitzeoensis*), along the southern portion of the Mesa Central (Mexican Plateau) of Mexico and found 21 localities had significant signs of pollution. Of the 29 localities where the target species was detected, 28 of them also had harmful nonnative species present, such as largemouth bass, cichlids (*Oreochromis* sp.), bluegill, and Pátzcuaro chub (*Algansea lacustris*) (Domínguez-Domínguez *et al.* 2007, pp. 171, Table 3). The first assessment of the impacts of largemouth bass on native fishes in Mexico was in 1941 during the examination of their effect in Lago de Pátzcuaro (Contreras and Escalante 1984, p. 102). Other nonnative fish species reported are soft-rayed and small bodied, and may be prey items for younger age classes of gartersnakes.

Several examples of significant aquatic habitat degradation or destruction were also observed by Domínguez-Domínguez *et al.* (2007, Table 3) in this region of Mexico, including the draining of natural lakes and cienegas for conversion to agricultural purposes, modification of springs for recreational swimming, diversions, and dam construction. It should be noted that approximately 17 percent of the localities sampled by Domínguez-Domínguez *et al.* (2007, entire) are within the likely range of the northern Mexican gartersnake; chiefly sites located within the Rio Grande de Santiago and Laja Basin. However, collectively, observations made by Domínguez-Domínguez *et al.* (2007, entire) provide a regional context to potential threats acting on northern Mexican gartersnakes in their southern-most distribution. As of 2006, native fish species dominated the fish community in both species composition and overall abundance in the Laja Basin; however, the basin is now trending toward a nonnative fishery compared to historical data. For example, nonnative species were most recently collected from 16 of 17 sample sites in the basin, with largemouth bass significantly expanding their distribution within the headwaters of the basin and bluegill being widespread in the Laja River (Mercado-Silva *et al.* 2006, pp. 537, 542, Table 4). The decline of native fishes in this region of Mexico is likely negatively affecting the status of the northern Mexican gartersnakes there.

Harmful nonnative fish species in Mexico (Contraras and Escalante 1984, pp. 102–125) may be posing a significant threat to the native fish prey base of northern Mexican gartersnakes and to the gartersnakes themselves. The ecological risk of nonnative, freshwater fishes is only expected to increase with increases in aquaculture production, most notably in the country's rural, poorest regions (Tapia and Zambrano 2003, p. 252). Amendments to Mexico's existing fishing regulations imposed by other government regulations have been relaxed, and investment in commercial fishing has expanded to promote growth in Mexico's aquaculture sector (Sugunan 1997, Section 8.7.1). Several areas within the range of the northern Mexican gartersnake in Mexico have experienced adverse effects associated with nonnative species.

Amphibian Decline (Northern Mexican Gartersnake)—Amphibians are a principle prey item for the northern Mexican gartersnake, and documented declines in amphibian population densities and distributions have significantly contributed to the decline in northern Mexican gartersnakes. As an example of these effects from another region, Matthews *et al.* (2002, p. 16) examined the relationship of gartersnake distributions, amphibian population declines, and nonnative fish introductions in high-elevation aquatic ecosystems in California. Matthews *et al.* (2002, p. 16) specifically examined the effect of nonnative trout introductions on populations of amphibians and mountain gartersnakes (*Thamnophis elegans elegans*). Their results indicated that the probability of observing gartersnakes was 30 times greater in lakes containing amphibians than in lakes where amphibians have been extirpated by nonnative fish. These results supported a prediction by Jennings *et al.* (1992, p. 503) that native amphibian declines will lead directly to gartersnake declines.

Declines in the native leopard frog populations in Arizona have likely been a significant, contributing factor to declines in many northern Mexican gartersnake populations. Native ranid (of the family Ranidae) frog species, such as lowland leopard frogs, northern leopard frogs, and federally threatened Chiricahua leopard frogs, have experienced declines in various degrees throughout their distribution in the Southwest, largely due to predation and competition with nonnative species (Clarkson and Rorabaugh 1989, pp. 531, 535; Hayes and Jennings 1986, p. 490). Rosen *et al.* (1995, pp. 257–258) found that Chiricahua leopard frog distribution in the Chiricahua Mountain region of Arizona was inversely related to nonnative species distribution. Along the Mogollon Rim, Holycross *et al.* (2006, p. 13) found that only 8 sites of 57 surveyed (15 percent) consisted of an entirely native anuran (of the order Anura) community and that native frog populations in another 19 sites (33 percent) had been completely displaced by invading bullfrogs. However, such declines in native frog populations are not necessarily irreversible. Ranid frog populations have been shown to rebound strongly when nonnative fish are removed (Knapp *et al.* 2007, pp. 15–18).

Scotia Canyon, in the Huachuca Mountains of southeastern Arizona, is a location where corresponding declines of leopard frog and northern Mexican

gartersnake populations have been documented through repeated survey efforts over time (Holm and Lowe 1995, p. 33). Surveys of Scotia Canyon occurred during the early 1980s and again during the early 1990s. Leopard frogs in Scotia Canyon were infrequently observed during the early 1980s and were nearly extirpated by the early 1990s (Holm and Lowe 1995, pp. 45–46). Northern Mexican gartersnakes were observed in decline during the early 1980s, with low capture rates continuing through the early 1990s (Holm and Lowe 1995, pp. 27–35). Surveys documented further decline of leopard frogs and northern Mexican gartersnakes in 2000 (Rosen *et al.* 2001, pp. 15–16).

A former large, local population of northern Mexican gartersnakes at the San Bernardino National Wildlife Refuge (SBNWR) in southeastern Arizona has also experienced a correlative decline of leopard frogs, and northern Mexican gartersnakes are now thought to occur at very low population densities or may be extirpated there (Rosen and Schwalbe 1988, p. 28; 1995, p. 452; 1996, pp. 1–3; 1997, p. 1; 2002b, pp. 223–227; 2002c, pp. 31, 70; Rosen *et al.* 1996b, pp. 8–9; 2001, pp. 6–10).

Survey data indicate that declines of leopard frog populations, often correlated with nonnative species introductions, the spread of a chytrid fungus (*Batrachochytrium dendrobatidis,* Bd), and habitat modification and destruction, have occurred throughout much of the northern Mexican gartersnake's U.S. distribution (Nickerson and Mays 1970, p. 495; Vitt and Ohmart 1978, p. 44; Ohmart *et al.* 1988, p. 150; Rosen and Schwalbe 1988, Appendix I; 1995, p. 452; 1996, pp. 1–3; 1997, p. 1; 2002b, pp. 232–238; 2002c, pp. 1, 31; Clarkson and Rorabaugh 1989, pp. 531–538; Sredl *et al.* 1995a, pp. 7–8; 1995b, pp. 8–9, 1995c, pp. 7–8; 2000, p. 10; Holm and Lowe 1995, pp. 45–46; Rosen *et al.* 1996b, p. 2; 2001, pp. 2, 22; Degenhardt *et al.* 1996, p. 319; Fernandez and Rosen 1996, pp. 6–20; Drost and Nowak 1997, p. 11; Turner *et al.* 1999, p. 11; Nowak and Spille 2001, p. 32; Holycross *et al.* 2006, pp. 13–14, 52–61). Holycross *et al.* (2006, pp. 53–57, 59) documented population declines and potential extirpations of lowland leopard frogs (an important prey species of the northern Mexican gartersnake) in most of the Agua Fria subbasin and areas of the Salt and Verde subbasins in the period 1986–2006. Specifically, Holycross *et al.* (2006, pp. 53–57, 59) detected no lowland leopard frogs at several recently, historically, or potentially occupied locations, including the Agua Fria River in the vicinity of Table Mesa Road and Little Grand Canyon Ranch, and at Rock Springs, Dry Creek from Dugas Road to Little Ash Creek, Little Ash Creek from Brown Spring to Dry Creek, Sycamore Creek (Agua Fria subbasin) in the vicinity of the Forest Service Cabin, the Page Springs and Bubbling Ponds fish hatchery along Oak Creek, Sycamore Creek (Verde River subbasin) in the vicinity of the confluence with the Verde River north of Clarkdale, along several reaches of the Verde River mainstem, Cherry Creek on the east side of the Sierra Ancha Mountains, and Tonto Creek from Gisela to ''the Box,'' near its confluence with Rye Creek. Rosen *et al.* (2013, p. 8) suggested that the decline of leopard frogs in the Empire Valley of southern Arizona is likely largely responsible for the decline of the northern Mexican gartersnake there.

A primary factor in the decline of native amphibians as a food source for northern Mexican gartersnakes in southern Arizona is likely the result of impacts from nonnative species, mainly bullfrogs. Rosen *et al.* (1995, pp. 252–253) sampled aquatic herpetofauna at 103 sites in the Chiricahua Mountains region, which included the Chiricahua, Dragoon, and Peloncillo Mountains, and the Sulphur Springs, San Bernardino, and San Simon valleys. They found that 43 percent of all ectothermic (cold-blooded) aquatic and semi-aquatic vertebrate species detected were nonnative. The most commonly encountered nonnative species was the bullfrog (Rosen *et al.* 1995, p. 254). Witte *et al.* (2008, p. 1) found that the disappearance of ranid frog populations in Arizona were 2.6 times more likely in the presence of crayfish. Witte *et al.* (2008, p. 7) emphasized the significant influence of nonnative species on the disappearance of ranid frogs in Arizona. In one area, Rosen *et al.* (2001, p. 22) identified the expansion of bullfrogs into the Sonoita grasslands, which contain occupied northern Mexican gartersnake habitat, and the introduction of crayfish into Lewis Springs as being of particular concern for the northern Mexican gartersnake in that area.

In addition to harmful nonnative species, disease and nonnative parasites have been implicated in the decline of the prey base of the northern Mexican gartersnake. In particular, the outbreak of chytridiomycosis or ''Bd,'' a skin fungus, has been identified as a chief causative agent in the significant declines of many of the native ranid frogs and other amphibian species. As indicated, Bd has been implicated in both large-scale declines and local extirpations of many amphibians, chiefly anuran species, around the world (Johnson 2006, p. 3011). Lips *et al.* (2006, pp. 3166–3169) suggest that the high virulence and large number of potential hosts make Bd a serious threat to amphibian diversity. In Arizona, Bd infections have been reported in several of the native prey species of the northern Mexican gartersnake within the distribution of the snake (Morell 1999, pp. 731–732; Sredl and Caldwell 2000, p. 1; Hale 2001, pp. 32–37; Bradley *et al.* 2002, p. 207; USFWS 2002, pp. 40802–40804; USFWS 2007a, pp. 26, 29–32). Declines of native prey species of the northern Mexican gartersnake from Bd infections have contributed to the decline of this species in the United States (Morell 1999, pp. 731–732; Sredl and Caldwell 2000, p. 1; Hale 2001, pp. 32–37; Bradley *et al.* 2002, p. 207; USFWS 2002, pp. 40802–40804; USFWS 2007a, pp. 26, 29–32).

Evidence of Bd-related amphibian declines has been confirmed in portions of southern Mexico (just outside the range of northern Mexican gartersnakes), and data suggest declines are more prevalent at higher elevations where northern Mexican gartersnakes can occur (Lips *et al.* 2004, pp. 560–562). However, much less is known about the role of Bd in amphibian declines across much of Mexico, in particular the mountainous regions of Mexico (including much of the range of northern Mexican gartersnakes in Mexico) as the region is significantly understudied (Young *et al.* 2000, p. 1218). Because narrow-headed gartersnakes feed on fish, Bd has not affected their prey base. A recent study in Panama by Kilburn *et al.* (2011, p. 132) found that reptiles may act as reservoirs for *Bd* (at least in environments such as Panama) based on the presence of the fungus at non-pathological levels on lizards that occur in areas with significant *Bd* outbreaks in resident amphibians. Their study did not conclude that *Bd* is a virulent reptile pathogen, or that it causes disease-induced population declines in reptiles (Kilburn *et al.* 2011, p. 132).

Effects of Bullfrogs on Native Aquatic Communities (Northern Mexican and Narrow-Headed Gartersnakes) (Factors A, C, and E)

Direct predation by, and competition with, bullfrogs is a serious threat to northern Mexican gartersnakes throughout their range (Conant 1974, pp. 471, 487–489; Rosen and Schwalbe 1988, pp. 28–30; Rosen *et al.* 2001, pp. 21–22). Bullfrogs have and do threaten some populations of narrow-headed

gartersnakes, but differing habitat preferences between bullfrogs and narrow-headed gartersnakes lessen their effect on narrow-headed gartersnake populations. Bullfrogs adversely affect northern Mexican and narrow-headed gartersnake populations through direct predation of juveniles and sub-adults. Bullfrogs also compete with northern Mexican gartersnakes for prey species.

Bullfrogs are not native to the southwestern United States or Mexico, and they first appeared in Arizona in 1926 as a result of a systematic introduction effort by the State Game Department (now, the AGFD) for the purposes of sport hunting and as a food source (Tellman 2002, p. 43). The first bullfrog record from New Mexico is dated 1885 (Degenhardt *et al.* 1996, p. 85). Bullfrogs are extremely prolific, are strong colonizers, can reach high densities, are persistent via cannibalism, and may disperse distances of up to 10 mi (16 km) across uplands and likely further within drainages (Bautista 2002, p. 131; Rosen and Schwalbe 2002a, p. 7; Casper and Hendricks 2005, p. 582; Suhre 2008, pers. comm.; Rosen *et al.* 2013, pp. 35–36).

Bullfrogs are large-bodied, voracious, opportunistic, even cannibalistic predators that readily attempt to consume any living thing smaller than them. Bullfrogs have a highly varied diet, which has been documented to include vegetation, invertebrates, fish, birds, mammals, amphibians, and reptiles, including numerous species of snakes (eight genera, including six different species of gartersnakes, two species of rattlesnakes, and Sonoran gophersnakes (*Pituophis catenifer affinis*)) (Bury and Whelan 1984, p. 5; Clarkson and DeVos 1986, p. 45; Holm and Lowe 1995, pp. 37–38; Carpenter *et al.* 2002, p. 130; King *et al.* 2002; Hovey and Bergen 2003, pp. 360–361; Casper and Hendricks 2005, pp. 543–544; Combs *et al.* 2005, p. 439; Wilcox 2005, p. 306; DaSilva *et al.* 2007, p. 443; Neils and Bugbee 2007, p. 443; Rowe and Garcia 2012, pp. 633–634). In one study, three different species of gartersnakes (*Thamnophis sirtalis, T. elegans,* and *T. ordinoides*) totaling 11 snakes were found inside the stomachs of resident bullfrogs from a single region (Jancowski and Orchard 2013, p. 26). Bullfrogs can significantly reduce or eliminate the native amphibian populations (Moyle 1973, pp. 18–22; Conant 1974, pp. 471, 487–489; Hayes and Jennings 1986, pp. 491–492; Rosen and Schwalbe 1988, pp. 28–30; 2002b, pp. 232–238; Rosen *et al.* 1995, pp. 257–258; 2001, pp. 2, Appendix I; Wu *et al.* 2005, p. 668; Pearl *et al.* 2004, p. 18; Kupferberg 1994, p. 95; Kupferburg 1997, pp. 1736–1751; Lawler *et al.* 1999; Bury and Whelan 1986, pp. 9–10; Hayes and Jennings 1986, pp. 500–501; Jones and Timmons 2010, pp. 473–474), which are vital for northern Mexican gartersnakes.

Different age classes of bullfrogs can affect native ranid populations via different mechanisms. Juvenile bullfrogs affect native ranids through competition; male bullfrogs affect native ranids through predation; and female bullfrogs affect native ranids through both mechanisms depending on body size and microhabitat (Wu *et al.* 2005, p. 668). Pearl *et al.* (2004, p. 18) also suggested that the effect of bullfrog introductions on native ranids may be different based on specific habitat conditions but also suggested that an individual ranid frog species' physical ability to escape influences the effect of bullfrogs on each native ranid community. Bullfrogs can also negatively affect native ranid frog populations, both locally and regionally, as carriers or reservoir species for Bd, depending on the strain of Bd (Gervasi *et al.* 2013, p. 169).

Bullfrogs have been documented to occur throughout Arizona. Holycross *et al.* (2006, pp. 13–14, 52–61) found bullfrogs at 55 percent of sample sites in the Agua Fria subbasin, 62 percent of sites in the Verde River subbasin, 25 percent of sites in the Salt River subbasin, and 22 percent of sites in the Gila River subbasin. In total, bullfrogs were observed at 22 of the 57 sites surveyed (39 percent) across the Mogollon Rim (Holycross *et al.* 2006, p. 13). A number of authors have also documented the presence of bullfrogs throughout many subbasins in Arizona and New Mexico adjacent to the historical distribution of the northern Mexican or narrow-headed gartersnake, including northern Arizona (Sredl *et al.* 1995a, p. 7; 1995c, p. 7), central Arizona and along the Mogollon Rim of Arizona and New Mexico (Nickerson and Mays 1970, p. 495; Hulse 1973, p. 278; Sredl *et al.* 1995b, p. 9; Drost and Nowak 1997, p. 11; Nowak and Spille 2001, p. 11; Holycross *et al.* 2006, pp. 15–51; Wallace *et al.* 2008; pp. 243–244; Hellekson 2012a, pers. comm.), southern Arizona (Rosen and Schwalbe 1988, Appendix I; 1995, p. 452; 1996, pp. 1–3; 1997, p. 1; 2002b, pp. 223–227; 2002c, pp. 31, 70; Holm and Lowe 1995, pp. 27–35; Rosen *et al.* 1995, p. 254; 1996a, pp. 16–17; 1996b, pp. 8–9; 2001, Appendix I; Turner *et al.* 1999, p. 11; Sredl *et al.* 2000, p. 10; Turner 2007; p. 41), and along the Colorado River (Vitt and Ohmart 1978, p. 44; Clarkson and DeVos 1986, pp. 42–49; Ohmart *et al.* 1988, p. 143). In one of the more conspicuous examples, bullfrogs were identified as the primary cause for collapse of the northern Mexican gartersnake and its prey base on the SBNWR (Rosen and Schwalbe 1988, p. 28; 1995, p. 452; 1996, pp. 1–3; 1997, p. 1; 2002b, pp. 223–227; 2002c, pp. 31, 70; Rosen *et al.* 1996b, pp. 8–9).

Once established, bullfrogs are persistent in an area and very difficult to eradicate. Rosen and Schwalbe (1995, p. 452) experimented with bullfrog removal at various sites on the SBNWR, in addition to a control site with no bullfrog removal in similar habitat on the Buenos Aires National Wildlife Refuge (BANWR). Removal of adult bullfrogs, without removal of eggs and tadpoles, resulted in a substantial increase in younger age-class bullfrogs where removal efforts were the most intensive (Rosen and Schwalbe 1997, p. 6). Contradictory to the goals of bullfrog eradication, evidence from dissection samples from young adult and subadult bullfrogs indicated these age-classes readily prey upon juvenile bullfrogs (up to the average adult leopard frog size) as well as juvenile gartersnakes, which suggests that the selective removal of only the large adult bullfrogs (presumed to be the most dangerous size class to leopard frogs and gartersnakes), favoring the young adult and sub-adult age classes, could indirectly lead to increased predation of leopard frogs and juvenile gartersnakes (Rosen and Schwalbe 1997, p. 6). These findings illustrate that, in addition to large adults, sub-adult bullfrogs also negatively impact northern Mexican gartersnakes and their prey species. The findings also indicate the importance of including egg mass and tadpole removal during efforts to control bullfrogs and timing removal projects to ensure reproductive bullfrogs are removed prior to breeding. Recent success in regional bullfrog eradication has been found in a few cases described below in the section entitled ''*Current Conservation of Northern Mexican and Narrow-headed Gartersnakes.*''

Bullfrogs not only compete with the northern Mexican gartersnake for prey items but directly prey upon juvenile and, occasionally, sub-adult northern Mexican and narrow-headed gartersnakes (Rosen and Schwalbe 1988, pp. 28–31; 1995, p. 452; 2002b, pp. 223–227; Holm and Lowe 1995, pp. 29–29; Rossman *et al.* 1996, p. 177; AGFD *In Prep.,* p. 12; 2001, p. 3; Rosen *et al.* 2001, pp. 10, 21–22; Carpenter *et al.* 2002, p. 130; Wallace 2002, p. 116). A well-circulated photograph of an adult bullfrog in the process of consuming a northern Mexican gartersnake at Parker Canyon Lake, Cochise County, Arizona,

taken by John Carr of the AGFD in 1964, provides photographic documentation of bullfrog predation (Rosen and Schwalbe 1988, p. 29; 1995, p. 452). The most recent, physical evidence of bullfrog predation of northern Mexican gartersnakes is provided in photographs of a dissected bullfrog at Pasture 9 Tank in the San Rafael Valley of Arizona that had a freshly eaten neonatal northern Mexican gartersnake in its stomach (Akins 2012, pers. comm.).

A common observation in northern Mexican gartersnake populations that co-occur with bullfrogs is a preponderance of large, mature adult snakes with conspicuously low numbers of individuals in the newborn and juvenile age size classes. This occurs due to bullfrogs preying on young small snakes more effectively, which leads to reduced survival of young and depressed recruitment within populations (Rosen and Schwalbe 1988, p. 18; Holm and Lowe 1995, p. 34). In lotic (flowing water) systems, bullfrogs prefer sites with low or limited flow, such as backwaters, side channels, and pool habitat. These areas are also used frequently by northern Mexican and narrow-headed gartersnakes, which likely results in increased predation rates and likely depressed recruitment of gartersnakes. Potential recruitment problems for northern Mexican gartersnakes due to effects from nonnative species are suspected at Tonto Creek (Wallace *et al.* 2008, pp. 243–244). Rosen and Schwalbe (1988, p. 18) stated that the low recruitment at the SBNWR, a typical characteristic of gartersnake populations affected by harmful nonnative species, is the likely cause of that populations' decline and possibly for declines in populations throughout their range in Arizona. Specific localities within the distribution of northern Mexican and narrow-headed gartersnakes where bullfrogs have been detected are presented in Appendix A (available at *http://www.regulations.gov*, Docket No. FWS–R2–ES–2013–0071).

Effects of Crayfish on Native Aquatic Communities (Northern Mexican and Narrow-Headed Gartersnakes) (Factors A and C)

Crayfish are another nonnative species in Arizona and New Mexico that threaten northern Mexican and narrow-headed gartersnakes through competition by consuming prey species of the gartersnakes and through direct predation on juvenile gartersnakes themselves (Fernandez and Rosen 1996, p. 25; Voeltz 2002, pp. 87–88; USFWS 2007a, p. 22). Rogowski *et al.* (2013, p. 1,280) found Arizona's aquatic communities to be particularly vulnerable to crayfish because many endemic aquatic species never evolved in the presence of crayfish. Fernandez and Rosen (1996, p. 3) studied the effects of crayfish introductions on two stream communities in Arizona, a low-elevation semi-desert stream and a high mountain stream, and concluded that crayfish can noticeably reduce species diversity and destabilize food chains in riparian and aquatic ecosystems through their effect on vegetative structure, stream substrate (stream bottom; *i.e.,* silt, sand, cobble, boulder) composition, and predation on eggs, larval, and adult forms of native invertebrate and vertebrate species. Crayfish fed on embryos, tadpoles, newly metamorphosed frogs, and adult leopard frogs, but they did not feed on egg masses (Fernandez and Rosen 1996, p. 25). However, Gamradt and Kats (1996, p. 1155) found that crayfish readily consumed the egg masses of California newts (*Taricha torosa*). Crayfish are known to also eat fish eggs and larva (Inman *et al.* 1998, p. 17), especially those bound to the substrate (Dorn and Mittlebach 2004, p. 2135). Fernandez and Rosen (1996, pp. 6–19, 52–56) and Rosen (1987, p. 5) discussed observations of inverse relationships between crayfish abundance and native reptile and amphibian populations, including narrow-headed gartersnakes, northern leopard frogs, and Chiricahua leopard frogs. Crayfish may also affect native fish populations. Carpenter (2005, pp. 338–340) documented that crayfish may reduce the growth rates of native fish through competition for food and noted that the significance of this impact may vary between species.

Crayfish alter the abundance and structure of aquatic vegetation by grazing on aquatic and semiaquatic vegetation, which reduces the cover needed by frogs and gartersnakes, as well as the food supply for prey species such as tadpoles (Fernandez and Rosen 1996, pp. 10–12). Fernandez and Rosen (1996, pp. 10–12) found that crayfish frequently burrow into stream banks, leading to increased bank erosion, stream turbidity, and siltation of stream bottoms. Creed (1994, p. 2098) found that filamentous alga (*Cladophora glomerata*) was at least 10-fold greater in aquatic habitats that lacked crayfish. Filamentous algae is an important component of aquatic vegetation that provides cover for foraging gartersnakes, as well as microhabitat for prey species, in situations where predation risk is high.

Crayfish have recently been found to also act as a host for the amphibian disease-causing fungus, Bd (McMahon *et al.* 2013, pp. 210–213). This could have serious implications for northern Mexican gartersnakes because crayfish can now be considered a source of disease in habitat that is devoid of amphibians but otherwise potentially suitable habitat for immigrating amphibians, such as leopard frogs, which could serve as a prey base. Because crayfish are so widespread throughout Arizona, New Mexico, and portions of Mexico, the scope of this threat is significant for native amphibian populations and, therefore, to northern Mexican gartersnake populations.

Inman *et al.* (1998, p. 3) documented crayfish as widely distributed and locally abundant in a broad array of natural and artificial free-flowing and still-water habitats throughout Arizona, many of which overlap the historical and current distribution of northern Mexican and narrow-headed gartersnakes. Hyatt (undated, p. 71) concluded that the majority of waters in Arizona contained at least one species of crayfish. In surveying for northern Mexican and narrow-headed gartersnakes, Holycross *et al.* (2006, p. 14) found crayfish in 64 percent of the sample sites in the Agua Fria subbasin; in 85 percent of the sites in the Verde River subbasin; in 46 percent of the sites in the Salt River subbasin; and in 67 percent of the sites in the Gila River subbasin. In total, crayfish were observed at 35 (61 percent) of the 57 sites surveyed across the Mogollon Rim (Holycross *et al.* 2006, p. 14), most of which were sites historically or currently occupied by northern Mexican or narrow-headed gartersnakes, or sites the investigators believed possessed suitable habitat and may be occupied by these gartersnakes based upon their known historical distributions.

A number of authors have documented the presence of crayfish through their survey efforts throughout Arizona and New Mexico in specific regional areas, drainages, and lentic wetlands within or adjacent to the historical distribution of the northern Mexican or narrow-headed gartersnake, including northern Arizona (Sredl *et al.* 1995a, p. 7; 1995c, p. 7), central Arizona and along the Mogollon Rim of Arizona and New Mexico (Sredl *et al.* 1995b, p. 9; Fernandez and Rosen 1996, pp. 54–55, 71; Inman *et al.* 1998, Appendix B; Nowak and Spille 2001, p. 33; Holycross *et al.* 2006, pp. 15–51; Brennan 2007, p. 7; Burger 2008, p. 4; Wallace *et al.* 2008; pp. 243–244; Brennan and Rosen 2009, p. 9; Karam *et al.* 2009; pp. 2–3; Hellekson 2012a, pers. comm.), southern Arizona (Rosen and Schwalbe 1988, Appendix I; Inman *et al.* 1998,

Appendix B; Sredl *et al.* 2000, p. 10; Rosen *et al.* 2001, Appendix I), and along the Colorado River (Ohmart *et al.* 1988, p. 150; Inman *et al.* 1998, Appendix B). Specific localities within the distribution of northern Mexican and narrow-headed gartersnakes where crayfish have been detected are presented in Appendix A (available at *http://www.regulations.gov,* Docket No. FWS–R2–ES–2013–0071). Like bullfrogs, crayfish can be very difficult, if not impossible, to eradicate once they have become established in an area, depending on the complexity of the habitat (Rosen and Schwalbe 1996a, pp. 5–8; 2002a, p. 7; Hyatt undated, pp. 63–71).

It is likely that crayfish populations, where they overlap with northern Mexican or narrow-headed gartersnakes, could have a varied influence on gartersnake populations. The size of crayfish can influence their predatory influence on gartersnakes or their prey species; small crayfish are unlikely to pose a significant threat to gartersnakes themselves but may still consume fish eggs or fry, whereas larger crayfish can prey on neonatal gartersnakes directly. The presence of adequate numbers of favorable fish prey for narrow-headed gartersnakes may counter the effects of resident crayfish to some degree. Crayfish densities may also be affected by periodic flooding, which is thought to reduce crayfish population densities temporarily until recolonization occurs from the dispersal of individuals from downstream populations. More field research is needed to fully understand the ecological relationship between crayfish and these gartersnakes, at least at any particular site. However, the best available scientific and commercial information strongly suggests that crayfish in larger size classes or in high densities are a cause for concern for gartersnakes and their prey species, especially with other threats simultaneously affecting gartersnake populations.

Effects of Predation-Related Injuries to Gartersnakes (Northern Mexican and Narrow-Headed Gartersnakes) (Factor C)

The tails of gartersnakes are often broken off during predation attempts by bullfrogs, crayfish, or other predators, and do not regenerate. The incidence of tail breaks in gartersnakes can often be used to assess predation pressure within gartersnake populations. Attempted predation occurs on both sexes and all ages of gartersnakes within a population, although some general trends have been detected. For example, female gartersnakes may be more susceptible to predation as evidenced by the incidence of tail damage (Willis *et al.* 1982, pp. 100–101; Rosen and Schwalbe 1988, p. 22; Mushinsky and Miller 1993, pp. 662–664; Fitch 2003, p. 212). This can be explained by higher basking rates associated with pregnant females that increase their visibility to predators. Fitch (2003, p. 212) found that tail injuries in the common gartersnake occurred more frequently in adults than in juveniles. Predation on juvenile snakes likely results in complete consumption of the animal, which would limit observations of tail injury in their age class.

Tail injuries can have negative effects on the health, longevity, and overall success of individual gartersnakes from infection, slower swimming and crawling speeds, or impeding reproduction. Mushinsky and Miller (1993, pp. 662–664) commented that, while tail breakage in gartersnakes can save the life of an individual snake, it also leads to permanent handicapping of the snake, resulting in slower swimming and crawling speeds, which could leave the snake more vulnerable to predation or affect its foraging ability. Willis *et al.* (1982, p. 98) discussed the incidence of tail injury in three species in the genus *Thamnophis* (common gartersnake, Butler's gartersnake (*T. butleri*), and the eastern ribbon snake (*T. sauritus*)) and concluded that individuals that suffered nonfatal injuries prior to reaching a length of 12 in (30 cm) are not likely to survive and that physiological stress during post-injury hibernation may play an important role in subsequent fatality. While northern Mexican or narrow-headed gartersnakes may survive an individual predation attempt from a bullfrog or crayfish with tail damage, secondary effects from infection of the wound may significantly contribute to fatality of individuals. Perry-Richardson *et al.* (1990, p. 77) described the importance of tail-tip alignment in the successful courtship and mating in Thamnophiine snakes and found that missing or shortened tails adversely affected these activities and, therefore, mating success. In researching the role of tail length in mating success in the red-sided gartersnake (*Thamnophis sirtalis parietalis*), Shine *et al.* (1999, p. 2150) found that males that experienced injuries or the partial or whole loss of the tail experienced a three-fold decrease in mating success.

The frequency of tail injuries can be quite high in a given gartersnake population; for example at the SBNWR (Rosen and Schwalbe 1988, pp. 28–31), 78 percent of northern Mexican gartersnakes had broken tails with a ''soft and club-like'' terminus, which suggests repeated injury from multiple predation attempts by bullfrogs. While medically examining pregnant female northern Mexican gartersnakes, Rosen and Schwalbe (1988, p. 28) noted bleeding from the posterior region, which suggested to the investigators the snakes suffered from ''squeeze-type'' injuries inflicted by adult bullfrogs. In another example, Holm and Lowe (1995, pp. 33–34) observed tail injuries in 89 percent of northern Mexican gartersnakes during the early 1990s in Scotia Canyon in the Huachuca Mountains, as well as a skewed age class ratio that favored adults over sub-adults, which is consistent with data collected by Willis *et al.* (1982, pp. 100–101) on other gartersnake species. Bullfrogs are largely thought to be responsible for the significant decline of northern Mexican gartersnake and its prey base at this locality, although the latter has improved through recovery actions. In the Black River, crayfish are very abundant and have been identified as the likely cause for a high-frequency of tail injuries to narrow-headed gartersnakes (Brennan 2007, p. 7; Brennan and Rosen 2009, p. 9). Brennan (2007, p. 5) found that, in the Black River, 14 of 15 narrow-headed gartersnakes captured showed evidence of damaged or missing tails (Brennan 2007, p. 5). In 2009, 16 of 19 narrow-headed gartersnakes captured in the Black River showed evidence of damaged or missing tails (Brennan and Rosen 2009, p. 8). In the middle Verde River region, Emmons and Nowak (2013, p. 5) reported that 18 of 49 (37 percent) northern Mexican gartersnakes captured had scars (n = 17) and/or missing tails tips (n = 7).

Vegetation or other forms of protective cover may be particularly important for gartersnakes to reduce the effects of harmful nonnative species on populations. For example, the population of northern Mexican gartersnakes at the Page Springs and Bubbling Ponds State Fish Hatcheries occurs with harmful nonnative species (Boyarski 2008b, pp. 3–4, 8). Yet, only 11 percent of northern Mexican gartersnakes captured in 2007 were observed as having some level of tail damage (Boyarski 2008b, pp. 5, 8). The relatively low occurrence of tail damage, as compared to 78 percent of snakes with tail damage found by Rosen and Schwalbe (1988, pp. 28–31), may indicate: (1) Adequate vegetation density was used by gartersnakes to avoid harmful nonnative species predation attempts; (2) a relatively small population of harmful nonnative species may be at a comparatively lower density than sites sampled by previous studies

(harmful nonnative species population density data were not collected by Boyarski (2008b)); (3) gartersnakes may not have needed to move significant distances at this locality to achieve foraging success, which might reduce the potential for encounters with harmful nonnative species; or (4) gartersnakes infrequently escaped predation attempts by harmful nonnative species, were removed from the population, and were consequently not detected by surveys.

Expansion of the American Bullfrog and Crayfish in Mexico (Northern Mexican Gartersnake) (Factors A, C, and E)

Bullfrogs are a significant threat to native aquatic and riparian species throughout Mexico. Luja and Rodríguez-Estrella (2008, pp. 17–22) examined the invasion of the bullfrog in Mexico. The earliest records of bullfrogs in Mexico were Nuevo Leon (1853), Tamaulipas (1898), Morelos (1968), and Sinaloa (1969) (Luja and Rodríguez-Estrella 2008, p 20). By 1976, the bullfrog was documented in seven more states: Aguacalientes, Baja California Sur, Chihuahua, Distrito Federal, Puebla, San Luis Potosi, and Sonora (Luja and Rodríguez-Estrella 2008, p. 20). The bullfrog was recently verified from the state of Hidalgo, Mexico, at an elevation of 8,970 feet (2,734 m), which indicates the species continues to spread in that country and can exist even at the uppermost elevations inhabited by northern Mexican gartersnakes (Duifhuis Rivera *et al.* 2008, p. 479). As of 2008, Luja and Rodríguez-Estrella (2008, p. 20) have recorded bullfrogs in 20 of the 31 Mexican States (65 percent of the states in Mexico) and suspect that they have invaded other States, but were unable to find documentation.

Bullfrogs have been commercially produced for food in Mexico in Yucatan, Nayarit, Morelos, Estado de Mexico, Michoacán, Guadalajara, San Luis Potosi, Tamaulipas, and Sonora, and their use for food was endorsed by the Mexican Secretary of Aquaculture Support (Luja and Rodríguez-Estrella 2008, p. 20). However, frog legs ultimately never gained popularity in Mexican culinary culture (Conant 1974, pp. 487–489), and Luja and Rodríguez-Estrella (2008, p. 22) point out that only 10 percent of these farms remain in production. Luja and Rodríguez-Estrella (2008, pp. 20, 22) document instances where bullfrogs have escaped production farms and suspect the majority of the frogs that were produced commercially in farms that have since ceased operation have assimilated into surrounding habitat.

Luja and Rodríguez-Estrella (2008, p. 20) also state that Mexican people deliberately introduce bullfrogs for ornamental purposes, or ''for the simple pleasure of having them in ponds.'' The act of deliberately releasing bullfrogs into the wild in Mexico was cited by Luja and Rodríguez-Estrella (2008, p. 21) as being ''more common than we can imagine.'' Bullfrogs are available for purchase at some Mexican pet stores (Luja and Rodríguez-Estrella 2008, p. 22). Luja and Rodríguez-Estrella (2008, p. 21) state that bullfrog eradication efforts in Mexico are often thwarted by their popularity in rural communities (presumably as a food source). Currently, no regulation exists in Mexico to address the threat of bullfrog invasions or prevent their release into the wild (Luja and Rodríguez-Estrella 2008, p. 22). As a result, the bullfrogs' distribution continues to increase in Mexico, beyond what it would through natural dispersal mechanisms.

Rosen and Melendez (2006, p. 54) report bullfrog invasions to be prevalent in northwestern Chihuahua and northwestern Sonora, where the northern Mexican gartersnake is thought to occur. In many areas, native leopard frogs were completely displaced where bullfrogs were observed. Rosen and Melendez (2006, p. 54) also demonstrated the relationship between fish and amphibian communities in Sonora and western Chihuahua. Native leopard frogs, a primary prey item for the northern Mexican gartersnake, only occurred in the absence of nonnative fish, and were absent from waters containing nonnative species, which included several major waters. In Sonora, Rorabaugh (2008a, p. 25) also considers the bullfrog to be a significant threat to the northern Mexican gartersnake and its prey base, substantiated by field observations made during surveys conducted in Chihuahua and Sonora in 2006 (Rorabaugh 2008b, p. 1).

Few data were found on the presence or distribution of nonnative crayfish species in Mexico. However, in a 2-week gartersnake survey effort in 2006 in northern Mexico, crayfish were observed as ''widely distributed'' in the valleys of western Chihuahua (Rorabaugh 2008b, p. 1). Based on the invasive nature of crayfish ecology and their distribution in the United States along the Border region, it is reasonable to assume that, at a minimum, crayfish are likely distributed along the entire Border region of northern Mexico, adjacent to where they occur in the United States, and act in a similar fashion on affected northern Mexican gartersnake populations.

Risks to Gartersnakes From Fisheries Management Activities (Northern Mexican and Narrow-Headed Gartersnakes) (Factors A and E)

The decline in native fish communities from the effects of harmful nonnative fish species has spurred resource managers to take action to help recover native fish species. While we fully support activities designed to help recover native fish, recovery actions for native fish, in the absence of thorough planning, can have negative effects on resident gartersnake populations.

Piscicides—Piscicide is a term that refers to a ''fish poison.'' The use of piscicides, such as rotenone or antimycin A, for the removal of harmful nonnative fish species has widely been considered invaluable for the conservation and recovery of imperiled native fish species throughout the United States, and in particular the Gila River basin of Arizona and New Mexico (Dawson and Kolar 2003, entire). Antimycin A is rarely used anymore due to limited production and has been largely replaced by rotenone in field applications. Experimentation with ammonia as a piscicide has shown promising results and may ultimately replace rotenone in the future as a desired control method if legally registered for such use (Ward *et al.* 2013, pp. 402–404). Currently, rotenone is the most commonly used piscicide. The active ingredient in rotenone is a natural chemical compound extracted from the stems and roots of tropical plants in the family Leguminosae that interrupts oxygen absorption in gill-breathing animals (Fontenot *et al.* 1994, pp. 150–151). In the greater Gila River subbasin alone, 57 streams or water bodies have been treated with piscicide, some on several occasions spanning many years (Carpenter and Terrell 2005; Table 6). However, this practice has been the source of recent controversy due to a perceived link between rotenone and Parkinson's disease in humans, as well as potential effects to livestock.

Speculation of the potential role of rotenone in Parkinson's disease was fueled by Tanner *et al.* (2011, entire), which correlated the incidence of the disease with lifetime exposure to certain pesticides, including rotenone. As a result, in 2012, the Arizona State Legislature proposed two bills that called for the development of an environmental impact statement prior to the application of rotenone or antimycin A (S.B. 1453, see State of Arizona Senate (2012b)) and urged the U.S. Environmental Protection Agency to deregister rotenone from use in the

United States (S.B. 1009, see State of Arizona Senate (2012b)). Public safety considerations were fully evaluated by a multidisciplined technical team of specialists that found no correlation between rotenone applications performed, according to product label instructions, and Parkinson's disease (Rotenone Review Advisory Committee 2012, pp. 24–25). Nonetheless, continued anxiety regarding the use of piscicides for conservation and management of fish communities leaves an uncertain future for this important management tool. Should circumstances result in the discontinued practice of using piscicides for fish recovery and management, the likelihood of recovery for listed or sensitive aquatic vertebrates in Arizona, such as northern Mexican and narrow-headed gartersnakes, would be substantially reduced, if not eliminated outright.

The use of piscicides is a vital and scientifically sound tool, the only tool, in most circumstances, for reestablishing native fish communities and removing threats related to nonnative aquatic species in occupied northern Mexican and narrow-headed gartersnake habitat. By extension, the use of piscicides is also invaluable in the recovery and conservation of northern Mexican and narrow-headed gartersnakes. However, without proper planning the amount of time a treated water body remains fishless post-treatment can affect gartersnakes by removing fish, their primary food source. The time period between rotenone applications and the subsequent restocking of native fish is contingent on two basic variables, the time it takes for piscicide levels to reach nontoxic levels and the level of certainty required to ensure that renovation goals and objectives have been met prior to restocking. Implementation of the latter consideration may vary from to a year or longer, depending on the level of certainty required by project proponents. Carpenter and Terrell (2005, p. 14) reported that standard protocols used by the AGFD for Apache trout renovations at that time required two applications of piscicide before repatriating native fish to a stream, waiting a season to see if the renovation was successful, and then continuing to renovate if necessary. Past protocols have included goals for the renovated water body to remain fishless for extended periods, sometimes up to an entire year before restocking (Carpenter and Terrell 2005, p. 14). At a minimum and according to our files, reaches of Big Bonito Creek, the West Fork Black River, West Fork Gila River, Little Creek, and O'Donnell Creek have all been subject to fish renovations using these or similarly accepted protocols (Carpenter and Terrell 2005; Table 6; Paroz and Propst 2009, p. 4; Hellekson 2012a, pers. comm.). Therefore, northern Mexican or narrow-headed gartersnake populations in these streams have likely been negatively affected, due to the eradication of a portion of, or their entire, prey base in these systems for varying periods of time. Big Bonito Creek was restocked with salvaged native fish shortly after renovation occurred. However, we are uncertain how long other stream reaches remained fishless post-treatment, but it was likely to be a minimum of weeks in each instance, and possibly a year or longer in some instances.

Although significant efforts are generally made to salvage as many native fish as possible prior to treatment, logistics of holding fish for several weeks prior to restocking limit the number of individuals that can be held safely. Therefore, not every individual fish is salvaged, and native fish remaining in the stream are subsequently lost during the treatment. The number of fish subsequently restocked is, therefore, smaller than the number of fish that were present prior to the treatment. The full restoration of native fish populations to pre-treatment levels may take several years, depending on the size of the treated area and the size and maturity of the founding populations. Restocking salvaged fish in the fall may allow natural spawning and recruitment to begin in the spring, which would provide a more immediate benefit to resident gartersnake populations.

Several streams within the distribution of narrow-headed gartersnakes in New Mexico have been identified for potential future fish barrier construction, for which piscicide applications are likely necessary. These streams include Little Creek, West Fork Gila River, Middle Fork Gila River, Turkey Creek, Saliz Creek, Dry Blue Creek, Iron Creek, and the San Francisco River (Riley and Clarkson 2005, pp. 4–5, 7, 9, 12; Clarkson and Marsh 2012, p. 8; 2013, pp. 1, 4, 6; Hellekson 2013, pers. comm.). Of these, the Middle Fork Gila River and Turkey Creek appear to the most likely chosen for renovation (Clarkson and Marsh 2013, p. 8). Mule Creek and Cienega Creek, both occupied by northern Mexican gartersnakes, as well as Whitewater Creek (occupied by narrow-headed gartersnakes), are under consideration but ultimately may not be chosen (Clarkson and Marsh 2013, pp. 8–9). Haigler Creek (occupied by narrow-headed gartersnakes) is planned for renovation in 2015 (Burger and Jeager 2013, p. 2) and barrier development.

The current standard operating procedures for piscicide application, as adopted nationally and provided in Finlayson *et al.* (2010, p. 23), provide guidance for assuring that nontarget, baseline environmental conditions (the biotic community) are accounted for in assessing whether mitigation measures are necessary. This procedural protocol states, ''Survival and recovery of the aquatic community may be demonstrated by sampling plankton, macroinvertebrates (aquatic insects, crustacea, leeches, and mollusks), and amphibians (frogs, tadpoles, and larval and adult salamanders)'' (Finlayson *et al.* 2010, p. 23). This protocol, adopted by the AGFD (see AGFD 2012a), does not in itself consider the effects of leaving a treated water body without a prey base for a sensitive species much less for a fish-specialist, such as the narrow-headed gartersnake, for extended periods of time. However, the AGFDs' internal Environmental Assessment Checklist (EAC) addresses considerations for nontarget aquatic reptiles. Thus, we believe that concerns for potential effects of piscicide treatments on these gartersnake species within Arizona should not be substantial in the future.

As of 2012, a new policy was finalized by the AGFD that includes an early and widespread public notification and planning process that involves the approval of several decision-makers within four major stages: (1) Piscicide project internal review and approval; (2) preliminary planning and public involvement; (3) intermediate planning and public involvement; and (4) project implementation and evaluation (AGFD 2012a, p. 3). Within the Internal Review and Approval stage of the process, sensitive, endemic, and listed species potentially impacted by the project must be identified (AGFD 2012a, p. 13), such as northern Mexican or narrow-headed gartersnakes. This change ensures that an analysis of potential effects to nontarget wildlife by fisheries management activities occurs within the same planning document, versus a separate process. In addition, the AGFD's Conservation and Mitigation Program has specifically committed to quickly restocking renovated streams that are occupied by either northern Mexican or narrow-headed gartersnakes (USFWS 2011, Appendix C).

Piscicide application protocols used by the New Mexico Department of Game and Fish are provided in Pierce (2014,

entire) and specify that effects to amphibian species are reviewed prior to application; however, the protocol does not provide for an assessment of potential gartersnake effects from treatment. No specific timeframe, post-treatment, was recommended by the protocol for when native fish are recommended for stocking into treated waters (Pierce 2014, pers. comm.). We intend to coordinate with the New Mexico Department of Game and Fish as active partners in wildlife conservation to ensure potential effects, from piscicide treatments, to either gartersnake are avoided or minimized. However, if proper protocols are not incorporated into future fish restoration projects, these activities will continue to threaten local gartersnake populations.

Mechanical Methods—In addition to chemical renovation techniques, mechanical methods using electroshocking equipment are often used in fisheries management, both for nonnative aquatic species removal and fisheries survey and monitoring activities that often occur in conjunction with piscicide treatments. Northern Mexican and narrow-headed gartersnakes often flee into the water as a first line of defense when startled. In occupied habitat, gartersnakes present in the water and within the affected radius of electroshockers are often temporarily paralyzed from electrical impulses intended for fish, and are, therefore, readily detected by surveyors (Hellekson 2012a, pers. comm.). We are not aware of any research that has investigated potential short- or long-term consequences to gartersnakes from these events, and so we do not consider electroshock surveys as a substantial threat to either gartersnake.

Trapping methods are also used in fisheries surveys, for other applications in aquatic species management, and for the collection of live baitfish in recreational fishing. One such common method to study aquatic or semi-aquatic wildlife (including populations of aquatic snakes such as gartersnakes) is through the use of wire minnow traps. When used to monitor gartersnake populations, wire minnow traps are anchored to vegetation, logs, etc., along the shoreline (in most applications) and positioned so that half to one-third of the trap, along its lateral line, is above the water surface to allow snakes to surface for air. These traps often attract prey species, such as small fishes and amphibian larvae (when present), and, therefore, become self-baiting. They are then checked according to a predetermined schedule. Because the wire, twine, etc., used to anchor these traps is fixed in length, these traps may become fully submerged if there is a sudden, unanticipated rise in water levels (e.g., storm event). During the monsoon in Arizona and New Mexico, these types of storm events are common, and river hydrographs respond accordingly with rapid and dynamic increases in flow.

We are aware of examples where northern Mexican gartersnakes, intentionally captured in minnow traps, have drowned as a direct result of a rapid, unexpected rise in water levels. Some examples include an adult female northern Mexican gartersnake along lower Tonto Creek in 2004, an adult and two neonates at the Bubbling Ponds State Fish Hatchery in 2009 and 2010, respectively, and an individual of undisclosed age in the upper Santa Cruz River (Holycross *et al.* 2006, p. 41, Boyarski 2011, pp. 2–3; Lashway 2012, p. 5). In another example, involving an underwater funnel trap used to survey for lowland leopard frogs (but which are not used for fishery surveys), a large adult female northern Mexican gartersnake was discovered deceased in the trap (Jones 2012a, pers. comm.). Death of that individual was likely due to drowning or predation by numerous crayfish that were also confined in the funnel trap with the gartersnake (Jones 2012a, pers. comm.). Depending on the mesh size of traps, neonatal gartersnakes can become stuck in the mesh of traps (Lashway 2012, p. 5), which could result in injury or death of the individual. There are likely additional cases where northern Mexican or narrow-headed gartersnake fatality from trapping has not been reported, particularly where trapping has occurred in occupied habitat prone to flash flooding.

Minnow traps are often deployed for monitoring fully aquatic species, such as fish, and are, therefore, intentionally positioned in the water column where they are fully under water. Traps used for this purpose may be checked less frequently, because risks to gill-breathing aquatic species are less if held in the trap for longer periods of time. As fish collectively become trapped, the trap becomes incidentally self-baited for gartersnakes and, if deployed in habitat occupied by either northern Mexican or narrow-headed gartersnakes, these traps may accidentally attract, capture, and drown gartersnakes that are actively foraging under water and are lured to the traps because of captured prey species. Neonatal northern Mexican and narrow-headed gartersnakes can also wriggle through the mesh of some wire minnow traps and become lodged halfway through, depending on the pore size of the wire mesh (Jaeger 2012, pers. comm.). If not found in time, this situation would likely result in their death from drowning, predation, or exposure.

The use of minnow traps is also allowed in recreational fishing in Arizona and New Mexico (AGFD 2013a, p. 57; New Mexico Department of Game and Fish (NMDGF) 2013, p. 17). In Arizona and New Mexico, it is lawful to set minnow traps for the collection of live baitfish (AGFD 2013a, pp. 56–57; NMDGF 2013, p. 17). In Arizona, minnow traps used for collecting live baitfish must be checked once daily and the trapping activity must occur where captured bait will be used (AGFD 2013a, pp. 56–57); in New Mexico, there is no stipulation on time intervals in the regulations to check minnow traps (NMDGF 2013, p. 17). In either scenario in either state, these minnow traps are likely to be fully submerged when in use and pose a drowning hazard to resident gartersnakes while foraging underwater, as they can be lured into the traps by fish already caught.

We do not have adequate information to assess the frequency and geographical extent to which accidental drownings of gartersnakes in minnow traps may be occurring. This is mainly because it happens incidentally as a result of trapping efforts for other species, and so it historically did not get reported by researchers. Without additional information, we cannot conclude at this time that deaths from accidental minnow trapping are likely having population-level effects on either gartersnake. However, if even a few adult females are lost from populations that already have low densities and low rates of recruitment, these losses would contribute to population extirpations and the continued decline in the status of the gartersnakes. Working with researchers in the future to minimize the chances of snake drownings and to report any incidental collections of gartersnakes will be important for future conservation of both species.

Intentional Dewatering—Lastly, dewatering or water fluctuation techniques are sometimes considered for eliminating undesirable fish species from water bodies (Finlayson *et al.* 2010, p. 4). Dewatering of occupied northern Mexican or narrow-headed gartersnake habitat would have deleterious effects to affected populations by removing a primary habitat feature and eliminating the prey base. Because northern Mexican gartersnakes often occupy lentic water bodies or intermittently watered canyon bottoms, where this practice is most feasible, effects of dewatering activities may disproportionately affect that

species. This technique is being considered by the AGFD for pools within Redrock Canyon where northern Mexican gartersnakes could be adversely affected. We have been made aware that northern Mexican gartersnakes are being considered by the AGFD in their implementation planning process. Depending on the availability of suitable habitat regionally and the length of time water is absent, these activities may ultimately cause local extirpations of gartersnake populations.

Summary

In our review of the scientific and commercial literature, we have found that over time, native aquatic communities, specifically the native prey bases for northern Mexican and narrow-headed gartersnakes, have been substantially weakened as a result of the cumulative effects of disease and harmful nonnative species. Harmful nonnative species have been intentionally introduced or have naturally dispersed into virtually every subbasin throughout the distribution of northern Mexican and narrow-headed gartersnakes in the United States and Mexico. According to Geographic Information System (GIS) analyses, nonnative, predatory fish are known to occur in 90 percent of the historical distribution of the northern Mexican gartersnake and 85 percent of the historical distribution of the narrow-headed gartersnake in the United States. Bullfrogs are known to occur in 85 percent of the historical distribution of the northern Mexican gartersnake and 53 percent of the historical distribution of the narrow-headed gartersnake in the United States. Crayfish are known to occur in 77 percent of the historical distribution of the northern Mexican gartersnake and 75 percent of the historical distribution of the narrow-headed gartersnake in the United States. Nonnative, predatory fish, bullfrogs, and crayfish are known to occur simultaneously in 65 percent of the historical distribution of the northern Mexican gartersnake and 44 percent of the historical distribution of the narrow-headed gartersnake in the United States.

Native fish are important prey for northern Mexican gartersnakes but much more so for narrow-headed gartersnakes. Predation by and competition with primarily nonnative, predatory fish species, and secondarily with brown trout and crayfish, are widely considered to be the primary reason for major declines in native fish communities throughout the range of both gartersnakes. In Arizona, 19 of 31 (61 percent) of all native fish species are listed under the Act. Consequently, Arizona ranks the highest of all 50 States in the percentage of native fish species with declining trends (85.7 percent). Similar trends in the loss of native fish biodiversity have been described in New Mexico and Mexico. Native amphibians such as the Chiricahua leopard frog, an important component of the northern Mexican gartersnake prey base, have declined significantly and may face future declines as a result of Bd and harmful nonnative species. Historical native frog populations have been wholly replaced by harmful nonnative species, both on local and regional scales. These declines have directly contributed to subsequent northern Mexican gartersnake population declines or extirpations in these areas. An adequate native prey base is essential to the conservation and recovery of northern Mexican gartersnakes, and this native ranid frog prey base faces an uncertain future if harmful nonnative species continue to persist and expand their distributions in occupied habitat.

The best available commercial and scientific information confirms that harmful nonnative species are the most important threat to northern Mexican and narrow-headed gartersnakes and their prey bases, and they have had a profound role in their decline. A large body of literature documents that northern Mexican and narrow-headed gartersnakes are uniquely susceptible to the influence of harmful nonnative species in their biotic communities. This sensitivity is largely the result of complex ecological interactions that result in direct predation on gartersnakes; shifts in biotic community structure from largely native to largely nonnative; and competition for a diminished prey base that can ultimately result in the injury, starvation, or death of northern Mexican or narrow-headed gartersnakes followed by reduced recruitment, population declines, and extirpations.

Lastly, fisheries management activities can have negative effects on gartersnake populations when gartersnakes are not considered in project planning and implementation. The use of rotenone and other fisheries management techniques are important in the conservation and recovery of native fish. However, significant threats can occur if streams are left without an intact fish community for extended periods of time. New policies and mitigation measures have been developed in Arizona that will reduce the likelihood of these activities having negative effects on either northern Mexican or narrow-headed gartersnake populations in the future. However, some level of effect is still expected based on logistical complications and complexities of restoring fish populations to pre-treatment levels. We expect to coordinate with resource managers in New Mexico as we do in Arizona, to ensure gartersnake populations are not significantly affected by these activities. However, if proper protocols are not incorporated into future fish restoration projects, these activities will continue to threaten local gartersnake populations. Other mechanisms or activities used in fisheries management, such as electroshocking, trapping, or dewatering, can result in the injury or death of northern Mexican or narrow-headed gartersnakes, where these activities coincide with extant populations, and if they have not been considered in the planning or implementation processes. The significance of these losses depends on the status of the gartersnake population affected and whether or not either gartersnake, as appropriate, was considered in project planning. If similar fisheries management techniques are used in Mexico, we conclude that the northern Mexican gartersnake populations in Mexico are threatened by the same mechanisms described above.

The presence of harmful nonnative species ultimately affects where northern Mexican and narrow-headed gartersnakes can live as viable populations. Collectively, the ubiquitous presence of harmful nonnative species across the landscape has appreciably reduced the quantity of suitable gartersnake habitat and changed its spatial orientation on the landscape. Most northern Mexican and narrow-headed gartersnake populations, even some considered viable today, live in the presence of harmful nonnative species. While they continue to persist, they do so under constant threat from unnatural levels of predation and competition associated with harmful nonnative species. This weakens their resistance to other threats, including those that affect the physical suitability of their habitat (discussed below). This ultimately renders populations much less resilient to stochastic, natural, or anthropogenic stressors that could otherwise be withstood. Over time and space, subsequent population declines have threatened the genetic representation of each species because many populations have become disconnected and isolated from neighboring populations. Expanding distances between extant populations coupled with increasing populations of

harmful nonnative species prevents normal colonizing mechanisms that would otherwise reestablish populations where they have become extirpated. This subsequently leads to a reduction in species redundancy when isolated, small populations are at increased vulnerability to the effects of stochastic events, without a means for natural recolonization. Ultimately, the effect of scattered, small, and disjunct populations, without the means to naturally recolonize, is weakened species resiliency as a whole, which ultimately enhances the risk of either or both species becoming endangered.

Therefore, based on the best available scientific and commercial information, we conclude that harmful nonnative species are the most significant threat to both the northern Mexican and narrow-headed gartersnake, rangewide. We expect the impacts from harmful nonnative species to only increase in the foreseeable future. The effects of these threats on both gartersnakes have resulted in the extirpation of a few populations already and the decline in abundance in the vast majority of populations, so we expect the results of continuing decline of the gartersnakes, in terms of additional population losses and increased risk of extinction in the foreseeable future, which we consider as the next several decades.

Main Factors That Destroy or Modify the Physical Habitat of Northern Mexican and Narrow-Headed Gartersnakes (Factor A)

Relationship Between Harmful Nonnative Species and Adverse Effects to Physical Habitat (Northern Mexican and Narrow-headed Gartersnakes)

The presence or absence of harmful nonnative species in occupied gartersnake habitat affects the tolerance, or sensitivity, of gartersnake populations to factors or activities that threaten to modify or destroy components of their physical habitat. When we use the term ''physical habitat,'' we refer to the structural integrity of aquatic and terrestrial components to habitat, such as plant species richness and density, available water, stream banks and substrates, and any habitat feature that does not pertain to the animal community, which we also define as a habitat component. The animal community (the prey and predator species that co-occur within habitat) is not considered in our usage of ''physical habitat,'' for reasons described immediately below. In the presence of harmful nonnative species, gartersnake populations are more sensitive to alterations in their physical habitat. In the absence of harmful nonnative species, gartersnake populations have shown resiliency, or tolerance, to changes in their physical habitat.

As discussed above, we found harmful nonnative species to be a significant and widespread factor that continues to drive further declines in and extirpations of gartersnake populations. Furthermore, we found various activities have affected, and continue to affect, primary components of the physical habitat required by northern Mexican and narrow-headed gartersnakes, even when the potential impact of harmful nonnatives is absent. These activities, such as dams, water diversions, groundwater pumping, and residential and commercial development, result in the loss of stream flow. The period from 1850 to 1940 marked the greatest loss and degradation of riparian and aquatic communities in Arizona, many of which were caused by anthropogenic (human-caused) land uses (Stromberg *et al.* 1996, p. 114; Webb and Leake 2005, pp. 305–310). An estimated one-third of Arizona's wetlands has dried or is no longer suitable (Yuhas 1996, entire). However, not all aquatic and riparian habitats in the United States that support northern Mexican or narrow-headed gartersnakes have been degraded or lost. Despite the loss or modification of aquatic and riparian habitat, large reaches of the Verde, Salt, San Pedro, and Gila Rivers, as well as several of their tributaries, remain functionally suitable as physical habitat for either gartersnake species.

Our treatment of how the loss or modification of physical habitat may affect the northern Mexican or narrow-headed gartersnake is based, in part, on recent observations made in Mexico that illustrate the relationship of gartersnakes' physical habitat suitability to the presence of native prey species and the lack of harmful nonnative species, and the presence, or lack thereof, of attributes associated with these gartersnakes' physical habitat. In 2007, two groups consisting of agency biologists (including U.S. Fish and Wildlife Service staff), species experts, and field technicians conducted numerous gartersnake surveys in Durango and Chihuahua, Mexico (Burger 2007, p. 1; Burger *et al.* 2010, entire).

While considerable gartersnake habitat in Mexico is affected by the presence of harmful nonnative species (Conant 1974, pp. 471, 487–489; Contreras Balderas and Lozano 1994, pp. 383–384; Unmack and Fagan 2004, p. 233; Miller *et al.* 2005, pp. 60–61; Rosen and Melendez 2006, p. 54; Luja and Rodríguez-Estrella 2008, pp. 17–22), Burger (2007, pp. 1–72) surveyed several sites in remote areas that appeared to be free of nonnative species. In some sites, the physical habitat for northern Mexican gartersnakes and similar species of gartersnakes appeared to be in largely good condition, but few or no gartersnakes were detected. At other sites, the physical habitat was drastically affected by overgrazing, rural development, or road crossings; however, gartersnakes were relatively easily detected, indicating seemingly adequate population densities, but we do not have the necessary data to calculate population trends at sampled localities. Inversely, gartersnake habitat in Arizona and New Mexico is in relatively better physical condition compared to observations of these habitats made in Durango and Chihuahua, Mexico. However, harmful nonnative species are essentially ubiquitous in the southwestern United States, based on our literature review and GIS modeling. Several sites visited by Burger (2007, pp. 1–72) in Durango and Chihuahua, Mexico, had physical habitat in poor to very poor condition, but were largely free of nonnative species. These situations are rarely encountered in Arizona and New Mexico and, therefore, provided Burger (2007, entire) a unique opportunity to examine differences in gartersnake population densities based on condition of the physical habitat, without the confounding effect of harmful nonnative species on resident gartersnake populations.

Our observations of gartersnake populations in Mexico provide evidence for the relative importance of native prey species and the lack of nonnative species in comparison to the physical attributes of gartersnake habitat. For example, Burger (2007, pp. 6, 12, 36, 41, 58, 63) detected moderate to high densities of gartersnakes at six sites where their physical habitat was moderately to highly impacted by land uses but were largely free of nonnatives. Burger (2007, pp. 18, 26, 32, 61, 64, 66, 67, 69, 72) also detected either low densities or no gartersnakes at nine sites where the physical habitat was in moderate to good condition but where nonnative species were detected. Eight streams surveyed by Burger (2007, pp. 15, 22, 46, 49, 51–52, 54, 62) had little to no surface flow, were without fish detections and had few to no gartersnake observations. As a result, we have formulated three general hypotheses: (1) Northern Mexican and narrow-headed gartersnakes may be

more resilient to adverse effects to physical habitat in the absence of harmful nonnative species and, therefore, more sensitive to negative effects to physical habitat in the presence of harmful nonnative species; (2) the presence of an adequate prey base is important for persistence of gartersnake populations regardless of whether or not harmful nonnative species are present; and (3) detections and effects from harmful nonnative species appear to decrease from north to south in the Mexican states of Chihuahua and Durango (from the United States–Mexico International Border), as discussed in Unmack and Fagan (2004, pp. 233–243).

Based on field data collected by Burger (2007, entire), Burger *et al.* (2010, entire), and on the above hypotheses, we evaluated effects to physical habitat in the context of the presence or absence of nonnative species. Effects to the physical habitat of gartersnakes can have varying effects on the gartersnakes themselves depending on the composition of their biotic community. In the presence of harmful nonnative species, effects to physical habitat, especially those that diminish or weaken the gartersnake prey base, are believed to be comparatively more significant than those that do not. As previously discussed, harmful nonnative species are essentially ubiquitous in Arizona and New Mexico where the northern Mexican and narrow-headed gartersnakes occur and, therefore, exacerbate the effects from activities or factors that modify or destroy their physical habitat.

Altering or Dewatering Aquatic Habitat (Northern Mexican and Narrow-headed Gartersnakes)

Dams and Diversions (Northern Mexican and Narrow-headed Gartersnakes)—The presence of water is critical for northern Mexican and narrow-headed gartersnakes, as well as their prey base. Activities that reduce flows or dewater habitat, such as dams, diversions, flood-control projects, and groundwater pumping, seriously threaten the physical habitat of the gartersnakes, because both fish and amphibians must have water to survive and reproduce and without this prey base, gartersnakes cannot persist. Such activities are widespread in Arizona. For example, municipal water use in central Arizona increased by 39 percent from 1998 to 2006 (American Rivers 2006), and at least 35 percent of Arizona's perennial rivers have been dewatered, assisted by approximately 95 dams that are in operation in Arizona today (Turner and List 2007, pp. 3, 9). Larger dams may prevent movement of fish between populations (which affects prey availability for northern Mexican and narrow-headed gartersnakes) and dramatically alter the flow regime of streams through the impoundment of water (Ligon *et al.* 1995, pp. 184–189). These diversions also require periodic maintenance and reconstruction, resulting in potential habitat damages and inputs of sediment into the active stream.

Flow regimes within stream systems are a primary factor that shape fish community assemblages. The timing, duration, intensity, and frequency of flood events has been altered to varying degrees by the presence of dams, which has an effect on fish communities (Rinne *et al.* 1998, pp. 8–10; 2005, p. 2). Specifically, Haney *et al.* (2008, p. 61) suggested that flood pulses may help to reduce populations of nonnative species, and efforts to increase the baseflows may assist in sustaining native prey species for northern Mexican and narrow-headed gartersnakes. However, the investigators in this study also suggest that, because the northern Mexican gartersnake preys on both fish and frogs, it may be less affected by reductions in baseflow of streams (Haney *et al.* 2008, pp. 82, 93). The effect of regulated flow regimes on the fish community in the Bill Williams River was studied by Pool and Olden (2014 *In press,* p. 5), who found the presence of Alamo Dam having a negative effect on native fish, while benefitting harmful nonnative species, which now account for the majority of the fish fauna, in terms of species composition and relative biomass, in the Bill Williams River.

Other streams that are not dammed in the same watershed still reflect a largely native fish community due to the presence of a natural flow regime (Pool and Olden 2014 *In press,* pp. 5–6). Collier *et al.* (1996, p. 16) mentions that water development projects are one of two main causes for the decline of native fish in the Salt and Gila rivers of Arizona. Unregulated flows with elevated discharge events favor native species, and regulated flows, absent significant discharge events, favor nonnative species (Propst *et al.* 2008, p. 1246). Interactions among native fish, nonnative fish, and flow regimes were observed in the upper reaches of the East Fork of the Gila River. Prior to the 1983 and 1984 floods in the Gila River system, native fish occurrence was limited, while nonnative fish were moderately common. Following the 1983 flood event, adult nonnative predators were generally absent, and native fish were subsequently collected in moderate numbers in 1985 (Propst *et al.* 1986, p. 83). These relationships are most readily observed in canyon-bound streams, where shelter sought by nonnative species during large-scale floods is minimal (Propst *et al.* 2008, p. 1249). Propst *et al.* (2008, p. 1246) also suggested the effect of nonnative fish species on native fish communities may be most significant during periods of natural drought (simulated by artificial dewatering).

Effects from flood control projects threaten riparian and aquatic habitat, as well as threaten the northern Mexican gartersnake directly in lower Tonto Creek. Kimmell (2008, pers. comm.), Gila County Board of Supervisors (2008, pers. comm.), Trammell (2008, pers. comm.), and Sanchez (2008, pers. comm.) all discuss a growing concern of residents that live within or adjacent to the floodplain of Tonto Creek in Gila County, Arizona, both upstream and downstream of the town of Gisela, Arizona. Specifically, there is growing concern to address threats to private property and associated infrastructure posed by flooding of Tonto Creek (Sanchez 2008, pers. comm.). An important remaining population of northern Mexican gartersnakes within the Salt River subbasin occurs on Tonto Creek. In Resolution No. 08–06–02, the Gila County Board of Supervisors proactively declared a state of emergency within Gila County as a result of the expectation for heavy rain and snowfall causing repetitive flooding conditions (Gila County Board of Supervisors 2008, pers. comm.). In response, the Arizona Division of Emergency Management called meetings and initiated discussions among stakeholders in an attempt to mitigate these flooding concerns (Kimmell 2008, pers. comm., Trammell 2008, pers. comm.).

Mitigation measures that have been discussed include removal of riparian vegetation, removal of debris piles, potential channelization of Tonto Creek, improvements to existing flood control structures or addition of new structures, and the construction of new bridges. Adverse effects from these types of activities to aquatic and riparian habitat, and to the northern Mexican gartersnake or its prey species, will result from the physical alteration or destruction of habitat, significant increases to flow velocity, and removal of key foraging habitat and areas to hibernate, such as debris jams. Specifically, flood control projects permanently alter stream flow characteristics and have the potential to make the stream unsuitable as habitat for the northern Mexican gartersnake by reducing or eliminating stream sinuosity

and associated pool and backwater habitats that are critical to northern Mexican gartersnakes and their prey species. Threats presented by these flood control planning efforts are considered imminent within the next decade because high flows associated with the monsoon are expected to increase in both intensity and frequency according to climate change predictions, as discussed below in the section ''Climate Change and Drought.''

Many streams in New Mexico, currently or formerly occupied by northern Mexican or narrow-headed gartersnakes, have been or could be affected by water withdrawals. Approximately 9.5 river mi (15.3 km) of the Gila River mainstem in New Mexico, from Little Creek to the Gila Bird Area, are in private ownership and have been channelized, and the water is largely used for agricultural purposes (Hellekson 2012a, pers. comm.). Below the Highway 180 crossing of the mainstem Gila River, several water diversions have reduced stream flow (Hellekson 2012a, pers. comm.). Channelization has also affected a privately owned reach of Whitewater Creek from the Catwalk downstream to Glenwood, New Mexico (Hellekson 2012a, pers. comm.). The Gila River downstream of the town of Cliff, New Mexico, flows through a broad valley where irrigated agriculture and livestock grazing are the predominant uses. Human settlement has increased since 1988 (Propst *et al.* 2008, pp. 1237–1238). Agricultural practices have led to dewatering of the river in the Cliff-Gila valley at times during the dry season (Soles 2003, p. 71). For those portions of the Gila River downstream of the Arizona–New Mexico border, agricultural diversions and groundwater pumping have caused declines in the water table, and surface flows in the central portion of the river basin are diverted for agriculture (Leopold 1997, pp. 63–64; Tellman *et al.* 1997, pp. 101–104).

The San Francisco River in New Mexico has undergone sedimentation, riparian habitat degradation, and extensive water diversion, and at present has an undependable water supply throughout portions of its length (Hellekson 2012a, pers. comm.; 2013, pers. comm.). The San Francisco River is seasonally dry in the Alma Valley, and two diversion structures fragment habitat in the upper Alma Valley and at Pleasanton (NMDGF 2006, p. 302). An approximate 2-stream-mi (3.2-km) reach of the lower San Francisco River between the Glenwood Diversion and Alma Bridge, which would otherwise be good narrow-headed gartersnake habitat, has been completely dewatered by upstream diversions (Hellekson 2012a, pers. comm.).

Additional withdrawals of water from the Gila and San Francisco Rivers may occur in the next several decades as the effects of drought and human population levels increase. Implementation of Title II of the Arizona Water Settlements Act (AWSA) (Public Law 108–451) would facilitate the exchange of Central Arizona Project water within and between southwestern river basins in Arizona and New Mexico, and may result in the construction of new water development projects. Section 212 of the AWSA pertains to the New Mexico Unit of the Central Arizona Project. The AWSA provides for New Mexico water users to deplete 14,000 acre-feet of additional water from the Gila Basin in any 10-year period. The settlement also provides the ability to divert that water without complaint from downstream pre-1968 water rights in Arizona. New Mexico will receive $66 million to $128 million in non-reimbursable Federal funding. The Interstate Stream Commission (ISC) funds may be used to cover costs of an actual water supply project, planning, environmental mitigation, or restoration activities associated with or necessary for the project, and may be used on one or more of 15 alternative projects ranging from Gila National Forest San Francisco River Diversion/Ditch improvements to a regional water supply project (the Deming Diversion Project). Currently, 3 of the 15 projects under consideration include elements of diversion or storage. At this time, it is not known how the funds will be spent or which potential alternatives may be chosen. While multiple potential project proposals have been accepted by the New Mexico Office of the State Engineer (NMOSE) (NMOSE 2011a, p. 1), implementation of the AWSA is still in the planning stages on these streams, and final notice is expected by the end of 2014. Should water be diverted from the Gila or San Francisco Rivers, flows would be diminished and direct and indirect losses and degradation of habitat for the narrow-headed gartersnake and its prey species would result.

In addition to affecting the natural behavior of streams and rivers through changes in timing, intensity, and duration of flood events, dams create reservoirs that alter resident fish communities (Paradzick *et al.* 2006, entire). Water level fluctuation can affect the degree of benefit to harmful nonnative fish species. Reservoirs that experience limited or slow fluctuations in water levels are especially beneficial to harmful nonnative species whereas reservoirs that experience greater fluctuations in water levels provide less benefit for harmful nonnative species (Paradzick *et al.* 2006, entire). The timing of fluctuating water levels contributes to their effect; a precipitous drop in water levels during harmful nonnative fish reproduction is most deleterious to their recruitment (Paradzick *et al.* 2006, entire). A drop in water levels outside of the reproductive season of harmful nonnative species has less effect on overall population dynamics (Paradzick *et al.* 2006, entire). Large dams can also act as fish barriers, which prevent upstream migration of harmful nonnative fish that occur downstream of these structures.

The cross-sectional profile of any given reservoir also contributes to its benefit for harmful nonnative fish species (Paradzick *et al.* 2006, entire). Shallow reservoir profiles generally provide maximum space and elevated water temperatures favorable to reproduction of harmful nonnative species, while deep reservoir profiles, with limited shallow areas, provide commensurately less benefit (Paradzick *et al.* 2006, entire). Examples of reservoirs that benefit harmful nonnative species, and therefore adversely affect northern Mexican and narrow-headed gartersnakes (presently or historically), include Horseshoe and Bartlett Reservoirs on the Verde River, and Roosevelt, Saguaro, Canyon, and Apache Lakes on the Salt River. The Salt River Project (SRP) operates the previously mentioned reservoirs on the Verde and Salt Rivers and, in the case of Horseshoe and Bartlett Reservoirs, received section 10(a)(1)(B) take authorization under the Act for adverse effects to several avian and aquatic species (including northern Mexican and narrow-headed gartersnakes) through a comprehensive threat minimization and mitigation program found in SRP's habitat conservation plan (SRP 2008, entire). There is no such minimization and mitigation program developed for the operation of Lake Roosevelt, where comparatively limited fluctuation in reservoir levels benefit harmful nonnative species and negatively affect northern Mexican or narrow-headed gartersnakes and their prey bases in Tonto Creek. A detailed analysis of the effects of reservoir operations on aquatic communities is provided in our intra-Service biological and conference opinion provided in USFWS (2008, pp. 112–131).

The Effect of Human Population Growth and Development on Water Demands and Gartersnake Habitat (Northern Mexican and Narrow-headed

Gartersnakes)—Arizona's population is expected to double from 5 million to 10 million people by the year 2030, which will put increasing pressure on water demands (Overpeck 2008, entire). Arizona increased its population by 474 percent from 1960 to 2006 (Gammage 2008, p. 15) and is second only to Nevada as the fastest growing State in terms of human population (Social Science Data Analysis Network (SSDAR) (2000, p. 1). Over approximately the same time period, population growth rates in Arizona counties where northern Mexican or narrow-headed gartersnake habitat exists have varied by county but are no less remarkable, and all are increasing: Maricopa (463 percent); Pima (318 percent); Santa Cruz (355 percent); Cochise (214 percent); Yavapai (579 percent); Gila (199 percent); Graham (238 percent); Apache (228 percent); Navajo (257 percent); Yuma (346 percent); LaPaz (142 percent); and Mohave (2,004 percent) (SSDAR 2000, entire). From 1960 to 2006, the Phoenix metropolitan area alone grew by 608 percent, and the Tucson metropolitan area grew by 356 percent (Gammage 2008, p. 15). Population growth in Arizona is expected to be focused along wide swaths of land from the international border in Nogales, through Tucson, Phoenix, and north into Yavapai County (called the Sun Corridor ''Megapolitan'') and is predicted to have 8 million people by 2030, an 82.5 percent increase from 2000 (Gammage et al. 2008, pp. 15, 22–23). If build-out occurs as expected, it could indirectly affect (through increased recreation pressure and demand for water) currently occupied habitat for the northern Mexican or narrow-headed gartersnake, particularly regional populations in lower Cienega Creek near Vail, Arizona, and the Verde Valley, and, to a lesser extent, Red Rock Canyon in extreme south-central Arizona.

The effect of the increased water withdrawals may be exacerbated by the current, long-term drought facing the arid southwestern United States, which is predicted to continue. The effect of long-term drought has already been observed in the Southwest. Philips and Thomas (2005, pp. 1–4) provided stream flow records that indicate that the drought Arizona experienced between 1999 and 2004 was the worst drought since the early 1940s and possibly earlier. The Arizona Drought Preparedness Plan Monitoring Technical Committee (ADPPMTC) (2012) determined the drought status within the Arizona distributions of northern Mexican and narrow-headed gartersnakes, through June 2012, to be in ''severe drought.'' Ongoing drought conditions have depleted recharge of aquifers and decreased base flows in the region. While drought periods have been relatively numerous in the arid Southwest from the mid-1800s to the present, the effects of human-caused impacts on riparian and aquatic communities have compromised the ability of these communities to function under the additional stress of prolonged drought conditions. Below we further discuss the effect of climate change-induced drought in the future.

The Arizona Department of Water Resources (ADWR) manages water supplies in Arizona and has established five Active Management Areas (AMAs) across the State (ADWR 2006, entire). An AMA is established by ADWR when an area's water demand has exceeded the groundwater supply and an overdraft has occurred. In these areas, groundwater use has exceeded the rate where precipitation can recharge the aquifer, and these areas are subject to regulation pursuant to Arizona's Groundwater Code with a goal of balancing groundwater use with recharge (reaching safe yield) by the year 2025. Geographically, these five AMAs overlap the historical distribution of the northern Mexican or narrow-headed gartersnake, or both, in Arizona. The establishment of these AMAs further illustrates the condition of limited water availability for riparian habitat in these areas both currently and into the future, and they indicate a cause of concern for the long-term maintenance of northern Mexican and narrow-headed gartersnake habitat. These areas are already vulnerable to declines in surface and groundwater availability, and surface water may not be sustainable to support the gartersnakes' prey base. An overdraft of groundwater withdrawal creates what is referred to as a cone of depression within the groundwater. Reduced or eliminated surface flow can result in areas where these cones of depression intersect with stream alluvium (deposits in a valley a stream flows through).

The presence of surface water is a primary habitat component for northern Mexican and narrow-headed gartersnakes. Existing water laws in Arizona and New Mexico may not be fully adequate to protect gartersnake habitat from the dewatering effects of groundwater withdrawals. New Mexico water law now includes provisions for instream water rights to protect fish and wildlife and their habitats. Arizona water law also recognizes such provisions; however, because this change is relatively recent, instream water rights have low priority, and are often never fulfilled because more senior diversion rights have priority. Existing water laws are considered outdated and reflect a legislative interpretation of water resources that is not consistent with current scientific understanding of the hydrologic connection between groundwater and surface water (Gelt 2008, pp. 1–12).

Water for development and urbanization is often supplied by groundwater pumping and surface water diversions from sources that include reservoirs and Central Arizona Project's allocations from the Colorado River. As stated previously, groundwater pumping creates a cone of depression within the affected aquifer that slowly radiates outward from the well site. When the cone of depression intersects the hyporheic zone of a stream (the active transition zone between two adjacent ecological communities under or beside a stream channel or floodplain between the surface water and groundwater that contributes water to the stream itself), the surface water flow may decrease, and the subsequent drying of riparian and wetland vegetative communities can follow. Continued groundwater pumping at such levels draws down the aquifer sufficiently to create a water-level gradient away from the stream and floodplain (Webb and Leake 2005, p. 309). Complete disconnection of the aquifer and the stream results in strong negative effects to riparian vegetation (Webb and Leake 2005, p. 309) that result in a reduction or loss in surface water and riparian vegetation that can reduce or eliminate the local prey base that gartersnakes depend on for survival.

The arid southwestern United States is characterized by limited annual precipitation, which means limited annual recharge of groundwater aquifers; even modest changes in groundwater levels from groundwater pumping can affect above-ground stream flow as evidenced by depleted flows in the Santa Cruz, Verde, San Pedro, Blue, and lower Gila rivers as a result of regional groundwater demands (Stromberg *et al.* 1996, pp. 113, 124–128; Rinne *et al.* 1998, p. 9; Voeltz 2002, pp. 45–47, 69–71; Haney *et al.* 2009 p. 1). Groundwater demands are expected to reduce surface water flow in Arivaca Creek, Babocomari River, lower Cienega Creek, San Pedro River, upper Verde River, and Agua Fria River over the next several decades (Haney *et al.* 2009 p. 3, Table 2), which historically or currently support northern Mexican or narrow-headed gartersnake populations. If

surface flow is lost entirely from additional stress caused by drought induced by projected climate change in the Southwest, local or regional extirpations of both gartersnake species are likely to occur.

Water depletion is a concern for the Verde River (Garner *et al.* 2013, entire). For example, the City of Prescott, Arizona, experienced a 22 percent increase in population between 2000 and 2005 (U.S. Census Bureau 2010, p. 1), averaging around 4 percent growth per year (City of Prescott 2010, p. 1). In addition, the towns of Prescott Valley and Chino Valley experienced growth rates of 66 and 67 percent, respectively (Arizona Department of Commerce 2009a, p. 1; 2009b, p. 1). This growth is facilitated by groundwater pumping in the Verde River basin. In 2004, the cities of Prescott and Prescott Valley purchased a ranch in the Big Chino basin in the headwaters of the Verde River, with the intent of drilling new wells to supply up to approximately 5 million cubic meters (4,000 acre-feet (AF)) of groundwater per year. Barnett and Hawkins (2002, Table 4) reported population census data from 1970, as well as projections for 2030, for communities situated along the middle Verde River or within the Verde River subbasin as a whole, such as Clarkdale, Cottonwood, Jerome, and Sedona. From 1970–2000, population growth was recorded as Clarkdale (384 percent), Cottonwood (352 percent), Jerome (113 percent), and Sedona (504 percent) (Barnett and Hawkins 2002, Table 4). Projected growth in these same communities from 1970–2030 was tabulated at Clarkdale (620 percent), Cottonwood (730 percent), Jerome (292 percent), and Sedona (818 percent) (Barnett and Hawkins 2002, Table 4).

Garner *et al.* (2013, p. 5) found that the Verde Valley population grew 13 percent in 10 years from 63,000 in 2000 to 71,000 in 2010. These examples of documented and projected population growth within the Verde River subbasin indicate ever-increasing water demands that have impacted base flow in the Verde River and are expected to continue. The middle and lower Verde River has limited or no flow during portions of the year due to agricultural diversion and upstream impoundments, and it has several impoundments in its middle reaches, which could expand the area of impacted northern Mexican and narrow-headed gartersnake habitat. Blasch *et al.* (2006, p. 2) suggests that groundwater storage in the Verde River subbasin has already declined due to groundwater pumping and reductions in natural channel recharge resulting from stream flow diversions.

Scientific studies have shown a link between the Big Chino aquifer and spring flows that form the headwaters of the Verde River. It is estimated that 80 to 86 percent of baseflow in the upper Verde River comes from the Big Chino aquifer (Wirt 2005, p. G8). An in-depth discussion of the potential effects to the Verde River from pumping of the Big Chino Aquifer is available in Marder (2009, pp. 183–189). However, while these withdrawals could potentially dewater the upper 26 mi (42 km) of the Verde River (Wirt and Hjalmarson 2000, p. 4; Marder 2009, pp. 188–189), it is uncertain that this project will occur given the cost and administrative challenges it faces. An agreement in principle was signed among the Salt River Project, the City of Prescott, and Town of Prescott Valley to work toward resolution of water rights in the Verde watershed, and, in 2012, Comprehensive Agreement No. 1, which established monitoring and modeling plans, was entered into. Within the Verde River subbasin, and particularly within the Verde Valley, where the northern Mexican and narrow-headed gartersnakes could occur, several other activities continue to threaten surface flows (Rinne *et al.* 1998, p. 9; Paradzick *et al.* 2006, pp. 104–110).

Portions of the Verde River or its tributaries are permanently or seasonally dewatered by water diversions for agriculture (Paradzick *et al.* 2006, pp. 104–110). The demands for surface water allocations from rapidly growing communities and agricultural and mining interests have altered flows or dewatered significant reaches during the spring and summer months in some of the Verde River's larger, formerly perennial tributaries such as Wet Beaver Creek, West Clear Creek, and the East Verde River (Girmendonk and Young 1993, pp. 45–47; Sullivan and Richardson 1993, pp. 38–39; Paradzick *et al.* 2006, pp. 104–110), which may have supported either the northern Mexican or narrow-headed gartersnake, or both. Groundwater pumping in the Tonto Creek drainage regularly eliminates surface flows during parts of the year (Abarca and Weedman 1993, p. 2).

Further south in Arizona, portions of the once-perennial San Pedro River are now ephemeral, and water withdrawals are a concern for the San Pedro River (USGS 2013, p. 3). The Cananea Mine in Sonora, Mexico, owns the land surrounding the headwaters of the San Pedro. There is disagreement on the exact amount of water withdrawn by the mine, Mexicana de Cananea, which is one of the largest open-pit copper mines in the world. However, there is agreement that it is the largest water user in the basin (Harris *et al.* 2001, p. 213; Varady *et al.* 2000, p. 232). Along the upper San Pedro River, Stromberg *et al.* (1996, pp. 124–127) found that wetland herbaceous species, important as cover for northern Mexican gartersnakes, are the most sensitive to the effects of a declining groundwater level. Webb and Leake (2005, pp. 302, 318–320) described a correlative trend regarding vegetation along southwestern streams from historically being dominated by marshy grasslands preferable to northern Mexican gartersnakes, to currently being dominated by woody species that are more tolerant of declining water tables due to their deeper rooting depths. The cone of depression associated with regional groundwater pumping is expected to continue expanding its influence on surface flow in the San Pedro River over the next several decades, which is expected to further reduce surface flow in the river and negatively affect riparian vegetation (Stromberg *et al.* 1996, pp. 124–128).

Another primary groundwater user in the San Pedro subbasin is Fort Huachuca. Fort Huachuca is a U.S. Army installation located near Sierra Vista, Arizona. Initially established in 1877 as a camp for the military, the Fort has some of the earliest priority dates for water rights in the state (Varady *et al.* 2000, p. 230). Fort Huachuca has pursued a rigorous water use reduction plan, working over the past decade to reduce groundwater consumption in the Sierra Vista subbasin. Their efforts have focused primarily on reductions in groundwater demand both on-post and off-post and increased artificial and enhanced recharge of the groundwater system. Annual pumping from Fort Huachuca production wells has decreased from a high of approximately 3,200 AF in 1989, to a low of approximately 1,400 AF in 2005. In addition, Fort Huachuca and the City of Sierra Vista have increased the amount of water recharged to the regional aquifer through construction of effluent recharge facilities and detention basins that not only increase stormwater recharge but mitigate the negative effects of increased runoff from urbanization. The amount of effluent that was recharged by Fort Huachuca and the City of Sierra Vista in 2005 was 426 AF and 1,868 AF, respectively. During this same year, enhanced stormwater recharge at detention basins was estimated to be 129 AF. The total net effect of all the combined efforts initiated by Fort Huachuca has been to reduce the net groundwater

consumption by approximately 2,272 AF (71 percent) since 1989 (USFWS 2007b, pp. 41–42). Additional water conservation and recharge efforts have since been implemented by Fort Huachuca and have reduced the Fort's effect on baseflow in the upper San Pedro River to near zero, as analyzed in a recent section 7 consultation (see *http://www.fws.gov/southwest/es/arizona/Documents/Biol_Opin/120173_Fort%20HuachucaFINALBO_3.31.2014.pdf*).

Groundwater withdrawal in Eagle Creek, primarily for water supplying the large open-pit copper mine at Morenci, Arizona, dries portions of the stream (Sublette *et al.* 1990, p. 19; USFWS 2005; Propst *et al.* 1986, p. 7) that otherwise supports habitat for narrow-headed gartersnakes. Mining is the largest industrial water user in southeastern Arizona (ADWR Undated (accessed 2014), p. 62). The Morenci mine on Chase Creek is North America's largest producer of copper, covering approximately 24,281 hectares (ha) (60,000 acres (ac)). Water for the Morenci mine is pumped from the Black River as an inter-basin transfer via pipeline and open channel to Willow Creek, an east-flowing tributary to Eagle Creek, then downstream more than 30 stream miles (50 km) to a facility where water is withdrawn and pumped uphill to the mine in the adjacent Chase Creek drainage (Arizona Department of Water Resources 2009, p. 1; Marsh 2013, pers. comm.). We are not aware of plans for the closure of the Morenci Mine over the next several years, and as the price for copper increases, the demand for copper mining will increase into the future.

The Rosemont Copper Mine proposed to be constructed in the northeastern area of the Santa Rita Mountains in Santa Cruz County, Arizona, will include a mine pit that will be excavated to a depth greater than that of the regional aquifer. Water will thus drain from storage in the aquifer into the pit. The need to dewater the pit during mining operations will thus result in ongoing removal of aquifer water storage. Upon cessation of mining, a pit lake will form, and evaporation from this water body will continue to remove water from storage in the regional aquifer. This aquifer also supplies baseflow to Cienega Creek, immediately east of the proposed project site. Several groundwater models have been developed to analyze potential effects of expected groundwater withdrawals. The latest independent models indicate that a potentially significant reduction to baseflows in Cienega Creek and Emprire Gulch are expected within 50 years post-closure of the Rosemont Copper Mine, should it be permitted for development (see *http://www.rosemonteis.us/final-eis*).

The best available scientific and commercial information indicates that any reduction in the presence or availability of water is a significant threat to northern Mexican and narrow-headed gartersnakes, their prey base, and their habitat. This is because water is a fundamental need that supports the necessary aquatic and riparian habitats and prey species needed by both species of gartersnake. Through GIS analyses, we found that approximately 32 percent of formerly perennial streams have been dewatered within the historical distribution of the northern Mexican gartersnake. Within the historical distribution of the narrow-headed gartersnake, approximately 13 percent of formerly perennial streams have been dewatered. With continued human population growth and corresponding water use throughout the range of both gartersnakes, we expect the loss of habitat due to reduction in stream flows to increase in the foreseeable future and result in additional declines and extirpations of gartersnake populations.

Climate Change and Drought (Northern Mexican and Narrow-headed gartersnake)—Our analyses under the Act include consideration of ongoing and projected changes in climate. The terms ''climate'' and ''climate change'' are defined by the Intergovernmental Panel on Climate Change (IPCC). ''Climate'' refers to the mean and variability of different types of weather conditions over time, with 30 years being a typical period for such measurements, although shorter or longer periods also may be used (IPCC 2007, p. 78). The term ''climate change'' thus refers to a change in the mean or variability of one or more measures of climate (e.g., temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to natural variability, human activity, or both (IPCC 2007, p. 78). Various types of changes in climate can have direct or indirect effects on species. These effects may be positive, neutral, or negative and they may change over time, depending on the species and other relevant considerations, such as the effects of interactions of climate with other variables (e.g., habitat fragmentation) (IPCC 2007, pp. 8–14, 18–19). In our analyses, we use our expert judgment to weigh relevant information, including uncertainty, in our consideration of various aspects of climate change and their predicted effects on northern Mexican and narrow-headed gartersnakes.

The ecology and natural histories of northern Mexican and narrow-headed gartersnakes are strongly linked to water. As discussed above, the northern Mexican gartersnake is a highly aquatic species and relies largely upon other aquatic species, such as ranid frogs and native and nonnative, soft-rayed fish as prey. The narrow-headed gartersnake is the most aquatic of the southwestern gartersnakes and is a specialized predator on native and nonnative, soft-rayed fish found primarily in clear, rocky, higher elevation streams. Because of their aquatic nature, they may be uniquely susceptible to environmental change, especially factors associated with climate change (Wood *et al.* 2011, p. 3). Together, these factors are likely to make northern Mexican and narrow-headed gartersnakes vulnerable to effects of climate change and drought discussed below.

Several climate-related trends have been detected since the 1970s in the southwestern United States, including increases in surface temperatures, rainfall intensity, drought, heat waves, extreme high temperatures, and average low temperatures (Overpeck 2008, entire). Annual precipitation amounts in the southwestern United States may decrease by 10 percent by the year 2100 (Overpeck 2008, entire). Seager *et al.* (2007, pp. 1181–1184) analyzed 19 different computer models of differing variables to estimate the future climatology of the southwestern United States and northern Mexico in response to predictions of changing climatic patterns. All but 1 of the 19 models predicted a drying trend within the Southwest; one predicted a trend toward a wetter climate (Seager *et al.* 2007, p. 1181). A total of 49 projections were created using the 19 models, and all but 3 predicted a shift to increasing aridity (dryness) in the Southwest as early as 2021–2040 (Seager *et al.* 2007, p. 1181). Northern Mexican and particularly narrow-headed gartersnakes, and their prey bases, depend on permanent or nearly permanent water for survival. A large percentage of habitats within the current distribution of northern Mexican and narrow-headed gartersnakes are predicted to be at risk of becoming more arid with reductions in snow pack levels by 2021–2040 (Seager *et al.* 2007, pp. 1183–1184). This has severe implications for the integrity of aquatic and riparian ecosystems and the water that supports them.

In assessing potential effects of predicted climate change to river systems in New Mexico, Molles (2007,

entire) found that: (1) Variation in stream flow will likely be higher than variation in precipitation; (2) predicted effects such as warming and drying are expected to result in higher variability in stream flows; and (3) high-elevation fish and non-flying invertebrates (which are prey for gartersnake prey species) are at greatest risk from effects of predicted climate change. Enquist and Gori (2008, p. iii) found that most of New Mexico's mid- to high-elevation forests and woodlands have experienced either consistently warmer and drier conditions or greater variability in temperature and precipitation from 1991 to 2005. However, Enquist *et al.* (2008, p. v) found the upper Gila and San Francisco subbasins, which support narrow-headed gartersnake populations, have experienced very little change in moisture stress during the same period.

Cavazos and Arriaga (2010, entire) found that average temperatures along the Mexican Plateau in Mexico could rise in the range of 1.8 °F (1 °C) to 9 °F (5 °C) in the next 20 years, according to their models. Cavazos and Arriaga (2010, entire) also found that precipitation may decrease up to 12 percent over the next 20 years in the same region, with pronounced decreases in winter and spring precipitation.

Potential drought associated with changing climatic patterns may adversely affect the amphibian prey base for the northern Mexican gartersnake. Amphibians may be among the first vertebrates to exhibit broad-scale changes in response to changes in global climatic patterns due to their sensitivity to changes in moisture and temperature (Reaser and Blaustein 2005, p. 61). Changes in temperature and moisture, combined with the ongoing threat to amphibians from the persistence of disease-causing bacteria such as *Batrachochytrium dendrobatidis* (Bd) may cause prey species to experience increased physiological stress and decreased immune system function, possibly leading to disease outbreaks (Carey and Alexander 2003, pp. 111–121; Pounds *et al.* 2006, pp. 161–167). Of the 30 different vertebrate species in the Sky Island region of southeastern Arizona, the northern Mexican gartersnake was found to be the fifth most vulnerable (total combined score) to predicted climate change; one of its primary prey species, the Chiricahua leopard frog, was determined to be the fourth most vulnerable (Coe *et al.* 2012, p. 16). Both the northern Mexican gartersnake and the Chiricahua leopard frog ranked the highest of all species assessed for vulnerability of their habitat to predicted climate change, and the Chiricahua leopard frog was also found to be the most vulnerable in terms of its physiology (Coe *et al.* 2012, p. 18). Relative uncertainty for the vulnerability assessment provided by Coe *et al.* (2012, Table 2.2) ranged from 0 to 8 (higher score means greater uncertainty), and the northern Mexican gartersnake score was 3, meaning that the vulnerability assessment was more certain than not. Coe *et al.* (2012, entire) focused their assessment of species vulnerability to climate change on those occurring on the Coronado National Forest in southeastern Arizona. However, it is not unreasonable to hypothesize that results might be applicable in a larger, regional context as applied in most climate models.

The bullfrog, also assessed by Coe *et al.* (2012, pp. 16, 18, Table 2.2), was shown to be significantly less vulnerable to predicted climate change than either northern Mexican gartersnakes or Chiricahua leopard frogs with an uncertainty score of 1 (very certain). We suspect bullfrogs were found to be less vulnerable by Coe *et al.* (2012) to predicted climate change in southeastern Arizona due to their dispersal and colonization capabilities, capacity for self-sustaining cannibalistic populations, and ecological dominance where they occur. Based upon climate change models, nonnative species biology, and ecological observations, Rahel *et al.* (2008, p. 551) concluded that climate change could foster the expansion of nonnative aquatic species into new areas, magnify the effects of existing aquatic nonnative species where they currently occur, increase nonnative predation rates, and heighten the virulence of disease outbreaks in North America.

Rahel and Olden (2008, p. 526) expect that increases in water temperatures in drier climates such as the southwestern United States will result in periods of prolonged low flows and stream drying. These effects from changing climatic conditions may have profound effects on the amount, permanency, and quality of habitat for northern Mexican and narrow-headed gartersnakes as well as their prey base. Changes in amount or type of winter precipitation may affect snowpack levels as well as the timing of their discharge into high-elevation streams. Low or no snowpack levels would jeopardize the amount and reliability of stream flow during the arid spring and early summer months, which would increase water temperatures to unsuitable levels or eliminate flow altogether. Harmful nonnative species such as largemouth bass are expected to benefit from prolonged periods of low flow (Rahel and Olden 2008, p. 527). These nonnative predatory species evolved in river systems with hydrographs that were largely stable, not punctuated by flood pulses in which native species evolved and benefit from. Propst *et al.* (2008, p. 1246) also suggested that nonnative fish species may benefit from drought.

Changes to climatic patterns may warm water temperatures, alter stream flow events, and increase demand for water storage and conveyance systems (Rahel and Olden 2008, pp. 521–522). Warmer water temperatures across temperate regions are predicted to expand the distribution of existing harmful nonnative species, which evolved in warmer water temperatures, by providing 31 percent more suitable habitat. This conclusion is based upon studies that compared the thermal tolerances of 57 fish species with predictions made from climate change temperature models (Mohseni *et al.* 2003, p. 389). Eaton and Scheller (1996, p. 1,111) reported that, while several cold-water fish species (such as trout, a prey species for narrow-headed gartersnakes) in North America are expected to have reductions in their distribution from effects of climate change, several harmful nonnative species are expected to increase their distribution. In the southwestern United States, this situation may occur where the quantity of water is sufficient to sustain effects of potential prolonged drought conditions but where water temperature may warm to a level found suitable to harmful nonnative species that were previously physiologically precluded from occupation of these areas. Species that are particularly harmful to northern Mexican and narrow-headed gartersnake populations, such as the green sunfish, channel catfish, largemouth bass, and bluegill, are expected to increase their distribution by 7.4 percent, 25.2 percent, 30.4 percent, and 33.3 percent, respectively (Eaton and Scheller 1996, p. 1,111).

Vanishing Cienegas (Northern Mexican Gartersnake)—Cienegas are particularly important habitat for the northern Mexican gartersnake because these areas present ideal habitat characteristics for the species and its prey base and have been shown to support robust populations of both (Rosen and Schwalbe 1988, p. 14). Hendrickson and Minckley (1984, p. 131) defined cienegas as ''mid-elevation (3,281–6,562 ft (1,000–2000 m)) wetlands characterized by permanently saturated, highly organic, reducing (lowering of oxygen level) soils.'' Many of these unique communities of the southwestern United States, Arizona in

particular, and Mexico have been lost in the past century to streambed modification, intensive livestock grazing, woodcutting, artificial drainage structures, stream flow stabilization by upstream dams, channelization, and stream flow reduction from groundwater pumping and water diversions (Hendrickson and Minckley 1984, p. 161). Stromberg *et al.* (1996, p. 114) state that cienegas were formerly extensive along streams of the Southwest; however, most were destroyed during the late 1800s, when groundwater tables declined several meters and stream channels became incised. Drying trends are expected to continue into the next several decades and likely beyond.

Development and Recreation Within Riparian Corridors (Northern Mexican and Narrow-headed Gartersnake)—Development within and adjacent to riparian areas has proven to be a significant threat to riparian biological communities and their suitability for native species (Medina 1990, p. 351; Nowak and Santana-Bendix 2002, p. 37). Riparian communities are sensitive to even low levels (less than 10 percent) of urban development within a subbasin (Wheeler *et al.* 2005, p. 142). Development along or within proximity to riparian zones can alter the nature of stream flow dramatically, changing once-perennial streams into ephemeral streams, which has direct consequences on the riparian community (Medina 1990, pp. 358–359). Medina (1990, pp. 358–359) correlated tree density and age class representation to stream flow in a high-elevation system with a narrow alluvium basin, finding that decreased flow reduced tree densities and generally resulted in few to no small-diameter trees. Small-diameter trees assist northern Mexican and narrow-headed gartersnakes by providing additional habitat complexity, thermoregulatory opportunities, and cover needed to reduce predation risk and enhance the usefulness of areas for maintaining optimal body temperature. Development along lower elevation streams with broad alluvial basins may have different effects on stream flow and riparian vegetation, as compared to high-elevation streams. The presence of small shrubs and trees may be particularly important for the narrow-headed gartersnake (Deganhardt *et al.* 1996, p. 327). Development within occupied riparian habitat also likely increases the number of human-gartersnake encounters and, therefore, the frequency of adverse human interaction, described below.

Obvious examples of the influence of urbanization and development can be observed within the areas of greater Tucson and Phoenix, Arizona, where impacts have modified riparian vegetation, structurally altered stream channels, facilitated nonnative species introductions, and dewatered large reaches of formerly perennial rivers where the northern Mexican gartersnake historically occurred (Santa Cruz, lower Gila, and lower Salt Rivers, respectively). Urbanization and development of these areas, along with the introduction of nonnative species, are largely responsible for the likely extirpation of the northern Mexican gartersnake from these regions.

Development near riparian areas usually leads to increased recreation. Riparian areas located near urban areas are vulnerable to the effects of increased recreation. An example of such an area within the existing distribution of both the northern Mexican and narrow-headed gartersnake is the Verde Valley. The reach of the Verde River that winds through the Verde Valley receives a high amount of recreational use from people living in central Arizona (Paradzick *et al.* 2006, pp. 107–108). Increased human use results in the trampling of near-shore vegetation, which reduces cover for gartersnakes, especially newborns. Increased human visitation in occupied habitat also increases the potential for adverse human interactions with gartersnakes, which frequently leads to the capture, injury, or death of the snake (Rosen and Schwalbe 1988, p. 43; Ernst and Zug 1996, p. 75; Green 1997, pp. 285–286; Nowak and Santana-Bendix 2002, pp. 37–39).

Oak Creek Canyon, which represents an important source population for narrow-headed gartersnakes, is also a well-known example of an area with very high recreation levels (Nowak and Santana-Bendix 2002, p. 37). In 1995, 1.3 million people visited the Red Rock Ranger District, which includes Oak Creek Canyon and the Sedona, Arizona area; that figure climbed to six million visitors by 1999 (Nowak and Santana-Bendix 2002, p. 37). Recreational activities in the Southwest are often heavily tied to water bodies and riparian areas, due to the general lack of surface water on the landscape. Increased recreational impacts on the quantity and quality of water, as well as the adjacent vegetation, negatively affect northern Mexican and narrow-headed gartersnakes. The impacts to riparian habitat from recreation can include movement of people or livestock, such as horses or mules, along stream banks, trampling, loss of vegetation, and increased danger of fire starts (Northern Arizona University 2005, p. 136; Monz *et al.* 2010, pp. 553–554).

High stream-side recreation levels can result in increased siltation of streams, which can result in lower recruitment rates of native fish and, therefore, negatively affect the prey base for narrow-headed gartersnakes (Nowak and Santana-Bendix 2002, pp. 37–38). In the arid Gila River Basin, recreational impacts are disproportionately distributed along streams as a primary focus for recreation (Briggs 1996, p. 36). Within the range of the northern Mexican and narrow-headed gartersnakes in the United States, the majority of the occupied areas occur on Federal lands, which are managed for recreation and other purposes. On the Gila National Forest, and associated private, state, or non-Forest Service inholdings in the area, heavy recreation use can affect gartersnakes within occupied narrow-headed gartersnake habitat along the Middle Fork Gila River, the West Fork Gila River between Cliff Dwellings and Little Creek, and Whitewater Creek from the Catwalk to Glenwood (Hellekson 2012a, pers. comm.). Much of the recreation use in these areas is related to hiking and backpacking, which are not a threat to gartersnakes except when increased human visitation leads to more gartersnake encounters and potentially more killing of gartersnakes where the foot trail is near the canyon bottom (see ''Adverse Human Interactions with Gartersnakes'' below).

Urbanization on smaller scales can also impact habitat suitability and the prey base for the northern Mexican or narrow-headed gartersnakes, such as along Tonto Creek, within the Verde Valley, and the vicinity of Rock Springs along the Agua Fria River (Girmendonk and Young 1997, pp. 45–52; Voeltz 2002, pp. 58–59, 69–71; Holycross *et al.* 2006, pp. 53, 56; Paradzick *et al.* 2006, pp. 89–90). One of the more stable populations of the northern Mexican gartersnake in the United States, at the Page Springs and Bubbling Ponds fish hatcheries along Oak Creek, is likely to be affected by future small-scale development over the next decade. As mitigation for effects to species covered under their habitat conservation plan for the operation of Horseshoe and Bartlett Reservoirs on the Verde River, the Salt River Project will be funding development improvements and capacity expansion at these State-owned and operated hatcheries for the purpose of creating a native fish hatchery. Construction is likely to include the replacement of earthen ponds currently used by the gartersnakes, with modernized non-earthen units. However, the AGFD is committed to

maintaining the healthy population of northern Mexican gartersnakes at these hatcheries, and is investigating land use options to improve gartersnake habitat. A variety of activities associated with ongoing and future operation of the hatchery is likely to contribute to some level of fatality in resident gartersnakes, but that level might be offset by a mitigation strategy when adopted.

Diminishing Water Quantity and Quality in Mexico (Northern Mexican Gartersnake)—While effects to riparian and aquatic communities affect both the northern Mexican gartersnake and the narrow-headed gartersnake in the United States, Mexico provides habitat only for the northern Mexican gartersnake. Threats to northern Mexican gartersnake habitat in Mexico include intensive livestock grazing, urbanization and development, water diversions and groundwater pumping, loss of vegetation cover and deforestation, and erosion, as well as impoundments and dams that have modified or destroyed riparian and aquatic communities in areas of Mexico where the species occurred historically. Rorabaugh (2008, pp. 25–26) noted threats to northern Mexican gartersnakes and their native amphibian prey base in Sonora, which included disease, pollution, intensive livestock grazing, conversion of land for agriculture, nonnative plant invasions, and logging.

Illegal or under-regulated logging in the Sierra Madre of Mexico, and particularly within Chihuahua (Sierra Tarahumara), has been identified as a significant environmental concern (Gingrich 1993, entire). Gingrich (1993, p. 6) described the risk to streams from excessive logging in the Sierra Madre as including increased flooding, increased sedimentation, and lower baseflows. In an attempt to reverse disturbing trends in logging practices, the World Wildlife Fund-Mexico (2004, entire) has begun implementing a conservation plan for the Sierra Tarahumara region. Ramirez Bautista and Arizmendi (2004, p. 3) stated that the principal threats to northern Mexican gartersnake habitat in Mexico include the drying of temporary ponds, livestock grazing, deforestation, wildfires, and human settlements. In addition, nonnative species, such as bullfrogs and nonnative, predatory fish, have been introduced throughout Mexico and continue to disperse naturally, broadening their distributions (Conant 1974, pp. 487–489; Miller *et al.* 2005, pp. 60–61; Luja and Rodríguez-Estrella 2008, pp. 17–22).

Mexico's water needs for urban and agricultural development, as well as impacts to aquatic habitat from these uses, are linked to significant human population growth over the past century in Mexico. Mexico's human population grew 700 percent from 1910 to 2000 (Miller *et al.* 2005, p. 60). Mexico's population increased by 245 percent from 1950 to 2002 and is projected to grow by another 28 percent by 2025 (EarthTrends 2005, p. 1). Growth is concentrated in Mexico's northern states (Stoleson *et al.* 2005, Table 3.1) and is now skewed towards urban areas (Miller *et al.* 2005, p. 60). The human population of Sonora, Mexico, doubled in size from 1970 (1.1 million) to 2000 (2.2 million) (Stoleson *et al.* 2005, p. 54). The population of Sonora is expected to increase by 23 percent, to 2.7 million people, in 2020 (Stoleson *et al.* 2005, p. 54). Increasing trends in Mexico's human population will continue to place additional stress on the country's freshwater resources and continue to be the catalyst for the elimination of northern Mexican gartersnake habitat and prey species.

Much knowledge of the status of aquatic ecosystems in Mexico has come from fisheries research, which is particularly applicable to assessing the status of northern Mexican gartersnakes because of the gartersnakes' ecology and relationship to other aquatic and riparian vertebrates. Fisheries research is particularly applicable because of the role fishes serve as indicators of the status of the aquatic community as a whole. Miller *et al.* (2005) reported information on threats to freshwater fishes and riparian and aquatic communities in specific water bodies from several regions throughout Mexico within the range of the northern Mexican gartersnake: headwaters of the Río Lerma (extirpation of freshwater fish species, nonnative species, pollution, dewatering, pp. 60, 105, 197); medium-sized streams throughout the Sierra Madre Occidental (localized extirpations, logging, dewatering, pp. 109, 177, 247); the Río Conchos (extirpations of freshwater fish species, p. 112); the ríos Casas Grandes, Santa María, del Carmen, and Laguna Bustillos (water diversions, groundwater pumping, channelization, flood control practices, pollution, and introduction of nonnative species, pp. 124, 197); the Río Santa Cruz (extirpations, p. 140); the Río Yaqui (dewatering, nonnative species, p. 148, Plate 61, p. 247); the Río Colorado (nonnative species, p. 153); the ríos Fuerte and Culiacán (logging, p. 177); canals, ponds, lakes in the Valle de México (nonnative species, extirpations, pollution, pp. 197, 281); the Río Verde Basin (dewatering, nonnative species, extirpations, Plate 88); the Río Mayo (dewatering, nonnative species, p. 247); the Río Papaloapan (pollution, p. 252); and the Río Pánuco Basin (nonnative species, p. 295). These examples should not be construed as to suggest that all native fishes are threatened and all aquatic habitat or ecosystems are in peril. Rather, these examples suggest that threats may be localized in some examples and wider-ranging in others, but collectively several types of threats are acting in various degrees across numerous drainages in Mexico, throughout the range of the northern Mexican gartersnake. This provides some level of insight into the status of native aquatic ecosystems within its range.

Excessive sedimentation also appears to be a significant problem for aquatic habitat in Mexico. Recent estimates indicate that 80 percent of Mexico is affected by soil erosion caused by vegetation removal related to grazing, fires, agriculture, deforestation, etc. The most serious erosion is occurring in the states of Guanajuato (43 percent of the state's land area), Jalisco (25 percent of the state's land area), and México (25 percent of the state's land area) (Landa *et al.* 1997, p. 317), all of which occur within the distribution of the northern Mexican gartersnake. Miller *et al.* (2005, p. 60) stated that ''During the time we have collectively studied fishes in México and southwestern United States, the entire biotas of long reaches of major streams such as the Río Grande de Santiago below Guadalajara (Jalisco) and Río Colorado (lower Colorado River in Mexico) downstream of Hoover (Boulder) Dam (in the United States), have simply been destroyed by pollution and river alteration.'' These streams are within the distribution of the northern Mexican gartersnake. The geographic extent of threats reported by Miller *et al.* (2005) across the distribution of the northern Mexican gartersnake in Mexico is evidence that they are widespread through the country, and encompass a large proportion of the distribution of the northern Mexican gartersnake in Mexico.

In northern Mexico, effects of development, which is expected to continue at similar rates, if not increase, over the next several decades, such as agriculture and irrigation practices on streams and rivers in Sonora have been documented at least as far back as the 1960s. Branson *et al.* (1960, p. 218) found that the perennial rivers that drain the ''mountains'' (Sierra Madre) are ''silt-laden and extremely turbid, mainly because of irrigation practices.'' Specific rivers were not identified where Branson *et al.* (1960, p. 218)

describes the effects of irrigation practices, but the Sierra Madre in Sonora is within the known distribution of the northern Mexican gartersnake in Mexico and, therefore, suggests that at least some portion of occupied habitat has been adversely impacted by these practices. Smaller mountain streams, such as the Rio Nacozari in Sonora were found to be ''biological deserts'' from the effects of numerous local mining practices (Branson *et al.* 1960, p. 218). The perennial rivers and their mountain tributaries that may have been historically occupied by northern Mexican gartersnakes (as well as their prey species) have since been adversely affected, which likely contributed to declines in these areas.

Minckley *et al.* (2002, pp. 687–705) provided a summary of threats (p. 696) to two newly described (at the time) species of pupfish and their habitat in Chihuahua, Mexico, which occur with the northern Mexican gartersnake and comprise part of its prey base. Initial settlement and agricultural development of the area resulted in significant channel cutting through soil layers protecting the alluvial plain above them, which resulted in reductions in the base level of each basin in succession (Minckley *et al.* 2002, p. 696). Related to these activities, the building of dams and diversion structures dried entire reaches of some regional streams and altered flow patterns of others (Minckley *et al.* 2002, p. 696). This was followed by groundwater pumping (enhanced by the invention of the electric pump), which lowered groundwater levels and dried up springs and small channels and reduced the reliability of baseflow in ''essentially all systems'' (Minckley *et al.* 2002, p. 696). Subsequently, the introduction and expansion of nonnative species in the area successfully displaced or extirpated many native species (Minckley *et al.* 2002, p. 696). Conant (1974, pp. 486–489) described significant threats to northern Mexican gartersnake habitat within its distribution in western Chihuahua, Mexico, and within the Rio Concho system where it occurs. These threats included impoundments, water diversions, and purposeful introductions of largemouth bass, common carp, and bullfrogs.

In the central portions of the northern Mexican gartersnakes' range in Mexico, such as in Durango, Mexico, population growth since the 1960s has led to regional effects such as reduced stream flow, increased water pollution, and largemouth bass introductions, which ''have seriously affected native biota'' (Miller *et al.* 1989, p. 26). McCranie and Wilson (1987, p. 2) discuss threats to the pine–oak communities of higher elevation habitats (within the distribution of the northern Mexican gartersnake) in the Sierra Madre Occidental in Mexico, specifically noting that ''. . . the relative pristine character of the pine–oak woodlands is threatened . . . every time a new road is bulldozed up the slopes in search of new madera or pasturage. Once the road is built, further development follows; pueblos begin to pop up along its length. . . .'' Several drainages that possess suitable habitat for the northern Mexican gartersnake occur in the area referenced above by McCranie and Wilson (1987, p. 2), including the Rio de la Cuidad, Rio Quebrada El Salto, Rio Chico, Rio Las Bayas, Rio El Cigarrero, Rio Galindo, Rio Santa Barbara, and the Rio Chavaria.

In the southern portion of the northern Mexican gartersnake's range in Mexico, growth and development around Mexico City resulted in agricultural practices and groundwater demands that dewatered aquatic habitat and led to declines, and in some cases, extinctions of local native fish species (Miller *et al.* 1989, p. 25). Considerable research has been focused in the central and west-central regions of Mexico, within the southern portion of the northern Mexican gartersnake's range, where native fish endemism (unique, narrowly distributed suite of species) is high, as are threats to their populations and habitat. Since the 1970s in central Mexico, significant human population growth has resulted in the overexploitation of local fisheries and water pollution; these factors have accelerated the degradation of stream and riverine habitats and led to fish communities becoming reduced or undergoing significant changes in structure and composition (Mercado-Silva *et al.* 2002, p. 180).

These shifts in fish community composition, population density, and shrinking distributions have adversely affected the northern Mexican gartersnake prey base in the southern portion of its range in Mexico. The Lerma River basin is the largest in west-central Mexico and is within the distribution of the northern Mexican gartersnake in the states of Jalisco, Guanajuato, and Querétaro in the southern portion of its range. Lyons *et al.* (1995, p. 572) reported that many fish communities in large perennial rivers, isolated spring-fed streams, or spring sources themselves of this region have been ''radically restructured'' and are now dominated by a few nonnative, generalist species. Lowland streams and rivers in this region are used heavily for irrigation and are polluted by industrial, municipal, and agricultural discharges (Lyons and Navarro-Perez 1990, p. 37; Lyons *et al.* 1995, p. 572).

Native fish communities of west-central Mexico have been found to be in serious decline as a result of habitat degradation at an ''unprecedented'' rate due to water withdrawals (diversions for irrigation), as well as untreated municipal, industrial, and agricultural discharges (Lyons *et al.* 1998, pp. 10–11). Numerous dams have been built along the Lerma River and along its major tributaries to support one of Mexico's most densely populated regions during the annual dry period; the water is used for irrigation, industry, and human consumption (Lyons *et al.* 1998, p. 11). From 1985 to 1993, Lyons *et al.* (1998, p. 12) found that 29 of 116 (25 percent) fish sampling locations visited within the Lerma River watershed were completely dry and another 30 were too polluted to support a fish community. These figures indicate that over half of the localities visited by Lyons *et al.* (1998, p. 12) that maintained fish populations prior to 1985 no longer support fish, which has likely adversely affected local northern Mexican gartersnake populations, and perhaps led to population declines or extirpations.

Soto-Galera *et al.* (1999, p. 137) reported fish and water quality sampling results from within the Rio Grande de Morelia-Lago de Cuitzeo Basin of Michoacán and Guanajuato, Mexico. The easternmost portion of this basin occurs at the periphery of the known northern Mexican gartersnake range in Mexico. Soto-Galera *et al.* (1999, p. 137) found that over the past several decades, diminishing water quantity and worsening water quality have resulted in the elimination of 26 percent of native fish species from the basin, the extinction of two species of native fish, and declining distributions of the remaining 14 species. These figures suggest significant concern for aquatic ecosystems of this region. Some conservation value, however, is realized when headwaters, springs, and small streams are protected as parks or municipal water supplies (Lyons *et al.* 1998, p. 15), but these efforts do little to protect larger perennial rivers that represent valuable habitat for northern Mexican gartersnakes.

Mercado-Silva *et al.* (2002, Appendix 2) reported results from fish community sampling and habitat assessments along 63 sites across central Mexico; the easternmost of these sites include most of the northern Mexican gartersnake's southern range. Specifically, sampling locations in the Balsas, Lerma, Morelia, Pánuco Moctezuma, and Pánuco

Tampaón basins each occurred within the range of the northern Mexican gartersnake in the states of Guanajuato, Queretaro, Mexico, and Puebla; approximately 30 locations in total. The purpose of this sampling effort was to score each site in terms of its index of biotic integrity (IBI) and environmental quality (EQ), with a score of 100 representing the optimum score for each category. The IBI scoring method has been verified as a valid means to quantitatively assess ecosystem integrity at each site (Lyons *et al.* 1995, pp. 576–581; Mercado-Silva *et al.* 2002, p. 184). The range in IBI scores in these sampling locations was 85 to 35, and the range in EQ scores was 90 to 50 (Mercado-Silva *et al.* 2002, Appendix 2). The average IBI score was 57, and the average EQ score was 74, across all 30 sites and all 4 basins (Mercado-Silva *et al.* 2002, Appendix 2). According to the qualitative equivalencies assigned to scores (Mercado-Silva *et al.* 2002, p. 184), these values indicate that the environmental quality score averaged across all 30 sites was ''good'' and the biotic integrity scores were ''fair.'' It should be noted that 14 of the 30 sites sampled had IBI scores equal to or less than 50, and 5 of those ranked as ''poor.'' Of all the basins throughout central Mexico that were scored in this exercise, the two Pánuco basins represented 20 of the 30 sites sampled and scored the worst of all basins (Mercado-Silva *et al.* 2002, p. 186). This indicates that threats to the northern Mexican gartersnake, its prey base, and its habitat pose the greatest risk in this portion of its range in Mexico.

Near Torreón, Coahuila, where the northern Mexican gartersnake occurs, groundwater pumping has resulted in flow reversal, which has dried up many local springs, drawn arsenic-laden water to the surface, and resulted in adverse human health effects in that area (Miller *et al.* 2005, p. 61). Severe water pollution from untreated domestic waste is evident downstream of large Mexican cities, such as Mexico City, and inorganic pollution from nearby industrialized areas and agricultural irrigation return flow has dramatically affected aquatic communities through contamination (Miller *et al.* 2005, p. 60). Miller *et al.* (2005, p. 61) provide an excerpt from Soto Galera *et al.* (1999) addressing the threats to the Río Lerma, Mexico's longest river, which is occupied by the northern Mexican gartersnake: ''The basin has experienced a staggering amount of degradation during the 20th Century. By 1985–1993, over half of our study sites had disappeared or become so polluted that they could no longer support fishes. Only 15 percent of the sites were still capable of supporting sensitive species. Forty percent (17 different species) of the native fishes of the basin had suffered major declines in distribution, and three species may be extinct. The extent and magnitude of degradation in the Río Lerma basin matches or exceeds the worst cases reported for comparably sized basins elsewhere in the world.''

In the Transvolcanic Belt Region of the states of Jalisco, Mexico, and Veracruz in southern Mexico, Conant (2003, p. 4) noted that water diversions, pollution (e.g., discharge of raw sewage), sedimentation of aquatic habitats, and increased dissolved nutrients were resulting in decreased dissolved oxygen in suitable northern Mexican gartersnake habitat. Conant (2003, p. 4) stated that many of these threats were evident during his field work in the 1960s, and that they are ''continuing with increased velocity.''

High-Intensity Wildfires and Sedimentation of Aquatic Habitat (Narrow-Headed Gartersnake)

High-intensity wildfires lead to excessive sedimentation and ash flows in streams, which can, in turn, result in sharp declines, and even complete elimination, in fish communities downstream. According to the Apache-Sitgreaves National Forest forested vegetation types, historic fire-return intervals varied from frequent, low-intensity surface fires in ponderosa pine types (every 2–17 years), to mixed-severity fires in wet mixed-conifer forests (every 35–50 years), to high-severity, stand-replacement fires of the spruce-fir ecosystems (every 150–400 years) (U.S. Forest Service (USFS) 2013). Low-intensity fire has been a common, natural disturbance factor in forested landscapes for centuries prior to European settlement (Rinne and Neary 1996, pp. 135–136). Rinne and Neary (1996, p. 143) concluded that existing wildfire suppression policies intended to protect the expanding number of human structures on forested public lands have altered the fuel loads in these ecosystems and increased the probability of high-intensity wildfires.

Climate change-driven drought cycles are also likely contributing to a changing fire regime in the west (Westerling *et al.* (2006, pp. 941–943). Westerling *et al.* (2006, p. 940) showed that ''large wildfire activity (in the western United States) increased suddenly and markedly in the mid-1980s, with higher large-wildfire frequency, longer wildfire durations, and longer wildfire seasons.'' The effects of these high-intensity wildfires include the removal of vegetation, the degradation of subbasin condition, altered stream behavior, and increased sedimentation of streams. These effects can harm fish communities, as observed in the 1990 Dude Fire, when corresponding ash flows resulted in fish kills in Dude Creek and the East Verde River (Voeltz 2002, p. 77). Fish kills, also discussed below, can drastically affect the suitability of habitat for northern Mexican and narrow-headed gartersnakes due to the removal of a portion or the entire prey base. The Chiricahua leopard frog recovery plan cites altered fire regimes as a serious threat to Chiricahua leopard frogs, a prey species for northern Mexican gartersnakes (USFWS 2007a, pp. 38–39).

The nature and occurrence of wildfires in the Southwest is expected to also be affected by climate change and ongoing and predicted future drought. Current predictions of drought and/or higher winter low temperatures may stress ponderosa pine forests in which the narrow-headed gartersnake principally occurs, and may increase the frequency and magnitude of wildfire. Ganey and Vojta (2010, entire) studied tree mortality in mixed-conifer and ponderosa pine forests in Arizona from 1997–2007, a period of extreme drought. They found the mortality of trees to be severe; the number of trees dying over a 5-year period increased by more than 200 percent in mixed-conifer forest and by 74 percent in ponderosa pine forest during this timeframe. Ganey and Vojta (2010) attributed drought and subsequent insect (bark beetle) infestation to the die-offs in trees. Drought stress and a subsequent high degree of tree mortality from bark beetles make high-elevation forests more susceptible to high-intensity wildfires.

Climate is a top-down factor that synchronizes with fuel loads, a bottom-up factor. Combined with a predicted reduction in snowpack and an earlier snowmelt, these factors suggest wildfires will be larger, more frequent, and more severe in the southwestern United States (Fulé 2010, entire). Wildfires are expected to reduce vegetative cover and result in greater soil erosion, subsequently resulting in increased sediment flows in streams (Fulé 2010, entire). Increased sedimentation in streams reduces the visibility of gartersnakes in the water column, hampering their hunting ability as well as resulting in fish kills (which is also caused by the disruption in the nitrogen cycle post-wildfire), which reduce the amount of prey available to gartersnake populations. Additionally, unnaturally high amounts of sediment fill in pools in intermittent streams,

which reduces the amount and availability of habitat for fish and amphibian prey.

In 2011 and 2012, both Arizona (2011 Wallow Fire) and New Mexico (2012 Whitewater-Baldy Complex Fire) experienced the largest wildfires in their respective State histories; indicative of the last decade that has been punctuated by wildfires of massive proportion. The 2011 Wallow Fire affected (to various degrees) approximately 540,000 acres (218,530 ha) of Apache-Sitgreaves National Forest, White Mountain Apache Indian Tribe, and San Carlos Apache Indian Reservation lands in Apache, Navajo, Graham, and Greenlee counties in Arizona as well as Catron County, New Mexico (InciWeb 2011). The 2011 Wallow Fire impacted 97 percent of perennial streams in the Black River subbasin, 70 percent of perennial streams in the Gila River subbasin, and 78 percent of the San Francisco River subbasin and resulted in confirmed fish kills in each subbasin (Meyer 2011, p. 3, Table 1); each of these streams is known to support populations of either northern Mexican or narrow-headed gartersnakes.

Although the Black River drainage received no moderate or high-severity burns as a result of the 2011 Wallow Fire, the Fish and Snake Creek subbasins (tributaries to the Black River) were severely burned (Coleman 2011, p. 2). Post-fire fisheries surveys above Wildcat Point in the Black River found no fish in a reach extending up to the confluence with the West Fork of the Black River. This was likely due to subsequent ash and sediment flows that had occurred there (Coleman 2011, p. 2). Fisheries surveys of the Black River in 2012 also reflected a largely absent prey base for narrow-headed gartersnakes (narrow-headed gartersnakes observed appeared to be in starving condition), but young-of-the-year native fish were detected, which may signal the beginning of fish recruitment (Lopez *et al.* 2012, entire). Post-fire fisheries surveys at ''the Box,'' in the Blue River, detected only a single native fish. This was also likely due to ash and sediment flows and the associated subsequent fish kills that had occurred there, extending down to the Gila River Box in Safford, Arizona (Coleman 2011, pp. 2–3). The East Fork Black River subbasin experienced moderate to high-severity burns in 23 percent of its total acreage that resulted in declines in Apache trout and native sucker populations, but speckled dace and brown trout remained prevalent as of 2011 (Coleman 2011, p. 3). These fire data suggest that the persistence of the prey base for northern Mexican and narrow-headed gartersnakes in the Black River, and narrow-headed gartersnakes in the lower Blue River, will be precarious into the near- to mid-term future, as will likely be the stability of gartersnake populations there. Immediate post-fire fish sampling in Eagle Creek confirmed that fish populations had been severely depleted, but that some level of population rebound had occurred by 2 years post-fire (Marsh 2013, pers. comm.).

Several large wildfires have occurred historically on the Gila National Forest. These fires have resulted in excessive sedimentation of streams and affected resident fish populations that serve as prey for narrow-headed gartersnakes. From 1989–2004, numerous wildfires cumulatively burned much of the uplands within the Gila National Forest, which resulted in most perennial streams in the area experiencing ash flows and elevated sedimentation (Paroz *et al.* 2006, p. 55). More recently, the 2012 Whitewater-Baldy Complex Fire in the Gila National Forest in New Mexico is the largest wildfire in that State's history. This wildfire was active for more than 5 weeks and consumed approximately 300,000 acres (121,406 ha) of ponderosa, mixed-conifer, pinyon-juniper, and grassland habitat (InciWeb 2012). Over 25 percent of the burn area experienced high-moderate burn severity (InciWeb 2012) and included several subbasins occupied by narrow-headed gartersnakes such as the Middle Fork Gila River, West Fork Gila River, Iron Creek, the San Francisco River, Whitewater Creek, Turkey Creek, and Mineral Creek (Brooks 2012, Table 1; Hellekson 2013, pers. comm.). Other extant populations of the narrow-headed gartersnake in Gilita and South Fork Negrito Creeks are also expected to be impacted from the 2012 Whitewater-Baldy Complex Fire. Narrow-headed gartersnake populations in the Middle Fork Gila River and Whitewater Creek formerly represented two of the four most robust populations known from New Mexico, and two of the five known rangewide, and are expected to have been severely jeopardized by post-fire effects to their prey base. Thus, we now consider them currently as likely not viable, at least until the watershed stabilizes and again supports a fish community, or perhaps the next 5–10 years. In reference to Gila trout populations, Brooks (2012, p. 3) stated that fish populations are expected to be severely impacted in the West Fork Gila River and Whitewater Creek. The loss of fish communities in affected streams is likely to lead to associated declines, or potential extirpations, in affected narrow-headed gartersnake populations as a result of the collapse in their prey base.

Since 2000, several wildfires have affected occupied narrow-headed gartersnake habitat on the Gila National Forest. The West Fork Gila subbasin was affected by the 2002 Cub Fire, the 2003 Dry Lakes Fire, and the 2011 Miller Fire; each resulted in post-fire ash and sediment flows, which adversely affected fish populations used by narrow-headed gartersnakes (Hellekson 2012a, pers. comm.). In 2011, the Miller Fire significantly affected the Little Creek subbasin and has resulted in substantive declines in abundance of the fish community (Hellekson 2012a, pers. comm.). Dry Blue and Campbell Blue creeks were affected by the 2011 Wallow Fire (Hellekson 2012a, pers. comm.). Saliz Creek was highly affected by the 2006 Martinez Fire (Hellekson 2012a, pers. comm.). Turkey Creek was heavily impacted by the Dry Lakes Fire in 2003, which resulted in an extensive fish kill, but the fish community has since rebounded (Hellekson 2012a, pers. comm.). It is not certain how long the fish community was depleted or absent from Turkey Creek, but it is suspected that the narrow-headed gartersnake population there may have suffered declines from the loss of their prey base, as evidenced by the current low population numbers. Black Canyon was affected by large ash and debris flows from the 2013 Silver Fire (USFS 2013, entire). Prior to the 2002 Dry Lakes Fire, Turkey Creek was largely populated by nonnative, predatory fish species, in its lower reaches. Upper reaches were largely dominated by native fish species, which have since rebounded in numbers (Hellekson 2012a, pers. comm.), and may provide high-quality habitat for narrow-headed gartersnakes, once the subbasin has adequately stabilized.

Effects to northern Mexican and narrow-headed gartersnake habitat from wildfire should be considered in light of effects to the structural habitat and effects to the prey base. Post-fire effects vary with burn severity, percent of area burned within each severity category, and the intensity and duration of precipitation events that follow (Coleman 2011, p. 4). Low-severity burns within riparian habitat can actually have a rejuvenating effect by removing decadent ground cover and providing nutrients to remaining vegetation. As a result, riparian vegetative communities may be more resilient to wildfire, given that water is present (Coleman 2011, p. 4). Willows, an important component to narrow-headed gartersnake habitat, can be

positively affected by low-severity burns, as long as the root crowns are not damaged (Coleman 2011, p. 4). High-severity burns that occur within the floodplain of occupied habitat are expected to have some level of shorter term effect on resident gartersnake populations through effects to the vegetative structure and abundance, which may include a reduction of basking sites and a loss of cover, which could increase the risk of predation. These potential effects need further study. Post-fire ash flows, flooding, and impacts to native prey populations are longer term effects and can occur for many years after a large wildfire (Coleman 2011, p. 2).

Post-fire flooding with significant ash and sediment loads can result in significant declines, or even the collapse, of resident fish communities, which poses significant concern for the persistence of resident gartersnake populations in affected areas. Sedimentation can adversely affect fish populations used as prey by northern Mexican or narrow-headed gartersnakes by: (1) Interfering with respiration; (2) reducing the effectiveness of fish's visually based hunting behaviors; and (3) filling in interstitial spaces (spaces between cobbles, etc., on the stream floor) of the substrate, which reduces reproduction and foraging success of fish (Wheeler *et al.* 2005, p. 145). Excessive sediment also fills in intermittent pools required for amphibian prey reproduction and foraging. Siltation of the rocky interstitial spaces along stream bottoms decreases the dissolved oxygen content where fish lay their eggs, resulting in depressed recruitment of fish and a subsequent reduction in prey abundance for northern Mexican and narrow-headed gartersnakes through the loss of prey microhabitat (Nowak and Santana-Bendix 2002, pp. 37–38). As stated above, sediment can lead to several effects in resident fish species used by northern Mexican or narrow-headed gartersnakes as prey, which can ultimately cause increased direct fatalities, reduced reproductive success, lower overall abundance, and reductions in prey species composition as documented by Wheeler *et al.* (2005, p. 145). The underwater foraging ability of narrow-headed gartersnakes (de Queiroz 2003, p. 381) and likely northern Mexican gartersnakes is largely based on vision and is also directly compromised by excessive turbidity caused by sedimentation of water bodies. Suspended sediment in the water column may reduce the narrow-headed gartersnake's visual hunting efficiency from effects to water clarity, based on research conducted by de Queiroz (2003, p. 381) that concluded the species relied heavily on visual cues during underwater striking behaviors.

The presence of adequate interstitial spaces along stream floors may be particularly important for narrow-headed gartersnakes. Hibbitts *et al.* (2009, p. 464) reported the precipitous decline of narrow-headed gartersnakes in a formerly robust population in the San Francisco River at San Francisco Hot Springs from 1996 to 2004. The exact cause for this decline is uncertain, but the investigators suspected that a reduction in interstitial spaces along the stream floor from an apparent conglomerate, cementation process may have affected the narrow-headed gartersnake's ability to successfully anchor themselves to the stream bottom when seeking refuge or foraging for fish (Hibbitts *et al.* 2009, p. 464). These circumstances would likely result in low predation success and eventually starvation. Other areas where sedimentation has affected either northern Mexican or narrow-headed gartersnake habitat are Cibecue Creek in Arizona, and the San Francisco River and South Fork Negrito Creek in New Mexico (Rosen and Schwalbe 1988, p. 46; Arizona Department of Water Resources 2011, p. 1; Hellekson 2012a, pers. comm.). The San Francisco River in Arizona was classified as impaired due to excessive sediment from its headwaters downstream to the Arizona–New Mexico border (Arizona Department of Water Resources 2011, p. 1). South Fork Negrito Creek is also listed as impaired due to excessive turbidity (Hellekson 2012a, pers. comm.).

Potential mechanisms exist that can ameliorate the effects of wildfires, such as prescribed fire, use of wildland fire, fuels management, and timber harvest, and can sustain desired conditions for fire-adapted ecosystems and provide habitat for threatened and endangered species, but will only be effective at a landscape scale. The Guidance for Implementation of Federal Wildland Fire Management Policy is the Department of Agriculture's single cohesive Federal fire policy, and it was updated in February 2009. The intent of this policy is to solidify that the full range of strategic and tactical options are available and considered in the response to every wildland fire (USFS 2013, entire). Benefits are considered to include the movement of vegetation toward desired conditions, a greater contribution to landscape restoration, control of invasive species, a reduction in uncharacteristic wildfire across the broader landscape, and the resiliency of potential natural vegetation types to adapt to climate change (USFS 2013, entire). We are uncertain whether such projects can be completed with the scope and urgency required to reverse the current trend of massive, high-intensity wildfires in the southwest but intend to facilitate their implementation as project cooperators. We conclude that effects of high-intensity wildfires are threatening narrow-headed gartersnakes with increasing likelihood of future impacts as a result of climate change.

Summary

The presence of water is critical to both northern Mexican and narrow-headed gartersnakes and their primary prey species because their ecology and natural histories are strongly linked to water. Several factors, both natural and manmade, contribute to the continued degradation and dewatering of aquatic habitat throughout the range of northern Mexican and narrow-headed gartersnakes. Increasing human population growth is driving higher and higher demands for water in both the United States and Mexico. Water is subsequently secured through dams, diversions, flood-control projects, and groundwater pumping, which affects gartersnake habitat through reductions in flow and complete dewatering of stream reaches. Entire reaches of the Gila, Salt, Santa Cruz, and San Francisco Rivers, as well as numerous other rivers throughout the Mexican Plateau in Mexico that were historically occupied by either or both northern Mexican or narrow-headed gartersnakes, are now completely dry due to diversions, dams, and groundwater pumping. Several groundwater basins within the range of northern Mexican and narrow-headed gartersnakes in the United States are considered active management areas where pumping exceeds recharge, which is a constant threat to surface flow in streams and rivers connected to these aquifers. Reduced flows concentrate northern Mexican and narrow-headed gartersnakes and their prey with harmful nonnative species, which accelerate and amplify adverse effects of native–nonnative community interactions. Where surface water persists, increasing land development and recreation use adjacent to and within riparian habitat has led to further reductions in stream flow, removal or alteration of vegetation, and increased frequency of adverse human interactions with gartersnakes.

Exacerbating the effects of increasing human populations and higher water demands, climate change predictions

include increased aridity, lower annual precipitation totals, lower snow pack levels, higher variability in flows (lower low-flows and higher high-flows), and enhanced stress on ponderosa pine communities in the southwestern United States and northern Mexico. Increased stress to ponderosa pine forests places them at higher risk of high-intensity wildfires, the effects of which are discussed below. Climate change has also been predicted to enhance the abundance and distribution of harmful nonnative species, which adversely affect northern Mexican and narrow-headed gartersnakes.

Cienegas, a unique and important habitat for northern Mexican gartersnakes, have been adversely affected or eliminated by a variety of historical and current land uses in the United States and Mexico, including streambed modification, intensive livestock grazing, woodcutting, artificial drainage structures, stream flow stabilization by upstream dams, channelization, and stream flow reduction from groundwater pumping and water diversions. The historical loss of the cienega habitat of the northern Mexican gartersnake has resulted in local population declines or extirpations, negatively affecting its status and contributing to its decline rangewide.

Wildfire has historically been a natural and important disturbance factor within the range of northern Mexican and narrow-headed gartersnakes. However, in recent decades, forest management policies in the United States have favored fire suppression, the result of which has led to wildfires of unusual proportions, particularly along the Mogollon Rim of Arizona and New Mexico. These policies are generally not in place in Mexico, and consequently, wildfire is not viewed as a significant threat to the northern Mexican gartersnake in Mexico. However, in the last 2 years, both Arizona (2011 Wallow Fire) and New Mexico (2012 Whitewater-Baldy Complex Fire) have experienced the largest wildfires in their respective State histories, which is indicative of the last decade having been punctuated by wildfires of significant magnitude. High-intensity wildfire has been shown to result in significant ash and sediment flows into habitat occupied by northern Mexican or narrow-headed gartersnakes, resulting in significant reductions of their fish prey base and, in some instances, total fish kills. The interstitial spaces between rocks located along the stream floor are important habitat for the narrow-headed gartersnake because of its specialized foraging strategy and specialized diet. These spaces are also important spawning and egg deposition habitat for native fish species used as prey by narrow-headed gartersnakes. When these spaces fill in with sediment, the narrow-headed gartersnake may be unable to forage successfully and may succumb to stress created by a depressed prey base.

A significant reduction or absence of a prey base results in stress of resident gartersnake populations and can result in local population extirpations. Also, narrow-headed gartersnakes are believed to rely heavily on visual cues while foraging underwater; increased turbidity from suspended fine sediment in the water column is likely to impede their ability to use visual cues at some level. Factors that result in depressed foraging ability from excessive sedimentation are likely to be enhanced when effects from harmful nonnative species are also acting on resident northern Mexican and narrow-headed gartersnake populations. We consider the narrow-headed gartersnake to be particularly threatened by the effects of wildfires as described because they occur throughout its range, the species is a fish-eating specialist that is unusually vulnerable to localized fish kills, and wildfire has already significantly affected two of the last remaining five populations that were formerly considered viable, pre-fire. We have demonstrated that high-intensity wildfires have the potential to eliminate gartersnake populations through a reduction or loss of their prey base. Since 1970, wildfires have adversely impacted the native fish prey base in 6 percent of the historical distribution of northern Mexican gartersnakes in the United States and 21 percent of that for narrow-headed gartersnakes rangewide, according to GIS analysis. These percentages represent only stream miles within fire perimeters, not downstream effects of ash flows within drainages, which would undoubtedly increase the percentage of habitat impacted, at least for narrow-headed gartersnakes, whose distribution overlaps more concisely with more and larger wildfires over recent decades.

All of these conditions affect the primary drivers of gartersnake habitat suitability (the presence of water and prey) and exist in various degrees throughout the range of both gartersnake species. Collectively, they reduce the amount and arrangement of physically suitable habitat for northern Mexican and narrow-headed gartersnakes over their regional landscapes. The genetic representation of each species is threatened when populations become disconnected and isolated from neighboring populations because the length or area of dewatered zones is too great for dispersing individuals to overcome. Therefore, normal colonizing mechanisms that would otherwise reestablish populations where they have become extirpated are no longer viable. This subsequently leads to a reduction in species redundancy when isolated, small populations are at increased vulnerability to the effects of stochastic events, without a means for natural recolonization. Ultimately, the effects of scattered, small, and disjunct populations, without the means to naturally recolonize, is weakened species resiliency as a whole, which ultimately enhances the risk of either or both species becoming endangered or going extinct. Therefore, based on the best available scientific and commercial information, we conclude that land uses or conditions described above that alter or dewater northern Mexican and narrow-headed gartersnake habitat are threats rangewide, now and in the foreseeable future.

Other Cumulative and Synergistic Effect of Threats on Low-Density Populations (Northern Mexican and Narrow-Headed Gartersnakes)

In most locations where northern Mexican or narrow-headed gartersnakes historically occurred or still occur currently, two or more threats are likely acting in combination with regard to their influence on the suitability of those habitats or on the species themselves. Many threats could be considered minor in isolation, but when they affect gartersnake populations in combination with other threats, become more serious. We have concluded that in as many as 24 of 29 known localities in the United States (83 percent), the northern Mexican gartersnake population is likely not viable and may exist at low population densities that could be threatened with extirpation or may already be extirpated. We also determined that in as many as 29 of 38 known localities (76 percent), the narrow-headed gartersnake population is likely not viable and may exist at low population densities that could be threatened with extirpation or may already be extirpated, but survey data are lacking in areas where access is restricted. We have also discussed how harmful nonnative species have affected recruitment of gartersnakes across their range. In viable populations, gartersnakes are resilient to the loss of individuals through ongoing recruitment into the reproductive age class. However, when northern Mexican or narrow-headed gartersnakes occur at low population densities in the absence

of appropriate recruitment, the loss of even a few adults could substantially increase the risk of extirpation of local populations. Below, we discuss threats that, when considered in combination, can appreciably threaten low-density populations of these species with extirpation.

Historical and Unmanaged Livestock Grazing and Agricultural Land Uses (Northern Mexican and Narrow-Headed Gartersnake) (Factor A)

Currently in the United States, livestock grazing is a largely managed activity, but in Mexico, livestock grazing is much less managed or unmanaged altogether. Several examples of extant gartersnake populations (in some cases, apparently robust populations) in Mexico were found in habitat that was heavily grazed with no riparian vegetation development; these sites were coincidently free or largely free of harmful nonnative species (Burger 2007, entire). Historical livestock grazing has damaged approximately 80 percent of stream, cienega, and riparian ecosystems in the western United States (Kauffman and Krueger 1984, pp. 433–435; Weltz and Wood 1986, pp. 367–368; Cheney *et al.* 1990, pp. 5, 10; Waters 1995, pp. 22–24; Pearce *et al.* 1998, p. 307; Belsky *et al.* 1999, p. 1). Fleischner (1994, p. 629) found that ''Because livestock congregate in riparian ecosystems, which are among the most biologically rich habitats in arid and semiarid regions, the ecological costs of grazing are magnified at these sites.'' Stromberg and Chew (2002, p. 198) and Trimble and Mendel (1995, p. 243) also discussed the propensity for cattle to remain within or adjacent to riparian communities. Expectedly, this behavior is more pronounced in more arid regions (Trimble and Mendel 1995, p. 243). Effects from historical or unmanaged grazing include: (1) Declines in the structural richness of the vegetative community; (2) losses or reductions of the prey base; (3) increased aridity of habitat; (4) loss of thermal cover and protection from predators; (5) a rise in water temperatures to levels lethal to larval stages of amphibian and fish development; and (6) desertification (Szaro *et al.* 1985, p. 362; Schulz and Leininger 1990, p. 295; Schlesinger *et al.* 1990, p. 1043; Belsky *et al.* 1999, pp. 8–11; Zwartjes *et al.* 2008, pp. 21–23). In one rangeland study, it was concluded that 81 percent of the vegetation that was consumed, trampled, or otherwise removed was from a riparian area, which amounted to only 2 percent of the total grazing space, and that these actions were 5 to 30 times higher in riparian areas than on the uplands (Trimble and Mendel 1995, pp. 243–244). However, according to one study along the Agua Fria River, herbaceous ground cover can recover quickly from heavy grazing pressure (Szaro and Pase 1983, p. 384). Additional information on the effects of historical livestock grazing can be found in Sartz and Tolsted (1974, p. 354); Rosen and Schwalbe (1988, pp. 32–33, 47); Clary and Webster (1989, p. 1); Clary and Medin (1990, p. 1); Orodho *et al.* (1990, p. 9); and Krueper *et al.* (2003, pp. 607, 613–614).

Szaro *et al.* (1985, p. 360) assessed the effects of historical livestock management on a related taxon and found that western (terrestrial) gartersnake (*Thamnophis elegans vagrans*) populations were significantly higher (versus controls) in terms of abundance and biomass in areas that were excluded from grazing, where the streamside vegetation remained lush, than where uncontrolled access to grazing was permitted. This effect was complemented by higher amounts of cover from organic debris from ungrazed shrubs that accumulate as the debris moves downstream during flood events. Specifically, results indicated that snake abundance and biomass were significantly higher in ungrazed habitat, with a five-fold difference in number of snakes captured, despite the difficulty of making observations in areas of increased habitat complexity (Szaro *et al.* 1985, p. 360). Szaro *et al.* (1985, p. 362) also noted the importance of riparian vegetation for the maintenance of an adequate prey base and as cover in thermoregulation and predation avoidance behaviors, as well as for foraging success. Direct fatalities of amphibian species, in all life stages, from being trampled by livestock has been documented (Bartelt 1998, p. 96; Ross *et al.* 1999, p. 163). Gartersnakes may, on occasion, be trampled by livestock. A black-necked gartersnake (*Thamnophis cyrtopsis cyrtopsis*) had apparently been killed by livestock trampling along the shore of a stock tank in the Apache–Sitgreaves National Forest, within an actively grazed allotment (Chapman 2005).

Subbasins where historical grazing has been documented as a suspected contributing factor for either northern Mexican or narrow-headed gartersnake declines include the Verde, Salt, Agua Fria, San Pedro, Gila, and Santa Cruz (Hendrickson and Minckley 1984, pp. 140, 152, 160–162; Rosen and Schwalbe 1988, pp. 32–33; Girmendonk and Young 1997, p. 47; Hale 2001, pp. 32–34, 50, 56; Voeltz 2002, pp. 45–81; Krueper *et al.* 2003, pp. 607, 613–614; Forest Guardians 2004, pp. 8–10; Holycross *et al.* 2006, pp. 52–61; Paradzick *et al.* 2006, pp. 90–92; USFS 2008). Livestock grazing still occurs in these subbasins but is a largely managed land use and is not likely to pose significant threats to either northern Mexican or narrow-headed gartersnakes where closely managed. In cases where poor livestock management results in fence lines in persistent disrepair, providing unmanaged livestock access to occupied habitat, adverse effects from loss of vegetative cover may result, most likely in the presence of harmful nonnative species. As we described above, however, we strongly suspect that northern Mexican and narrow-headed gartersnakes are somewhat resilient to physical habitat disturbance where harmful nonnative species are absent.

The creation and maintenance of stock tanks is an important component to livestock grazing in the southwestern United States. Stock tanks associated with livestock grazing may facilitate the spread of harmful nonnative species when they are intentionally or unintentionally stocked by anglers and private landowners (Rosen *et al.* 2001, p. 24). The management of stock tanks is an important consideration for northern Mexican gartersnakes in particular. Stock tanks associated with livestock grazing can be intermediary ''stepping stones'' in the dispersal of nonnative species from larger source populations to new areas (Rosen *et al.* 2001, p. 24). The effects of livestock grazing at stock tanks on northern Mexican gartersnakes depend on how they are managed. Dense bank and aquatic vegetation is an important habitat characteristic for the northern Mexican gartersnake in the presence of harmful nonnative species. This vegetation can be affected if the impoundment is poorly managed. When harmful nonnative species are absent, the presence of bank line vegetation is less important. Well-managed stock tanks provide important habitat for northern Mexican gartersnakes and their prey base, especially when the tank: (1) Remains devoid of harmful nonnative species while supporting native prey species; (2) provides adequate vegetation cover; and (3) provides reliable water sources in periods of prolonged drought. Given these benefits of well-managed stock tanks, we believe well-managed stock tanks are an important, even vital at this time, component to northern Mexican gartersnake conservation and recovery.

Road Construction, Use, and Maintenance (Northern Mexican and Narrow-Headed Gartersnake) (Factor A)

Roads can pose unique threats to herpetofauna, and specifically to species like the northern Mexican gartersnake, its prey base, and the habitat where it occurs. The narrow-headed gartersnake, alternatively, is probably less affected by roads due to its more aquatic nature. Roads fragment occupied habitat and can result in diminished genetic variability in populations from increased fatality from vehicle strikes and adverse human encounters as supported by current research on eastern indigo snakes (Breininger *et al.* 2012, pp. 364–366). Roads often track along streams and present a fatality risk to gartersnakes seeking more upland, terrestrial habitat for brumation and gestation. Roads may cumulatively impact both species through the following mechanisms: (1) Fragmentation, modification, and destruction of habitat; (2) increase in genetic isolation; (3) alteration of movement patterns and behaviors; (4) facilitation of the spread of nonnative species via human vectors; (5) an increase in recreational access and the likelihood of subsequent, decentralized urbanization; (6) interference with or inhibition of reproduction; (7) contributions of pollutants to riparian and aquatic communities; (8) reduction of prey communities; and (9) acting as population sinks (when population death rates from vehicle strikes exceed birth rates in a given area) (Rosen and Lowe 1994, pp. 146–148; Waters 1995, p. 42; Foreman and Alexander 1998, p. 220; Trombulak and Frissell 2000, pp. 19–26; Carr and Fahrig 2001, pp. 1074–1076; Hels and Buchwald 2001, p. 331; Smith and Dodd 2003, pp. 134–138; Angermeier *et al.* 2004, pp. 19–24; Shine *et al.* 2004, pp. 9, 17–19; Andrews and Gibbons 2005, pp. 777–781; Wheeler *et al.* 2005, pp. 145, 148–149; Roe *et al.* 2006, p. 161; Sacco 2007, pers. comm.; Ouren *et al.* 2007, pp. 6–7, 11, 16, 20–21; Jones *et al.* 2011, pp. 65–66; Hellekson 2012a, pers. comm.).

Perhaps the most common factor in road fatality of snakes is the propensity for drivers to unintentionally and intentionally run them over, both because people often dislike snakes (Rosen and Schwalbe 1988, p. 43; Ernst and Zug 1996, p. 75; Green 1997, pp. 285–286; Nowak and Santana-Bendix 2002, p. 39) and because they can be difficult to avoid when crossing roads at perpendicular angles (Klauber 1956, p. 1026; Langley *et al.* 1989, p. 47; Shine *et al.* 2004, p. 11). Fatality data for northern Mexican gartersnakes have been collected at the Bubbling Ponds Hatchery since 2006. Of the 15 dead specimens, 8 were struck by vehicles on roads within or adjacent to the hatchery ponds, perhaps while crossing between ponds to forage (Boyarski 2011, pp. 1–3). Van Devender and Lowe (1977, p. 47), however, observed several northern Mexican gartersnakes crossing the road at night after the commencement of the summer monsoon (rainy season), which highlights the seasonal variability in surface activity of this snake. Wallace *et al.* (2008, pp. 243–244) documented a vehicle-related fatality of a northern Mexican gartersnake on Arizona State Route 188 near Tonto Creek that occurred in 1995.

Adverse Human Interactions With Gartersnakes (Northern Mexican and Narrow-Headed Gartersnake) (Factor E)

A fear of snakes is generally and universally embedded in modern culture and is prevalent in the United States (Rosen and Schwalbe 1988, p. 43; Ernst and Zug 1996, p. 75; Green 1997, pp. 285–286; Nowak and Santana-Bendix 2002, p. 39). We use the phrase ''adverse human interaction'' to refer to the act of humans directly injuring or killing snakes out of a sense of fear or anxiety (ophidiophobia), or for no apparent purpose. One reason the narrow-headed gartersnake is vulnerable to adverse human interactions is because of its appearance. The narrow-headed gartersnake is often confused for a venomous water moccasin (cottonmouth, *Agkistrodon piscivorus*), because of its triangular-shaped head and propensity to be found in or near water (Nowak and Santana-Bendix 2002, p. 38). Although the nearest water moccasin populations are located over 700 miles (1,127 km) to the east in central Texas, these misidentifications prove fatal for narrow-headed gartersnakes (Nowak and Santana-Bendix 2002, p. 38).

Adverse human interaction may be largely responsible for highly localized extirpations in narrow-headed gartersnakes based on the collection history of the species at Slide Rock State Park along Oak Creek, where high recreation use is strongly suspected to result in direct fatality of snakes by humans (Nowak and Santana-Bendix 2002, pp. 21, 38). Declines in narrow-headed gartersnake populations in the North and East Forks of the White River have also been attributed to humans killing snakes (Rosen and Schwalbe 1988, pp. 43–44). Locations in New Mexico where this unnatural form of fatality has been observed include Wall Lake (Fleharty 1967, p. 219) and Whitewater Creek (Hellekson 2012a, pers. comm.). Areas with high visitation and recreation levels, where this type of fatality is most likely to be more common, include the Middle Fork and mainstem of the Gila River within 1 mile of Cliff Dwellings to Little Creek, from the confluence with the East Fork to Little Creek and the reach from Turkey Creek to the Gila Bird Area south of Highway 180 (Hellekson 2013, pers. comm.), in Whitewater Creek from the Catwalk to Glenwood (Hellekson 2012a, pers. comm.), near San Francisco Hot Springs along the San Francisco River (Hibbitts and Fitzgerald 2009, p. 466), the San Francisco River ''Box'', Black Canyon near the FR150 crossing, and the south Fork Negrito Creek (Hellekson 2013, pers. comm.).

Environmental Contaminants (Northern Mexican and Narrow-Headed Gartersnake) (Factor A)

Environmental contaminants, such as heavy metals, may be common at low background levels in soils and, as a result, concentrations are known to bioaccumulate in food chains. A bioaccumulative substance increases in concentration in an organism or in the food chain over time. A mid- to higher-order predator, such as a gartersnake, may, therefore, accumulate these types of contaminants over time in their fatty tissues, which may lead to adverse health effects (Wylie *et al.* 2009, p. 583, Table 5). Campbell *et al.* (2005, pp. 241–243) found that metal concentrations accumulated in the northern watersnake (*Nerodia sipedon*) at levels six times that of their primary prey item, the central stoneroller (a fish, *Campostoma anomalum*). Metals, in trace amounts, can be sequestered in the skin of snakes (Burger 1992, p. 212), interfere with metabolic rates of snakes (Hopkins *et al.* 1999, p. 1261), affect the structure and function of their liver and kidneys, and may also act as neurotoxins, affecting nervous system function (Rainwater *et al.* 2005, p. 670). Burger (1992, p. 209) found higher concentrations of mercury, lead, and chromium in the skin of snakes, as opposed to whole body tissue, ''suggesting that frequent shedding of skin can act as a method of toxic excretion by snakes.'' Drewett *et al.* (2013, entire) studied mercury accumulation in 4 species of snakes (including the common gartersnake) ranging from mostly aquatic to mostly terrestrial in an attempt to ascertain if a snake's ecology affected the risk of exposure and tissue accumulation levels. They found that the more aquatic the species' ecology and prey base, the higher risk for exposure and accumulation of mercury (Drewett *et al.* 2013, pp. 7–8).

Based on data collected in 2002–2010, mercury appears to be bioaccumulating in fish found in the lower reaches of Tonto Creek, where northern Mexican gartersnakes also occur (Rector 2010, pers. comm.; Arizona Department of Environmental Quality (ADEQ) 2011, Table 1). In fact, the State record for the highest mercury concentrations in fish tissue was reported in Tonto Creek from this investigation by Rector (2010, pers. comm.). Mean mercury levels in fish were found to range from 0.2–1.5 mg/kg. The mean mercury concentration for all fish was 1.1 mg/kg (ADEQ 2011, p. 3). Due to the risks of adverse human health effects, ADEQ (2011, p. 8) recommends that smallmouth bass, green sunfish, and black bullheads caught from Tonto Creek not be consumed, and common carp be consumed sparingly. Because gartersnakes eat fish, mercury may be bioaccumulating in resident populations, although no testing of gartersnakes has occurred.

Specific land uses such as mining and smelting, as well as road construction and use, can be significant sources of contaminants in air, water, or soil through point-source and non-point source mechanisms. Copper mining has occurred in Arizona and adjacent Mexico for centuries, and many of these sites have smelters (now decommissioned), which are former sources of airborne contaminants. Industrial mine sites occur in several counties in Arizona (Greenlee, Pima, Pinal, Yavapai, and Gila), as well as in Grant County, New Mexico. The current price of copper is high and is expected to continue to increase into the next several decades, fueled by international development and economic growth. Overall, 18 mines are either in production or in the pre-production phases of development in Arizona and New Mexico. The mining industry in Mexico is largely concentrated in the northern tier of that country, with the State of Sonora being the leading producer of copper, gold, graphite, molybdenum, and wollastonite, as well as the leader among Mexican States with regard to the amount of surface area dedicated to mining (Stoleson *et al.* 2005, p. 56). The three largest mines in Mexico (all copper) are found in Sonora (Stoleson *et al.* 2005, p. 57). One of these, the Cananea Copper Mine adjacent to the Upper San Pedro River in northern Sonora, was responsible for a massive spill event. For two consecutive years (1977–1978), two leaching ponds overflowed into the San Pedro River resulting in very acidic water conditions and high levels of heavy metals such as copper, zinc, and manganese (Eberhardt 1981, pp. 1, 16). These releases caused the death of all aquatic organisms in the San Pedro River for a 60-mile (97-km) reach downstream of the mine (Eberhardt 1981, pp. 1, 16).

The sizes of mines in Sonora vary considerably, as do the known environmental effects from mining-related activities (from exploration to long after closure), which include contamination and drawdown of groundwater aquifers, erosion, acid mine drainage, fugitive dust, pollution from smelter emissions, and landscape clearing (Stoleson *et al.* 2005, p. 57). We are aware of no specific research on potential effects of mining or environmental contaminants acting on northern Mexican gartersnakes, but conclude, based on the best available scientific and commercial information, that where this land use is prevalent, contaminants may be a concern for resident gartersnakes or their prey.

Northern Mexican Gartersnake Competition With Marcy's Checkered Gartersnake (Northern Mexican Gartersnake) (Factor E)

Preliminary research suggests that Marcy's checkered gartersnake (*Thamnophis marcianus marcianus*) may impact the future conservation of the northern Mexican gartersnake in southern Arizona. Rosen and Schwalbe (1988, p. 31) hypothesized that bullfrogs are more likely to eliminate northern Mexican gartersnakes when Marcy's checkered gartersnakes are also present. Marcy's checkered gartersnake is a semi-terrestrial species that is able to co-exist to some degree with harmful nonnative predators. This might be due to its apparent ability to forage in more terrestrial habitats, specifically during the vulnerable juvenile size classes (Rosen and Schwalbe 1988, p. 31; Rosen *et al.* 2001, pp. 9–10). In every age class, the northern Mexican gartersnake forages in aquatic habitats where nonnative predatory fish, bullfrogs, and crayfish are present, which increases not only the encounter rate between predator and prey, but also the juvenile fatality rate of the northern Mexican gartersnake, which negatively affects recruitment. As northern Mexican gartersnake numbers decline within a population, space becomes available for occupation by Marcy's checkered gartersnakes. If competitive pressure between these two species has existed over time, it is reasonable to conclude that northern Mexican gartersnakes were successfully out-competing Marcy's checkered gartersnake prior to the invasion of harmful nonnative species. Therefore, Marcy's checkered gartersnake may simply be filling the ecological void left by the decline of the northern Mexican gartersnake. At a minimum, more research is needed to determine the relationship between these two gartersnake species.

Fatality From Entanglement Hazards (Northern Mexican and Narrow-Headed Gartersnake) (Factor E)

In addressing the effects of soil erosion associated with road construction projects or post-fire remedial subbasin management, erosion control materials placed on the ground surface are often used. Examples of products used in erosion or sediment control include mulch control netting, erosion control blankets, fiber rolls (wattles), and reinforced silt fences (California Coastal Commission 2012, p. 1). Erosion control is considered a best management practice for most soil-disturbing activities, and is broadly required as mitigation across the United States, in particular to avoid excess sedimentation of streams and rivers. Rolled erosion control products, such as temporary erosion control blankets and permanent turf reinforcement mats, are two methods commonly used for these purposes (Barton and Kinkead 2005, p. 34). These products use stitching or net-like mesh products to hold absorbent media together. At a restoration site in South Carolina, 19 snakes (15 dead) representing 5 different species were found entangled in the netting and had received severe lacerations in the process of attempting to escape their entanglement (Barton and Kinkead 2005, p. 34). Stuart *et al.* (2001, pp. 162–164) also reported the threats of net-like debris to snake species. Kapfer and Paloski (2011, p. 4) reported at least 31 instances involving 6 different species of snake (including the common gartersnake) in Wisconsin that had become entangled in the netting used for either erosion control or as a wildlife exclusion product. In their review, Kapfer and Paloski (2011, p. 6) noted that 0.5-in.-by-0.5-in. mesh has the greatest likelihood of entangling snakes.

Similar snake fatalities have not been documented in Arizona or New Mexico, according to our files. However, given the broad usage of these materials across the distribution of the northern Mexican and narrow-headed gartersnakes, it is not unlikely that fatalities occur, but go unreported. The likelihood of either gartersnake species becoming entangled depends on the distance these erosion control materials are used from water in occupied habitat and the density of potentially affected populations. Because erosion control products are

usually used to prevent sedimentation of streams, there is a higher likelihood for gartersnakes to become entangled. We encourage those who use these materials in or near gartersnake habitat to take necessary precautions and monitor their use as gartersnake fatalities could occur.

Discarded fishing nets have also been documented as a source of fatalities for northern Mexican gartersnakes in the area of Lake Chapala, Jalisco, Mexico (Barragán-Ramírez and Ascencio-Arrayga 2013, p. 159). Netting or seining is not an authorized form of recreational fishing for sport fish in Arizona or New Mexico, but the practice is allowed in either state for the collection of live baitfish (AGFD 2013a, p. 57; NMDGF 2013, p. 17). Arizona fishing regulations authorize seining for baitfish only where the baitfish will be used and specify that seining is not allowed in Coconino, Apache, Pima, and Cochise Counties. In other areas, it is suspected that most seinng activity occurs at sites dominated by warmwater sportfish, where these gartersnakes are less likely to occur. We are not certain of the frequency at which these techniques are used for such purposes in either state, but we do not suspect that discarded nets or seines are commonly left on-site where they could ensnarl resident gartersnakes. However, this practice is used in Mexico as a primary means of obtaining freshwater fish as a food source and may be more of a threat to local northern Mexican gartersnake populations where this practice occurs.

Disease and Parasites (Northern Mexican and Narrow-Headed Gartersnake) (Factor C)

Our review of the scientific literature did not find evidence that disease is a current factor contributing to the decline in northern Mexican or narrow-headed gartersnakes. However, a recent wildlife health bulletin announced the emergence of snake fungal disease (SFD) within the eastern and midwestern portions of the United States (Sleemen 2013, p. 1). SFD has now been diagnosed in several terrestrial and aquatic snake genera including *Nerodia, Coluber, Pantherophis, Crotalus, Sistrurus,* and *Lampropeltis.* Clinical signs of SFD include scabs or crusty scales, subcutaneous nodules, abnormal molting, white opaque cloudiness of the eyes, localized thickening or crusting of the skin, skin ulcers, swelling of the face, or nodules in the deeper tissues (Sleemen 2013, p. 1). While fatalities have been documented as a result of SFD, population-level impacts have not, due to the cryptic and solitary nature of snakes and the lack of long-term monitoring data (Sleemen 2013, p. 1). So far, no evidence of SFD has been found in the genus *Thamnophis,* but the documented occurrence of SFD in ecologically similar, aquatic colubrids such as *Nerodia* is cause for concern.

Parasites, such as the common plerocercoid larvae of a pseudophyllidean tapeworm (possibly *Spirometra* spp.), have been observed in northern Mexican gartersnakes (Boyarski (2008b, pp. 5–6), which may not be detrimental to the snake's health (Boyarski 2008b, p. 8). However, Gúzman (2008, p. 102) first documented a Mexican gartersnake fatality from a larval *Eustrongylides* sp. (endoparasitic nematode), which ''raises the possibility that infection of Mexican gartersnakes by *Eustrongylides* sp. larvae might cause fatality in some wild populations,'' especially if those populations are under stress as a result of the presence of other threats. Nowak *et al.* (2014, pp. 148–149) reported the first observation of what appears as maternal transmission of endoparasites, specifically of the genus (*Macdonaldius* sp.). We found no substantive evidence that parasites represent a significant threat to either gartersnake species.

Summary

We found numerous effects of livestock grazing that have resulted in the historical degradation of riparian and aquatic communities that have likely affected northern Mexican and narrow-headed gartersnakes. Mismanaged or unmanaged grazing can have disproportionate effects to riparian communities in arid ecosystems due to the attraction of livestock to water, forage, and shade. We found current livestock grazing activities to be more of a concern in Mexico, at least when it occurs in areas that also support harmful nonnative species. The most profound impacts from livestock grazing in the southwestern United States occurred nearly 100 years ago, were significant, and may still be affecting some areas that have yet to fully recover. Unmanaged or poorly managed livestock operations likely have more pronounced effects in areas impacted by harmful nonnative species through a reduction in cover. However, land managers in Arizona and New Mexico currently emphasize the protection of riparian and aquatic habitat in allotment management planning, usually through fencing, rotation, monitoring, and range improvements such as developing remote water sources. Collectively, these measures have reduced the likelihood of significant adverse impacts on northern Mexican or narrow-headed gartersnakes, their habitat, and their prey base. We also recognize that, while the presence of stock tanks on the landscape can benefit nonnative species, well-managed stock tanks are currently an invaluable tool in the conservation and recovery of northern Mexican gartersnakes and their prey.

Other activities, factors, or conditions that act in combination, such as road construction, use, and management, adverse human interactions, environmental contaminants, entanglement hazards, and competitive pressures from sympatric species, occur within the distribution of these gartersnakes and have the propensity to contribute to further population declines or extirpations where gartersnakes occur at low population densities. An emerging skin disease, SFD, has not yet been documented in gartersnakes but has affected snakes of many genera within the United States, including ecologically similar species, and may pose a future threat to northern Mexican and narrow-headed gartersnakes. Where low-density populations are affected by these types of threats described above, even the loss of a few reproductive adults, especially females, from a population can have significant population-level effects, most notably in the presence of harmful nonnative species. Continued population declines and extirpations threaten the genetic representation of each species because many populations have become disconnected and isolated from neighboring populations. This subsequently leads to a reduction in species redundancy and resiliency when isolated, small populations are at increased vulnerability to the effects of stochastic events, without a means for natural recolonization. Based on the best available scientific and commercial information, we conclude that these threats have the tendency to act synergistically and disproportionately on low-density gartersnake populations rangewide, now and in the foreseeable future.

Adequacy and Effectiveness at Reducing Identified Threats of Existing Regulatory Mechanisms (Northern Mexican and Narrow-Headed Gartersnake) (Factors D and E)

Below, we examine whether existing regulatory mechanisms are adequate to address the threats to the northern Mexican and narrow-headed gartersnakes discussed under other factors and whether these regulations are acting to alleviate the threats identified to the species. Section 4(b)(1)(A) of the Endangered Species Act requires the Service to take into account ''those efforts, if any, being

made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species.'' We interpret this language to require us to consider relevant Federal, State, and Tribal laws, regulations, and other such mechanisms that may minimize any of the threats we describe in the threats analysis under the other four factors, or otherwise influence conservation of the species. We give strongest weight to statutes and their implementing regulations, and management direction that stems from those laws and regulations. They are nondiscretionary and enforceable, and are considered a regulatory mechanism under this analysis. Having evaluated the significance of the threat as mitigated by any such conservation efforts, we analyze under Factor D the extent to which existing regulatory mechanisms are inadequate to address the specific threats to the species. Regulatory mechanisms, if they exist, may reduce or eliminate the impacts from one or more identified threats. In this section, we review existing State and Federal regulatory mechanisms to determine whether they effectively reduce or remove threats to the species.

A number of Federal statutes potentially afford protection to northern Mexican and narrow-headed gartersnakes or their prey species. These include section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*), Federal Land Policy and Management Act (43 U.S.C. 1701 *et seq.*), National Forest Management Act (16 U.S.C. 1600 *et seq.*), National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), and the Act. However, in practice, these statutes have not been able to provide sufficient protection to prevent the currently observed downward trend in northern Mexican and narrow-headed gartersnakes or their prey species, and the concurrent upward trend in threats.

Section 404 of the Clean Water Act regulates placement of fill into waters of the United States, including the majority of northern Mexican and narrow-headed gartersnake habitat. However, many actions with the potential to be highly detrimental to both species, their prey base, and their habitat, such as gravel mining and irrigation diversion structure construction and maintenance, may be exempted from the Clean Water Act. Other detrimental actions, such as bank stabilization and road crossings, are covered under nationwide permits that receive limited environmental review. A lack of thorough, site-specific analyses for projects can allow substantial adverse effects to northern Mexican or narrow-headed gartersnakes, their prey base, or their habitat.

The majority of the extant populations of northern Mexican and narrow-headed gartersnakes in the United States occur on lands managed by the U.S. Bureau of Land Management (BLM) and U.S. Forest Service. Both agencies have riparian protection goals that may provide habitat benefits to both species; however, neither agency has specific management plans for northern Mexican or narrow-headed gartersnakes. As a result, some of the significant threats to these gartersnakes, for example, those related to nonnative species, are not necessarily addressed on these lands. The BLM considers the northern Mexican gartersnake as a ''Sensitive Species'' by default, due to its status under the Act (U.S. Bureau of Land Management (USBLM) 2010), and agency biologists actively attempt to identify gartersnakes for their records for snakes observed incidentally during fieldwork (Young 2005). BLM policy (BLM Manual Section 6840) requires consideration of sensitive species during planning of activities and projects and mitigation of specific threats. The BLM's Resource Management Plans include objectives and management actions to benefit riparian habitat and native fish; with some addressing ''invasive wildlife species'' (USBLM 2013, p. 2). When the Agua Fria National Monument was created in January 2000, lowland leopard frogs, native fish, northern Mexican gartersnakes, and riparian habitat were designated as ''monument objects'' under protection by the National Monument (USBLM 2013, p. 3). Similar conservation provisions are in place on the BLM's National Conservation Areas (NCAs), such as the Las Cienegas NCA, San Pedro River NCA, and the Gila Box Riparian NCA. While these measures likely minimize the effect of otherwise adverse regional land use activities on the aquatic community, gartersnake populations in these areas remain in a precarious status.

The U.S. Forest Service does not include northern Mexican or narrow-headed gartersnakes on their Management Indicator Species List, but both species are included on the Regional Forester's Sensitive Species List (USFS 2007, pp. 38–39). This means they are considered in land management decisions, and protective measures can be implemented to minimize adverse effects of otherwise lawful activities. However we found no examples of specific protective measures that have been implemented for these species. Individual U.S. Forest Service biologists who work within the range of either northern Mexican or narrow-headed gartersnakes may opportunistically gather data for their records on gartersnakes observed incidentally in the field or coordinate with other collaborators on surveys, although it is not required. The Gila National Forest mentions the narrow-headed gartersnake in their land and resource management plan, which includes standards relating to forest management for the benefit of endangered and threatened species as identified through approved management and recovery plans (Center for Biological Diversity (CBD) *et al.* 2011, p. 18). Neither species is mentioned in any other land and resource management plan for the remaining national forests where they occur (CBD *et al.* 2011, p. 18).

The New Mexico Department of Game and Fish lists the northern Mexican gartersnake as State-endangered and the narrow-headed gartersnake as State-threatened (NMDGF 2006, Appendix H). A species is State-endangered if it is in jeopardy of extinction or extirpation within the State; a species is State-threatened if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range in New Mexico (NMDGF 2006, p. 52). ''Take,'' defined as ''to harass, hunt, capture or kill any wildlife or attempt to do so'' by New Mexico Statutes Annotated (NMSA) 17–2–38.L., is prohibited without a scientific collecting permit issued by the New Mexico Department of Game and Fish as per NMSA 17–2–41.C and New Mexico Administrative Code (NMAC) 19.33.6. However, while the New Mexico Department of Game and Fish can issue monetary penalties for illegal take of either northern Mexican gartersnakes or narrow-headed gartersnakes, the same provisions are not in place for actions that result in loss or modification of their habitats (NMSA 17–2–41.C and NMAC 19.33.6) (Painter 2005).

Prior to 2005, the AGFD allowed for take of up to four northern Mexican or narrow-headed gartersnakes per person per year as specified in Commission Order 43. The AGFD defines ''take'' as ''pursuing, shooting, hunting, fishing, trapping, killing, capturing, snaring, or netting wildlife or the placing or using any net or other device or trap in a manner that may result in the capturing or killing of wildlife.'' The AGFD subsequently amended Commission Order 43, effective January 2005. Take of northern Mexican and narrow-headed gartersnakes is no longer permitted in Arizona without issuance of a scientific

collecting permit (Ariz. Admin. Code R12–4–401 *et seq.*) or special authorization. While the AGFD can seek criminal or civil penalties for illegal take of these species, the same provisions are not in place for actions that result in destruction or modification of the gartersnakes' habitat. In addition to making the necessary regulatory changes to promote the conservation of northern Mexican and narrow-headed gartersnakes, the AGFD's Nongame Branch continues to be a strong partner in research and survey efforts that further our understanding of current populations, and assist with conservation efforts and the establishment of long-term conservation partnerships.

Throughout Mexico, the Mexican gartersnake is listed at the species level of its taxonomy as ''Amenazadas,'' or Threatened, by the Secretaria de Medio Ambiente y Recursos Naturales (SEMARNAT) (SEDESOL 2010, p. 71). Threatened species are ''those species, or populations of the same, likely to be in danger of disappearing in a short or medium timeframe, if the factors that negatively impact their viability, cause the deterioration or modification of their habitat or directly diminish the size of their populations continue to operate'' (Secretaría de Desarrollo Social (SEDESOL) 2010, p. 5). This designation prohibits taking of the species, unless specifically permitted, as well as prohibits any activity that intentionally destroys or adversely modifies its habitat. Additionally, in 1988, the Mexican Government passed a regulation that is similar to the National Environmental Policy Act of the United States. This Mexican regulation requires an environmental assessment of private or government actions that may affect wildlife or their habitat (SEDESOL 1988 Ley General del Equilibrio Ecológico y la Protección al Ambiente (LGEEPA)).

The Mexican Federal agency known as the Instituto Nacional de Ecología (INE) is responsible for the analysis of the status and threats that pertain to species that are proposed for listing in the Norma Oficial Mexicana NOM–059 (the Mexican equivalent to an endangered and threatened species list), and, if appropriate, the nomination of species to the list. INE is generally considered the Mexican counterpart to the United States' Fish and Wildlife Service. INE developed the Method of Evaluation of the Risk of Extinction of the Wild Species in Mexico (MER), which unifies the criteria of decisions on the categories of risk and permits the use of specific information fundamental to listing decisions. The MER is based on four independent, quantitative criteria: (1) Size of the distribution of the taxon in Mexico; (2) state (quality) of the habitat with respect to natural development of the taxon; (3) intrinsic biological vulnerability of the taxon; and (4) impacts of human activity on the taxon. INE began to use the MER in 2006; therefore, all species previously listed in the NOM–059 were based solely on expert review and opinion in many cases. Specifically, until 2006, the listing process under INE consisted of a panel of scientific experts who convened as necessary for the purpose of defining and assessing the status and threats that affect Mexico's native species that are considered to be at risk, and applying those factors to the definitions of the various listing categories. In 1994, when the Mexican gartersnake was placed on the NOM–059 (SEDESOL 1994 (NOM–059–ECOL–1994), p. 46) as a threatened species, the decision was made by a panel of scientific experts.

Although the Mexican gartersnake is listed as a threatened species in Mexico and based on our experience collaborating with Mexico on trans-border conservation efforts, no recovery plan or other conservation planning occurs because of this status, and enforcement of the regulation protecting the gartersnake is sporadic, depending on available resources and location. Based upon the best available scientific and commercial information on the status of the species, and the historic and continuing threats to its habitat in Mexico, our analysis concludes that regulatory mechanisms enacted by the Mexican Government to conserve the northern Mexican gartersnake are not adequate to address threats to the species or its habitat.

In summary, we reviewed a number of existing regulations that potentially address issues affecting the northern Mexican and narrow-headed gartersnakes and their habitats. Mexican law prohibits take of the northern Mexican gartersnake and the intentional destruction or modification of northern Mexican gartersnake habitat. However that law has not led to a reduction in threats such that they no longer meet the definition of endangered or threatened under the Act. Furthermore, most existing regulations in the United States within the range of northern Mexican and narrow-headed gartersnakes were not specifically designed to protect the gartersnakes or their habitats, which is the overarching threat to the species. For example, Arizona and New Mexico both have statutes designed for protection of state-listed species that prohibit the direct collection of individuals. However neither state law is designed to provide protection of habitat and ecosystems. Therefore, these laws are not reducing threats to the species such that they no longer meet the definition of endangered or threatened under the Act.

Current Conservation of Northern Mexican and Narrow-Headed Gartersnakes (Factor E)

Several conservation measures implemented by land and resource managers, private land owners, and other stakeholders can directly or indirectly benefit populations of northern Mexican and narrow-headed gartersnakes. For example, the AGFD's conservation and mitigation program (CAMP; implemented under an existing section 7 incidental take permit) has committed to either stocking (with captive-bred stock) or securing two populations each of northern Mexican and narrow-headed gartersnakes to help minimize adverse effects to these species from their sport fish stocking program through 2021 (USFWS 2011, Appendix C). Other CAMP commitments include: (1) Developing a gartersnake monitoring, research, and restocking plan to guide CAMP activities to establish or secure populations; (2) developing outreach material to reduce the deliberate killing or injuring of gartersnakes (placed in high angler access areas); (3) ensuring that chemically renovated streams are quickly restocked with native fish as gartersnake prey; (4) conducting a live bait assessment team to develop recommendations to amend live bait management; (5) reviewing and updating outreach programs on the risks to native aquatic species from the transport of nonnative aquatic species; (6) developing and implementing a public education program on gartersnakes; and (7) working with the New Mexico Department of Game and Fish to examine the roll of escaped rainbow trout from Luna Lake into tributaries to the San Francisco River in supporting narrow-headed gartersnakes. The programs' management strategy is encapsulated in AGFD (2014a, entire) and progress on activities through June 2013 is reported in AGFD (2012c, pp. 26–30; 2013b, pp. 37–44).

Significant challenges will have to be met for creating or securing two populations each of northern Mexican or narrow-headed gartersnakes. Captive propagation, if used to create stock for reintroductions, has only been possible for northern Mexican gartersnakes. Specifically, after approximately 6 years of experimentation with captive propagation at five institutions, using two colonies of northern Mexican

gartersnakes and three colonies of narrow-headed gartersnakes, success has been limited (see Gartersnake Conservation Working Group (GCWG) 2007, 2008, 2009, 2010). In 2012 and 2013, approximately 60 northern Mexican gartersnakes were produced at one institution, 40 of which were subsequently marked and released along Cienega Creek. These were the first gartersnakes of either species to be produced under this program, but the current status of released individuals remains unknown. No narrow-headed gartersnakes have been produced in captivity under this program since its inception. Secondly, in order to have the greatest chance for success, the process of ''securing'' a population of either species will likely involve an aggressive nonnative removal strategy, and will have to account for habitat connectivity to prevent reinvasion of unwanted species. Therefore, securing a population of either species may involve removal of harmful nonnatives from an entire subbasin or on a landscape scale (Cotton *et al.* 2014, pp. 12–13). In situations where harmful nonnatives do not pose a threat to a given population, other types of recovery actions may suffice.

To protect habitat for candidate, threatened, and endangered species, including northern Mexican gartersnakes in the Agua Fria subbasin, the AGFD purchased the approximate 200-acre (81-ha) Horseshoe Ranch along the Agua Fria River located near the Bloody Basin Road crossing, east of Interstate 17 and southeast of Cordes Junction, Arizona. The AGFD plans (presumably in the next 5–10 years) to introduce northern Mexican gartersnakes, as well as lowland leopard frogs and native fish species, into a large pond, protected by bullfrog exclusion fencing, located adjacent to the Agua Fria River. The bullfrog exclusion fencing around the pond will permit the dispersal of northern Mexican gartersnakes and lowland leopard frogs from the pond, allowing the pond to act as a source population to the Agua Fria River. The AGFD's short- to mid-term conservation planning for Horseshoe Ranch will help ensure the northern Mexican gartersnake persists in this historical locality.

In 2007, the New Mexico Department of Game and Fish completed a recovery plan for narrow-headed gartersnakes in New Mexico (Pierce 2007, pp. 13–15) that included the following management objectives: (1) Researching the effect of known threats to, and natural history of, the species; (2) acquiring funding sources for research, monitoring, and management; (3) enhancing education and outreach; and (4) managing against known threats to the species. Implementation of the recovery plan was to occur between the second half of 2007 through 2011, and was divided into three main categories: (1) Improve and maintain knowledge of potential threats to the narrow-headed gartersnake; (2) improve and maintain knowledge of the biology of the narrow-headed gartersnake; and (3) develop and maintain high levels of cooperation and coordination between stakeholders and interested parties (Pierce 2007, pp. 16–17). Our review of the plan found that it lacked specific threat-mitigation commitments on the landscape, as well as stakeholder accountability for implementing activities prescribed in the plan. We also found that actions calling for targeted nonnative species removal or management were absent in the implementation schedule provided in Pierce (2007, p. 17). As we have discussed at length, harmful nonnative species are the primary driver of continued declines in both gartersnake species. No recovery plan, conservation plan, or conservation agreement currently exists in New Mexico with regard to the northern Mexican gartersnake (NMDGF 2006, Table 6–3).

In Arizona's State Wildlife Action Plan 2012–2022 (SWAP) (AGFD 2012b, Appendix E), both the northern Mexican and narrow-headed gartersnake are Tier 1A Species of Greatest Conservation Need (SGCN). SGCN include those ''species that each State identified as most in need of conservation actions'' and Tier 1A species include ''those species for which the Department has entered into an agreement or has legal or other contractual obligations, or warrants the protection of a closed season'' (AGFD 2012b, p. 16). The SWAP is not a regulatory document, and does not provide any specific protections for either the gartersnakes themselves, or their habitats. The AGFD does not have specified or mandated recovery goals for either the northern Mexican or narrow-headed gartersnake, nor has a conservation agreement or recovery plan been developed for either species.

Indirect benefits for both gartersnake species occur through recovery actions designed for their prey species. Since the Chiricahua leopard frog was listed as threatened under the Act, significant strides have been made in its recovery, and the mitigation of its known threats. The northern Mexican gartersnake, in particular, has likely benefitted from these actions, at least in some areas, such as at the Las Cienegas Natural Conservation Area and in Scotia Canyon of the Huachuca Mountains. However, much of the recovery of the Chiricahua leopard frog has occurred in areas that have not directly benefitted the northern Mexican gartersnake, either because these activities have occurred outside the known distribution of the northern Mexican gartersnake or because they have occurred in isolated lentic systems that are far removed from large perennial streams that typically provide source populations of northern Mexican gartersnakes. In recent years, significant strides have been made in controlling bullfrogs on local landscape levels in Arizona, such as in the Scotia Canyon area, in the Las Cienegas National Conservation Area, on the BANWR, and in the vicinity of Pena Blanca Lake in the Pajarito Mountains. Recent efforts to return the Las Cienegas National Conservation Area to a wholly native biological community have involved bullfrog eradication efforts, as well as efforts to recover the Chiricahua leopard frog and native fish species. These actions should assist in conserving the northern Mexican gartersnake population in this area. Bullfrog control has been shown to be most effective in simple, lentic systems such as stock tanks. Therefore, we encourage livestock managers to work with resource managers in the systematic eradication of bullfrogs from stock tanks where they occur, or at a minimum, ensure they are never introduced.

An emphasis on native fish recovery in fisheries management and enhanced harmful nonnative species control to favor native communities may be the single most efficient and effective manner to recover these gartersnakes, in addition to appropriate management for all listed or sensitive native fish and amphibian species upon which they prey. Alternatively, resource management policies that are intended to directly benefit or maintain harmful nonnative communities, and which will likely exclude native species, will significantly reduce the potential for the conservation and recovery of northern Mexican and narrow-headed gartersnakes, in those areas where they overlap with habitat occupied by either gartersnake.

Fisheries managers strive to balance the needs of the recreational angling community against those required by native aquatic communities. Fisheries management has direct implications for the conservation and recovery of northern Mexican and narrow-headed gartersnakes in the United States. Clarkson *et al.* (2005) discuss management conflicts as a primary factor in the decline of native fish species in the southwestern United States, and declare the entire native fish

fauna as imperiled. The investigators cite nonnative species as the most consequential factor leading to rangewide declines of native fish, and that such declines prevent or negate species' recovery efforts from being implemented or being successful (Clarkson *et al.* 2005, p. 20). Maintaining the status quo of current management of fisheries within the southwestern United States will have serious adverse effects to native fish species (Clarkson *et al.* 2005, p. 25), which will affect the long-term viability of northern Mexican and narrow-headed gartersnakes and their potential for recovery. Clarkson *et al.* (2005, p. 20) also note that over 50 nonnative species have been introduced into the Southwest as either sportfish or baitfish, and some are still being actively stocked, managed for, and promoted by both Federal and State agencies as nonnative recreational fisheries.

To help resolve the fundamental conflict of management between native fish and recreational sport fisheries, Clarkson *et al.* (2005, pp. 22–25) propose the designation of entire subbasins as having either native or nonnative fisheries and manage for these goals aggressively. The idea of watershed-segregated fisheries management is also supported by Marsh and Pacey (2005, p. 62). As part of the AGFD's overall wildlife conservation strategy, the AGFD has planned an integrated fisheries management approach (AGFD 2012b, p. 106), which is apparently designed to manage subbasins specifically for either nonnative or native fish communities. This strategy is described in detail in AGFD (2009, entire), but the AGFD has not yet initiated implementation of this strategy or decided how fisheries will be managed in Arizona's subbasins, and we are not aware of a specific implementation timeline. However, the ''current fish assemblage,'' ''current recovery or conservation category,'' and ''current angling category'' inform what is referred to as Step 2c: Identification of Current Fishery Values'' (AGFD 2009, pp. 10–11). Factors such as angler access (which contributes directly to angler use days (AUD)), existing fish communities, and stream flow considerations are likely to inform such broadly based decisions.

Due to the relative scarcity of perennial streams in arid regions such as Arizona, several of Arizona's large perennial rivers present an array of existing sport fishing opportunities and angler access points, and already contain harmful nonnative fish species that are considered sport fish. We anticipate that these rivers may be preferred as nonnative fisheries under the watershed designation process. Another significant and confounding factor is the AGFD's ''no net loss'' policy that addresses sport fishery resources statewide. There is no official written AGFD Commission guidance on ''no net loss'' according to AGFD (2009, Appendix D), but ''Commission policy DOM [Arizona Game Fish Department Operating Manual] A2.24, Wildlife Management Program Goal and Objective #6 states, 'provide and promote fishing opportunities to sustain a minimum of 8,000,000 AUD per year by June 30, 1997.' Although this policy has yet to be revised by the Commission, based on current data, we remain below 8,000,000 AUD's statewide (AGFD 2009, Appendix D). As such, it was determined the Department's goal to manage for no net loss is consistent with current Commission policy (A2.24). The ''no net loss'' policy is a guiding tenet, and its implementation is directed as follows (AGFD 2009, Appendix D):

> ''When a sport fishery is valued less than a native aquatic conservation value within a management unit, the loss of sport fishing opportunity will be compensated for by gain of an equal number of AUDs in another area or management unit. This opportunity will be created within the same watershed when possible. For this purpose, a watershed is defined as a six-digit-numbered area referenced on the USGS's Hydrological Unit Map. If this is not possible, the opportunity will be created within the same Department regional boundaries. Again, if this is not possible, the opportunity will be created somewhere within the State with extensive coordination between regional staff. If a net loss cannot be avoided, the Director will evaluate if the loss is acceptable by gauging the input from the public process leading to the recommendation and may take the information to the Commission at his discretion. The replacement opportunity will be initiated no more than two years following the loss to anglers.''

Extensive coordination between AGFD and the Service will be required under the no net loss policy with regard to gartersnake conservation and recovery because the amount of suitable riparian and aquatic habitat is finite, yet, somehow, the existing opportunity for AUD must be maintained. This increases the uncertainty for the persistence of existing gartersnake populations in Arizona.

Large perennial rivers that serve as sport fisheries also currently serve as important habitat for northern Mexican or narrow-headed gartersnake. If designated for sportfishing, fisheries management of these rivers would likely include the maintenance of predatory sport fish species, which would likely diminish the recovery potential for gartersnakes in these areas, and, perhaps, even result in the local extirpations of populations of northern Mexican and narrow-headed gartersnakes. Alternatively, subbasins that are targeted for wholly native species assemblages would likely secure the persistence of northern Mexican and narrow-headed gartersnakes that occur there, if not result in their complete recovery in these areas. Specific subbasins where targeted fisheries management is to occur were not provided in AGFD (2012b), but depending on which areas are chosen for each management emphasis, the potential for future conservation and recovery of northern Mexican and narrow-headed gartersnakes could either be significantly bolstered, or significantly hampered. Close coordination with the AGFD on the delineation of fisheries management priorities in Arizona's subbasins will be instrumental to ensuring that conservation and recovery of northern Mexican and narrow-headed gartersnakes can occur.

Conservation of these gartersnakes has been implemented in the scientific and management communities as well. The AGFD recently produced identification cards for distribution that provide information to assist field professionals with the identification of each of Arizona's five native gartersnake species, as well as guidance on submitting photographic vouchers for university museum collections. Arizona State University and the University of Arizona now accept photographic vouchers in lieu of physical specimens, in their respective museum collections. These measures appreciably reduce the necessity for physical specimens (unless discovered postmortem) for locality voucher purposes and, therefore, further reduce impacts to vulnerable populations of northern Mexican or narrow-headed gartersnakes.

Despite these collective conservation efforts we have described above, northern Mexican and narrow-headed gartersnakes have continued to decline throughout their ranges due to past, current, and future threats that have not been addressed through conservation efforts.

Summary of Changes From the Proposed Rule

Based on information provided during the comment period by the general public, tribes, states, and peer reviewers, we updated the information contained in the proposed rule for incorporation into this final rule. In addition, new references were obtained,

evaluated, and discussed in the deliberation of information in the final rule that were either not available or not obtained during the development of the proposed rule. For clarity, we also revised the language used in our Findings for the listing rule and in the background and regulatory language of the 4(d) rule. However, no substantive changes were made to either the conclusion of the final listing rule or the scope of the final 4(d) rule.

Summary of Comments and Recommendations

In the proposed rule published on July 10, 2013 (78 FR 41500), we requested that all interested parties submit written comments on the proposal by September 9, 2013. We also contacted appropriate Federal, State, and Tribal agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Verde Valley Independent, Camp Verde Bugle, Arizona Daily Star, and the Silver City Sun News. We received a request for a public hearing from the Hereford Natural Resource Conservation District who later withdrew their request.

Our summary responses to the substantive comments we received on the proposed listing rules and proposed 4(d) rule are provided below. Comments simply providing support for or opposition to the proposed rule, without any supporting information, were not considered to be substantive and we do not provide a response.

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from eight knowledgeable individuals with scientific expertise that included familiarity with northern Mexican and narrow-headed gartersnakes and their habitat, biological needs, and threats. We received responses from five of the peer reviewers.

We reviewed all comments received from the peer reviewers for substantive issues and new information regarding the listing of northern Mexican and narrow-headed gartersnakes. All peer reviewers shared the opinion that a thorough examination of all available information was conducted in support of listing these gartersnakes. Peer reviewers also commented that the quality of the information presented in the proposed rule was very high and the analyses were thorough. There were concerns expressed regarding whether listing these gartersnakes as threatened would interfere with ongoing recovery actions for listed fish species where they co-occur. Another concern was based on how threats affecting these gartersnakes were prioritized in their scope and magnitude in the proposed rule. In general, peer reviewers generally concurred with our methods and conclusions and provided additional information, clarifications, and suggestions to improve the final rule. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

Comment 1: The term ''spiny-rayed fish'' has a very specific scientific meaning, which is not consistent with its use in the proposed rule. While this group includes some of the nonnative species of concern, such as sunfish and bass, it does not include others, specifically the catfishes. Also, the term spiny-rayed fishes as used here excludes a suite of nonnative fishes that are problematic for native fish species and likely for northern Mexican gartersnake and narrow-headed gartersnake, such as nonnative trouts (especially highly predaceous brown trout (*Salmo trutta*), red shiner (*Cyprinella lutrensis*), and mosquitofish (*Gambusia affinis*)). The term ''spiny-rayed fishes'' should either be eliminated from the document and replaced with accurate terminology or be defined specifically for its intended use in the rule. The Service should dispense entirely with use of ''spiny-rayed fishes'' and use only the term ''nonnative fishes.''

Our Response: In the proposed rule, we intended to identify those species of nonnative fish that were both considered highly predatory on gartersnakes and also highly competitive with gartersnakes in terms of common prey resources. The nonnative fish species we view as most harmful to gartersnake populations include bass (*Micropterus* sp.), flathead catfish (*Pylodictis* sp.), channel catfish (*Ictalurus* sp.), sunfish, bullheads (*Ameiurus* sp.), bluegill (*Lepomis* sp.), crappie (*Pomoxis* sp.,) and brown trout (*Salmo trutta*). We agree that all nonnative fish species pose some level of threat to native aquatic ecosystems. However, it is important to highlight those nonnative fish species that pose the greatest threat to assist in prioritizing future conservation actions that are most beneficial to northern Mexican and narrow-headed gartersnakes. Therefore, we have specifically defined in the beginning of this final rule, what nonnative fish species are considered ''predatory'' and what nonnative species we consider ''harmful.''

Comment 2: It would be helpful to the reader to visualize the historical and current ranges of the two snakes if range maps were included.

Our Response: Current distribution maps were provided and are available in the proposed rule to designate critical habitat for the northern Mexican and narrow-headed gartersnake, which accompanied the proposed rule to list the species in the **Federal Register** (78 FR 41550, July 10, 2013, p. 41586).

Comment 3: The sentence ''Fleharty (1967, p. 227) reported narrow-headed gartersnakes eating green sunfish, but green sunfish is not considered a suitable prey item'' needs clarification. Specifically, the authors need to provide evidence that green sunfish is not a suitable prey item. Just because green sunfish has spines in their medial (caudal excluded) and lateral fins does not mean that it is not suitable prey.

Our Response: We added further clarification to this text to support this statement in the final rule under ''Habitat and Natural History'' for the narrow-headed gartersnake.

Comment 4: Please provide examples of ''barriers to movement'' of narrow-headed gartersnakes and additional information on the ''salvage efforts'' in the discussion leading into Table 2.

Our Response: We provided examples and additional information in the text in the final rule under ''Current Distribution and Population Status.''

Comment 5: With respect to nonnative fish species in the Gila River basin, all were either intentionally or accidentally introduced by humans; there is no evidence that any species gained access to the basin through natural colonization as inferred in the proposed rule.

Our Response: We agree that no evidence exists to support unassisted migration of nonnative fish species into the Gila River basin from outside the basin. However, we acknowledge that harmful nonnatives, once introduced, are fully capable of naturally dispersing within the watershed where habitat connectivity permits. This latter concept was the impetus for the notion of ''natural colonization'', which is also referred to as dispersal.

Comment 6: The proposed rule mentions only trout of the genus *Salmo* as occurring in habitat occupied by either gartersnake. Rainbow trout (*Oncorynchus mykiss*) and brook trout (*Salvelinus fontinalis*) also occur.

Our Response: This oversight has been corrected in the final rule in the subsection ''Fish'' within the subheading ''Decline of the Gartersnake Prey Base.''

Comment 7: The statements that nonnative fish ''tend to occupy the middle and upper zones in the water column'' while native fish tend to occur ''along the bottom'' is not entirely accurate. For example, all of the catfishes (all of which are nonnative in the Gila River system) are benthic in habit, and these are among the species considered harmful to gartersnakes and their prey. Among native fishes in the Gila River system only loach minnow would be characterized as benthic, although most native suckers and minnows (chubs largely excluded) do forage along surfaces, including the bottom. Moreover, large numbers of native fish, longfin dace (*Agosia chrysogaster*) in particular, occur in shallow habitats where differentiating a position in the water column is problematic.

Our Response: We have amended the discussion in the subsection ''Fish'' within the subheading ''Decline of the Gartersnake Prey Base'' in the final rule to specify which groups of native or nonnative fish are likely to occur where in the water column.

Comment 8: It seems unlikely that Yaqui catfish were suitable prey for gartersnakes, given their stiff pectoral and dorsal spines, and humpback chub likely never co-occurred with either gartersnake. Woundfin, conversely, has records from the lower Salt River at Tempe and would have been a listed prey species.

Our Response: We have removed humpback chub and Yaqui catfish, and added woundfin, as species noted that were possible prey species of either gartersnake and that are now listed under the Act.

Comment 9: Brown trout are highly predacious and should be considered as harmful nonnative wildlife by the Service.

Our Response: We have reevaluated potential effects of brown trout predation on native aquatic vertebrates and concur that brown trout are highly predatory in all size classes and in a wide range of water temperatures. Thus, we have identified the brown trout as a ''predatory'' nonnative fish species and discuss its ecological significance in the final rule in the subsection ''Fish'' within the subheading ''Decline of the Gartersnake Prey Base.''

Comment 10: In the proposed rule, the Service identified several streams in Arizona or New Mexico where nonnative fish present management issues. However, nonnative fish are a concern for management of native fish throughout Arizona and New Mexico, not only those streams specifically mentioned. They are an issue where they already are present and in those habitats where they may invade or be introduced in the future, which included virtually any watercourse or body of water throughout the region.

Our Response: We added language to reflect this fact in the subsection ''Fish'' within the subheading ''Decline of the Gartersnake Prey Base.''

Comment 11: With respect to potential effects from fisheries management activities, it would appear that gartersnakes still occur in many of the streams that have received piscicide treatments. If so, why are these streams and their renovation history discussed in the proposed rule because there is no evidence that chemical treatment in any of these instances eliminated, depleted, or otherwise impacted a resident gartersnake population. The loss of a major portion, or entire, prey base of a gartersnake population will result in the loss of individuals from starvation, which is expected to result in weakened population viability and, potentially, the loss of that population depending on the presence of other stressors, the proximity of the next-closest source population, and the status of the population prior to treatment.

Our Response: If the intent of a renovation is to remove all fish from a stream, and the stream is occupied by either gartersnake, which wholly or partially requires fish in their prey base, the logical conclusion is that adverse effects to gartersnakes, at least temporarily, are likely under these circumstances. The presence of either gartersnake in a treated stream after the treatment is not evidence that no adverse effects to individuals have occurred.

Comment 12: Traditionally, pre-treatment salvage and post-treatment restocking favor larger-bodied size classes of native fish, which could reproduce and provide smaller prey for gartersnakes over a period of time. Small-bodied species would also be saved for salvage and restocking, but are more difficult to find. How are the interests of the gartersnakes rectified in these situations? Alternatively, gartersnakes themselves could be salvaged and restocked at a later date after a prey base has been established.

Our Response: We agree that fish salvage operations, prior to treatment, are likely to favor larger individuals that may exceed the size classes most preferred by gartersnakes as prey. For this reason, we intend to explore partnerships and opportunities for raising native fish of appropriate size classes in hatchery settings for subsequent release into treated streams, post treatment. Based upon our evaluation of the literature and cooperative work with gartersnakes, alternative prey species and appropriate size classes are well-understood. We are not, however, aware of any studies that focused on how long a gartersnake could go without food before physiological stress or starvation. We do know that, compared to snakes within other genera or families, gartersnakes have a relatively fast metabolism and are active foragers, implying that physiological stress or starvation may be more of a concern in the absence of prey.

There are significant challenges with salvaging gartersnakes for long-term captivity. First, facilities with the space, equipment, and knowledge to care for larger numbers of gartersnakes for long periods of time are very few, and currently those that are capable, are nearly at full capacity because of their involvement with captive breeding efforts. Second, narrow-headed gartersnakes have proven to be difficult to maintain in captivity due to their unique physiological and prey requirements. Lastly, it may prove difficult if not impossible to salvage gartersnakes from low-density populations within complex habitat and therefore the risk of their complete extirpation from a renovation activity is elevated. In the event an isolated population is extirpated, the risk of forever losing their unique genetic lineage is also elevated and unacceptable.

Comment 13: The discussion about electrofishing impacts to gartersnakes is misleading and misinformed. The statement that ''gartersnakes present within the water are often temporarily paralyzed from electrical impulses intended for fish'' is true only to the extent that the gartersnake actually is present and available to intercept the electrical current. Personal experience and interviews with colleagues suggest that encounters of electroshockers and gartersnakes are exceptionally rare, not ''often'' as suggested by the Service. Next, use of the term ''electrocution'' is inappropriate as it by definition means killing, which is not only rare for electroshocked fishes, but unknown for gartersnakes.

Our Response: The statement in the proposed rule, ''gartersnakes present within the water are often temporarily paralyzed from electrical impulses intended for fish'' was intended to mean that gartersnakes had to be present in the water and within the affected radius of the electroshocker, otherwise the assumption is they would not be affected and thus, not detected. By use of the term ''electrocuted,'' it was not

our intention to imply that gartersnakes which received an electrical charge were mortally wounded. We have removed the use of this term from the final rule. ''Detections'' as cited in the document are not ''electrocutions.'' Reports of gartersnakes detected during electrofishing may be misleading because it is unclear if those attributed to Hellekson (2012, pers. comm.) were during surveys for fishes or for reptiles and amphibians, while detections reported by Pettinger and Yori (2011) apparently were during surveys for Chiricahua leopard frog and not for fishes. Lastly, the references cited where gartersnakes were detected via electroshocking referred to fisheries surveys; electroshocking is not a recognized method for aquatic herpetofauna surveys. We amended the text in this final rule under the heading ''Risks to Gartersnakes from Fisheries Management Activities,'' subheading ''Mechanical Methods'' to better communicate our assessment of the potential effect of electrofishing surveys on gartersnakes.

Comment 14: The term ''self-baiting'' is rarely if ever used by fisheries professionals in reference to wire minnow traps.

Our Response: We used the term ''self-baiting'' with respect to how these types of mechanical traps work for gartersnake surveys, which is indeed through the function of self-baiting with minnows, amphibian larvae, etc. However, the term's use in discussing the use of these traps for fisheries surveys was inaccurate, and the term has been removed from the sentence where it was used in the proposed rule.

Comment 15: The proposed rule provides two references documenting examples of gartersnakes that drowned in wire minnow traps. One reported from Holycross *et al.* (2006) and the other from Boyarski (2011). Holycross *et al.* (2006) never mentions the word ''drown'' in their report. It is also noted that these few minnow-trap related fatalities occurred during surveys specifically to capture gartersnakes, that is, the investigators were targeting gartersnakes with this effort. The inadvertent capture of a gartersnake is an exceptionally rare occurrence and has not been reported from fisheries survey activities.

Our Response: The reference of Holycross *et al.* (2006) describes the flooding event, but not the death of an individual gartersnake, which was incidentally killed in a trap when flooding occurred (observed by Service biologists). We discuss the potential threat of gartersnake fatality from minnow traps used in fishery surveys because the threat is real. Gartersnakes will forage at any position within the water column; northern Mexican gartersnakes often forage at the water surface and in intermediate depths, while the narrow-headed gartersnake forages most frequently along the bottom. The fact that minnow traps for fishery surveys are generally set overnight and checked at least twice daily, and always during morning does not alleviate this threat. The reason that minnow traps used for gartersnake surveys are set at the surface with half of the trap above the water line is to prevent drowning of captured gartersnakes. When used for fisheries purposes, these traps incidentally self-bait with gartersnake prey species (the intended purpose is to capture fish) and are set below the water line. Checking the traps a few times daily will not prevent air-breathing, nontarget organisms from drowning if captured. We also note that both gartersnake species can be active at night, but are not certain their activity includes foraging. We did not intend to portray that the incidental capture of gartersnakes by minnow-trapping for fishery surveys happens frequently, but where it could incidentally result in the loss of one or more reproductive females in low population densities, a population-level effect could result. Lastly, we clarified in the final rule that funnel traps are not used in fishery surveys.

Comment 16: Relative to fisheries management activities, it cannot be stressed enough that there currently is no effective strategy to eliminate harmful nonnative fishes other than use of piscicides and their use is critical for native fish recovery. It should also be noted that fisheries activities effects are trivial compared to those attributed to herpetological activities and other human factors.

Our Response: We concur that chemical renovations are vital to native fish recovery. To further clarify the vital importance of piscicide use in the recovery of the gartersnakes' native prey base and the gartersnakes themselves, we amended the passage in the final rule under the heading ''Risks to Gartersnakes from Fisheries Management Activities,'' subheading ''Piscicides.''

We are confident that the discussion in the proposed and final rules attributed to the potential threats to these gartersnakes from the implementation of fishery management activities is objective, thoroughly referenced, and balanced. We agree that other human-caused threats can pose comparably greater risks to gartersnakes. But, we disagree with the notion that incidental fatality from herpetological surveys are potentially more significant than activities that eliminate an entire suite of prey species from habitat occupied by gartersnakes. We also stress that listing these two gartersnakes should not be construed as an obstacle to native fish recovery under any circumstances. Rather, the recovery of these gartersnakes is inextricably and ecologically linked to native fish recovery.

Comment 17: How many stock tanks are known within the range of northern Mexican gartersnake and what proportion of these meet criteria for being ''well-managed?'' Few stock tanks are well-managed, and most lack peripheral vegetation that would function as suitable habitat for gartersnakes. The Service provides no information to address these questions, which is necessary to evaluate the actual or potential contribution of stock tanks to gartersnake conservation.

Our Response: The actual number of stock tanks that occur within the distribution of the northern Mexican gartersnake is not currently known because not all tanks are georeferenced in GIS databases. However, based upon their common occurrence on the landscape, we conclude that the number is very large, possibly in the 100's. We also have no quantitative data on the number of tanks that are ''well-managed.'' Regardless, based upon our collective knowledge of how these habitats are used by northern Mexican gartersnakes and primary prey species, particularly in southern Arizona, we consider their existence as a vital contribution to conservation of the northern Mexican gartersnake. Based on our knowledge of habitat variables that best predict whether a gartersnake population could be sustained, the presence of a native prey community and the absence of harmful nonnative species appear to be the most predictive factors. Peripheral vegetation may provide cover for gartersnakes in stock tanks where harmful nonnatives occur, but it is not necessary for gartersnake populations in all circumstances. It may be possible that stock tanks have replaced, in part, the role of natural cienegas as important gartersnake habitat, although no direct study has been attributed to this hypothesis. While stock tanks in different drainages can be invaded by bullfrogs or crayfish by means of natural dispersal, they can also represent easily managed habitat to protect against (or rectify) invasion of harmful nonnative species. For these reasons, we currently value the

existence of stock tanks for northern Mexican gartersnake conservation.

Comment 18: Mine spills are a threat to gartersnakes and to their fish prey. For example, mine spills made the San Pedro River toxic for a time, and a naturally occurring population of endangered Gila topminnow in Cocio Wash, Arizona, was exterminated by a mine spill. Numerous other examples of this threat are available and should be included.

Our Response: We expanded our discussion of the threat of mining pollution under the heading ''Environmental Contaminants,'' to include the example from the San Pedro River.

Comment 19: Regarding the discussion about management emphasis relative to native and nonnative fishes, it should be acknowledged that, at least in Arizona, the management priority is recreational fisheries, and the operative AGFD's policy is ''no net loss'' of sport fishing opportunities when attempting to balance sport fish and native fish management. It is well documented by literature cited in the proposed rule that native fishes and nonnative fishes cannot coexist in the long term other than under exceptional circumstances.

Our Response: We understand the concern for the future of native fish and by extension, northern Mexican and narrow-headed gartersnakes. We included discussion of the ''no net loss'' policy in the final rule under the heading ''Current Conservation of Northern Mexican and Narrow-headed Gartersnakes.''

Comment 20: The Service used the presence of a native prey species as evidence that a given area or stream may be occupied by northern Mexican gartersnakes. This approach seems optimistic at best, and perhaps, when the importance of habitat is also considered, not scientifically justified. If native prey species are present, but the habitat extent is too small, it is possible that northern Mexican gartersnakes did not occur or will not persist.

Our Response: In determining whether historically occupied habitat remains occupied, we considered habitat surrogates in the determination where gartersnake survey data was limited. Native prey species remain an important attribute for northern Mexican gartersnake habitat and their presence in an area is evidence that the resident, native biotic community may still offer native prey. It is also reasonable to assume that not every site along a stream course is suitable habitat for northern Mexican gartersnakes; these sites may be occupied by dispersing individuals, however. We think that using these habitat parameters as surrogates for occupied areas by the northern Mexican gartersnake is an appropriate use of the best available information, in the absence of more detailed information.

Comment 21: We have recently surveyed and trapped Little Ash Creek (August 2013); it has abundant nonnative fish species and crayfish, scarce native dace populations, and very few (n = 1 captured) bullfrogs. The habitat extent (creek size) is small and we suspect it no longer supports northern Mexican gartersnakes so the population is likely extirpated.

Our Response: We appreciate the updated information. However, the continued presence of some native fish and limited bullfrog detections are signs that northern Mexican gartersnakes could still exist, albeit at low or very low abundance, in Little Ash Creek. Moreover, individual gartersnakes could disperse from the Agua Fria River, to which Little Ash Creek is a tributary. We have not yet officially adopted a protocol to establish population extirpation, but at a minimum, we expect such a protocol should include robust survey data from multiple consecutive years to account for detectability constraints in low-density populations. Until such a protocol is adopted, we hesitate to conclude that gartersnakes are extirpated from a given area, such as Little Ash Creek.

Comment 22: Additional sites not encompassed by Table 1 include: Tavasci Marsh (Nowak *et al.* 2011; population possibly not viable but likely supported by recruitment from the Verde River); Peck's Lake (Schmidt *et al.* 2005; population possibly not viable but likely supported by recruitment from the Verde River), and Dead Horse Ranch State Park (Emmons and Nowak 2013; population likely viable).

Our Response: We are aware of these populations and included them with the Verde River mainstem due to their close proximity.

Comment 23: The proposed rule cites Rosen and Schwalbe (1988, pp. 34–35) for a list of plant species associations for narrow-headed gartersnake habitat. Reliance on a single citation (whose results were based on visual encounter surveys) to infer distribution-wide habitat use is inappropriate. Please include intensive study data from Nowak and Santana-Bendix (2002) and Nowak (2006) for a more complete look at narrow-headed gartersnake–plant associations.

Our Response: Rosen and Schwalbe (1988, entire) sampled narrow-headed gartersnake populations in a multitude of streams across their range in Arizona and, therefore, represent a more comprehensive list of plant species associations in a rangewide context. Nowak and Santana-Bendix (2002) and Nowak (2006) focus solely on one population at Oak Creek and, therefore, do not account for variability of preferred habitat across the species' range.

Comment 24: The Service stated that sexual maturity in narrow-headed gartersnakes occurs at 2.5 years of age in males and at 2 years of age in females (Deganhardt *et al.* 1996, p. 328). I suspect this assertion is overstated and scientifically inaccurate, based on field studies and on animals currently maintained in captivity. Captive-born female narrow-headed gartersnakes from the Black River (Arizona) maintained in captivity did not lay eggs until their third summer, even though they reached adult size within their second year (Nowak, unpublished data, 2012).

Our Response: In the absence of other published data, we will continue to rely on published information regarding the sexual maturity data presented and referenced. In addition, observations made in captive situations may be misleading because they may not reflect factors affecting wild populations.

Comment 25: The proposed rule provided a list of areas where narrow-headed gartersnakes could be reliably found. The Upper Verde River, Tonto Creek, and the Blue River should also be included in this list. While occurring in low densities, individuals in these populations can still be reliably found with minimal to moderate effort (e.g., Upper Verde River: Emmons and Nowak 2012a, Emmons and Nowak 2013; Tonto Creek: Madara-Yagla 2010, 2011; and Blue River: Rosen and Nowak unpubl. data, 2012).

Our Response: The population and survey data reported in Appendix A provide the basis for where narrow-headed gartersnakes are reliably found. Populations considered likely viable have received significantly more field study in most cases and, where they haven't, recent survey data show robust population densities with minimal survey effort. We understand the inherent challenges with defining a population's status with a single phrase or term, but the data do not currently show that narrow-headed gartersnake populations in the Upper Verde, Tonto Creek, or the Blue River are near as robust as those identified as likely viable in Table 2. In the case of Tonto Creek, narrow-headed gartersnake records are comparably few, and Madara-Yagla (2010, 2011) address only northern Mexican gartersnakes. Unpublished data from the Blue River

were not provided to us, and until those data are provided and reviewed, we are unable to update the status of that population, if warranted.

Comment 26: If only 8 to 10 percent of historic populations are viable, with significant post-fire concerns for populations from Whitewater Creek and the Black River, should this species be proposed for listing as ''Endangered?''

Our Response: The current status of the northern Mexican and narrow-headed gartersnakes meets the definition of threatened, not endangered. We found that both gartersnakes are not currently in danger of extinction because they remain extant in most of the subbasins where they historically occurred, and known threats have not yet resulted in substantial range reduction or substantial number of population extirpations to put either species on the brink of extinction. However, we do find that the ongoing effects of the threats make both species likely to become endangered in the foreseeable future. Please see the sections entitled ''Determination for Northern Mexican Gartersnakes'' and ''Determination for Narrow-headed Gartersnakes'' for further discussion of our determinations.

Comment 27: Regarding Table 2, state that the population at Saliz Creek, New Mexico is introduced; three recaptured individuals were found there in 2013; however, the population is likely not viable. In addition, I do not know of any post 1990's records from the San Francisco River in New Mexico; this population is ''likely extirpated'' (Hibbitts *et al.* 2009).

Our Response: Saliz Creek is a tributary to the San Francisco River. The San Francisco River formerly had a robust population of narrow-headed gartersnakes. Saliz Creek lies between two additional tributaries to the San Francisco River, Whitewater Creek and the Tularosa River, which historically and currently (respectively) also had robust populations. Saliz Creek also boasts a largely native fish community, with the exception of its lower-most reach. Furthermore, prior to 2012, a total of 10 person-search hours were spent surveying for narrow-headed gartersnakes attributed to Saliz Creek, which does not constitute adequate survey effort to determine presence or absence. No compelling data suggest that narrow-headed gartersnakes never historically occurred in Saliz Creek prior to their release in 2012. Regarding population status in the San Francisco River, more recent survey efforts from 2009–2011, consisting of approximately 100 person-search hours, reconfirmed the narrow-headed gartersnake as extant in the San Francisco River in New Mexico with documentation of three narrow-headed gartersnakes (Hellekson 2012a, pers. comm.). Therefore, we treat this population as likely not viable rather than likely extirpated.

Comment 28: The statement attributed to Rosen *et al.* (2001, p. 22) that the presence and expansion of nonnative predators is the primary cause of decline in northern Mexican gartersnakes and their prey in southeastern Arizona may not have been properly characterized. This paper does not state that nonnative predators are the only factor, but instead it explicitly states the importance of other factors such as climate and interspecific competition. Also, the paper's conclusions are subjective and are generally presented as testable hypotheses, and should be cited with caution rather than presented as scientifically tested facts.

Our Response: We agree that Rosen (2001) did not state that nonnative species are the only reason for northern Mexican gartersnake declines in southern Arizona, rather harmful nonnatives were considered as the primary cause at most sites surveyed, as described in the proposed rule. Rosen (2001, p. 21) postulated that ''natural climatic fluctuation'' may be responsible for a northern Mexican population decline at one site in southern Arizona, which is not to say that it was regarded in equal value as harmful nonnative species in affecting northern Mexican gartersnakes in southern Arizona. Interspecific competition was also discussed in Rosen (2001) as a cause for concern at some sites. We evaluated the role of climate change and interspecific competition in other sections of the proposed and final rules as their discussion is not appropriately placed in the section referred to here. However, we changed the word ''concluded'' in this sentence to ''hypothesized.''

Comment 29: The proposed rule discusses the importance of a varied prey base and cites a study that experimented with food deprivation on the common gartersnake (*T. sirtalis*). There is no scientifically valid reason to conclude that a varied diet could not include bullfrogs as a replacement for native leopard frogs, especially where bullfrogs are currently abundant. It may not be scientifically valid to infer that foraging, physiological, and behavioral data collected from the common gartersnakes will be representative of the populations of southwestern gartersnakes. As such, I disagree that the common gartersnake is an ''ecologically similar species'' to northern Mexican gartersnake.

Our Response: We state on several occasions in the proposed rule that larval and sub-adult bullfrogs are eaten by northern Mexican gartersnakes in the mid- to larger-size classes. However, bullfrogs are not always available for gartersnake populations that exist where native ranid frogs have disappeared, and bullfrogs pose a significant threat to population recruitment of northern Mexican gartersnakes in many areas. This impact outweighs any benefit of their existence as a source of prey. We consider relevant data from the common gartersnake as valid for a general biology discussion as both species have a varied prey base and both species occupy varied habitats, albeit the northern Mexican gartersnake may be more aquatic.

Comment 30: In the discussion of the role of harmful nonnative species relative to other threats implicated in the decline of native fisheries, the proposed rule stated, ''Aquatic habitat destruction and modification is often considered a leading cause for the decline in native fish in the southwestern United States. However, Marsh and Pacey (2005, p. 60) predict that despite the significant physical alteration of aquatic habitat in the southwest, native fish species could not only complete all of their life functions but could flourish in these altered environments, but for the presence of (harmful) nonnative fish species, as supported by a 'substantial and growing body of evidence derived from case studies.''

I would like to see a more robust consideration, including citations beyond March and Pacey (2005), of the importance of the loss of habitat in native fish declines relative to harmful nonnative species. It is my understanding that many species of native fish rely on seasonal flooding to induce spawning.

Our Response: We agree that the role of a natural flood regime is extremely important to the maintenance of native fish populations as well as important in (temporarily) depressing resident harmful nonnative fish populations, and the proposed rule provides a thorough review of this topic, citing numerous references. Natural flood regimes have largely disappeared from several large perennial mainstem rivers and from a small number of streams associated with small reservoirs in Arizona and New Mexico. However, many native fish are doing markedly poorly across their ranges where they co-occur with harmful nonnative fish species, regardless of whether a natural flood

regime exists or not. No other threat is as geographically ubiquitous as that from harmful nonnative species, which is clearly reflected, in robust fashion, within the published literature. The proposed and final rules review how threats to aquatic habitat that are not directly associated with nonnative species have also resulted, in part, in the decline of numerous native fish species in the United States and Mexico. Based on our consultations with native fish experts in private and public sectors and the breadth of available literature, the findings of Marsh and Pacey (2005) are consistent on the scope and magnitude of the effect of harmful nonnative fish on the decline of native fish species.

Comment 31: In the discussion of the effects of bullfrogs on gartersnake populations, the proposed rule states that bullfrogs may lower recruitment and lead to population declines of northern Mexican gartersnake populations. This is an over-generalization and is not supported by scientific data across the range of the species. In addition, the conclusion that bullfrogs more effectively prey on young age classes is likely true but has not been substantiated by experimental studies. This statement does not accurately reflect the situation in the Verde Valley (AZ), where all age classes of northern Mexican gartersnakes are well-documented to co-occur with bullfrogs. Low recruitment could be due to a number of factors other than nonnative species predation.

Our Response: The scientific community is in consensus, and we agree, that bullfrogs negatively affect recruitment of northern Mexican gartersnakes in areas where gartersnakes occur with bullfrogs in high densities. The presence of other harmful nonnatives or other possible threats can confound our understanding of the specific effects of bullfrogs, and we presented an extensive discussion of this issue citing numerous scientific references. We believe our treatment of the ecological effects of bullfrogs on northern Mexican gartersnakes is well supported by the best available scientific information. It is true that published examples of this concern come from gartersnake populations in southern Arizona, and we agree that any gartersnake population could face a unique array of potential threats that could also effect successful recruitment across its distribution.

Comment 32: Given that northern Mexican gartersnakes have been documented to prey on bullfrogs in multiple locations, it is misleading and scientifically inaccurate to imply that the recovery of northern Mexican gartersnakes is dependent on recovery of native leopard frogs.

Our Response: We agree that bullfrogs in their larval and subadult age classes can be prey for northern Mexican gartersnakes and, in some populations, may be their primary prey items. However, unlike native leopard frogs, bullfrogs in their adult age class become a significant threat to resident northern Mexican gartersnake populations and can depress or eliminate recruitment of young snakes into the reproductive age classes within a population. Adult bullfrogs can extirpate a population of northern Mexican gartersnakes by directly preying upon snakes and out-competing them for available prey. Bullfrogs can also prevent the recolonization of an area by dispersing gartersnakes via these same ecological mechanisms. The view that bullfrogs are an adequate substitute for native leopard frogs in the ecosystems of the northern Mexican gartersnake is not supported by the best available scientific information and, therefore, we do not support this supposition.

Comment 33: Regarding the incidence of tail injuries in gartersnake populations, observations of this phenomenon in upper Oak Creek, Arizona, at sites where crayfish and bullfrogs are absent, seem to point to fish or bird predation attempts, given wide oval injury marks with pointed ends.

Our Response: We noted in the final rule under the heading ''The Effects of Predation-Related Injuries to Gartersnakes'' that tail injuries could be caused by other predators other than strictly bullfrogs or crayfish.

Comment 34: A more quantitative evaluation on habitat loss to dewatering would be worth sharing, assuming any is available. Extensive dry reaches in the San Francisco River now exist, including locations that have historic records for the narrow-headed gartersnake.

Our Response: We agree that a quantitative evaluation of dewatered stream habitat would be important to fully characterize this threat. However, we were unable to locate georeferenced data to assist in this effort and had to rely on existing literature to describe this threat.

Comment 35: The adverse effects of crayfish on narrow-headed gartersnakes may be overstated, at least with respect to New Mexico. A clear connection between crayfish presence and declining narrow-headed gartersnake populations has yet to be definitely made in field study. The two sites with the highest apparent densities of narrow-headed gartersnakes in New Mexico also have fairly abundant crayfish and bullfrogs. When small- to medium-sized native fish are abundant, crayfish seem to be tolerated by the gartersnakes. In New Mexico very few sites have crayfish that can reach sizes where they would be a potential predator on narrow-headed gartersnakes; in virtually all other sites, the crayfish are uniformly small in size due to periodic years with flooding that extirpates them or drastically lowers their numbers.

Our Response: We added discussion under ''Effects of Crayfish on Native Aquatic Communities'' to reflect extraneous influences on the threat of crayfish to gartersnake populations while noting that the available literature strongly suggests that crayfish in larger size classes or in high densities are cause for significant concern for gartersnakes and their prey species, especially with other threats simultaneously affecting gartersnake populations.

Comment 36: The Middle Fork Gila River, Little Creek, and South Fork Negrito Creek populations of narrow-headed gartersnakes were identified as likely having been impacted by the 2012 Whitewater-Baldy Complex fire and considered as not likely viable. Post-fire condition data were largely not available in 2012, but information from 2013 indicated that fish populations were showing signs of recovery.

Our Response: Based on the potentially significant effects of wildfire on fish populations and, therefore, on the narrow-headed gartersnake (detailed in the proposed and final rules), we conservatively assessed these narrow-headed gartersnake populations as likely not viable, given the size and scope of the Whitewater-Baldy Complex Fire. We were also involved with narrow-headed gartersnake salvage operations from the Middle Fork Gila River, strictly because it was assessed to have been heavily impacted by wildfire. We treat Appendix A as a ''living'' document and can update the status of gartersnake populations as necessary and as population data become available, for sharing and conservation and recovery planning purposes.

Comment 37: Narrow-headed gartersnakes in the mainstem San Francisco River are reliably detected, and the population should be considered as likely viable.

Our Response: Gartersnake captures per unit effort have significantly declined in the San Francisco River since they first became regularly monitored in the 1980's. While individuals are still detected,

population data we present in Appendix A clearly describe the narrow-headed gartersnake population in the San Francisco River as one in significant decline.

Federal Agency Comments

Comment 38: The proposed rule references the Management Indicator Species, Regional Foresters' Sensitive Species List, and land management decisions, but states that there are no specific protective measures conveyed to these species. However, the northern Mexican and the narrow-headed gartersnakes have been considered sensitive species on the Regional Forester's sensitive species list for a long time. An impact to these species is, therefore, considered as part of the environmental analysis for every forest management action. The USFS Sensitive Species Policy is to manage for viable populations of these species. Further, the USFS policy for sensitive species provides protective measures such as direction to ''Avoid or minimize impacts to species whose viability has been identified as a concern'' (Forest Service Manual (FSM) 2670.32 #3). A decision that would impact sensitive species ''. . . must not result in loss of species viability or create significant trends toward Federal listing'' (FSM 2670.32 #4).

Our Response: We more accurately summarized what protections are afforded to ''sensitive species'' in the final rule. We found no examples (although we did not have the opportunity to review all previous planning documents the USFS has developed in the past), and we were not provided any examples of measures that have been implemented by the USFS to ''avoid or minimize impacts'' to either the northern Mexican or narrow-headed gartersnake. We look forward to working with the USFS in developing such measures.

Comment 39: What is the basis for assuming there is ''continued anxiety'' from the public regarding rotenone use?

Our Response: We have been an active participant in the public debate over potential threats to human health from rotenone use. The new and very process-rich procedures now in place for planning and implementing rotenone use in Arizona are testament that piscicide use in the recovery of rare and listed fish is still considered controversial; although it is scientifically well-supported that there is no public harm from its use.

Comment 40: We disagree that, on the Gila National Forest, heavy recreation use within occupied narrow-headed gartersnake habitat is thought to impact populations along the Middle Fork Gila River, mainstem Gila River between Cliff Dwellings and Little Creek, and Whitewater Creek from Catwalk to Glenwood. Recreation use along the Middle Fork Gila River is certainly not heavy; most use is by hikers and backpackers utilizing the existing trail to access the Gila Wilderness. The stream between the Cliff Dwellings and Little Creek is the West Fork Gila River not the mainstem. This reach of stream is located on National Park Service, NMDGF, and USFS lands. The majority of this reach is on the NMDGF's Heart Bar Wildlife Area. Whitewater Creek from the Catwalk to Glenwood is predominately private property. Approximately 0.25 mile of stream, downstream of the Catwalk, is USFS lands and the remainder of this reach is private property.

Our Response: We amended this discussion in the final rule to state that much of the recreation use in these areas is related to hiking and backpacking, which are generally not considered a threat to gartersnakes outside of the fact that increased human visitation leads to more gartersnake encounters and potentially more killing of gartersnakes where the foot trail is near the canyon bottom.

Comment 41: Throughout the proposed rule and during personal communications with the Service, livestock grazing has not been identified as a significant threat to these species. However, the Service appears to be saying that, unless livestock are excluded by fencing, adverse effects may occur. The Service goes further by stating that the adverse effects of livestock are somehow most likely to occur when nonnative species are present but that the species are resilient to these disturbances if nonnatives are absent. So, grazing along a stream adversely affects the species if nonnatives are present but does not have these same impacts if nonnatives are absent?

Our Response: We continue to believe that livestock grazing is largely compatible with northern Mexican and narrow-headed gartersnakes based on the species' apparent resiliency to perturbations to their physical habitat, depending on the resident aquatic community. In our literature review and field experience, we found populations of these gartersnakes to be resilient to activities that affect their physical habitat (vegetation abundance, structure, composition) when harmful nonnative species are absent or at low levels that allow for effective recruitment of snakes in the population. When recruitment of gartersnakes within a population is hampered by harmful nonnatives, this resiliency is diminished and the presence of adequate vegetation cover for protection against these nonnatives becomes more important. When Federal actions are planned, all aspects of project evaluations should consider potential effects to whatever prey base the gartersnake population is using in a given area. This idea should be the logical ''framework'' used in developing projects in gartersnake habitat to manage aggressively against harmful nonnatives to improve population resiliency and recruitment of gartersnakes. We also note that ''adverse effects'' can have varying degrees of magnitude and scope and that, through section 7 of the Act, most activities that could adversely affect species include measures to reduce effects and potential for take though the issuance of an incidental take permit.

Comment 42: While nonnative, spiny-rayed fish such as green sunfish and smallmouth bass were common in the lower reach of Turkey Creek near its confluence with the mainstem Gila River prior to the Dry Lakes Fire, they did not make up the majority of the fish community. More upstream reaches were occupied by native fishes including Gila chub, speckled dace, Sonora and desert suckers, and longfin dace along with Gila X Rainbow trout hybrids. All of the native species survived the fire runoff events, and, although populations were depressed for some time, they had recovered well until recent fires.

Our Response: We amended this discussion in the final rule to more accurately describe the fish community and effects of wildfire on Turkey Creek.

Comment 43: We disagree that significant threats to these gartersnakes, such as those related to nonnative species, are not addressed on USFS lands. The role of the USFS is to manage land, addressing the needs of species' habitat. Management actions related to nonnative fish and aquatic species stocking, control, or eradication is under direction of the State. Collaborative efforts are occurring on USFS lands to improve species' habitat through construction of fish barriers and stream chemical renovations.

Our Response: We acknowledge the proactive measures taken by the USFS to assist in restoring fish communities to wholly native assemblages.

Comment 44: The proposed rule states that USFS management policies of the past favored fire suppression. However, new policies have allowed for managing wildfires that have a resource benefit, as well as prescribed fire. The Guidance

for Implementation of Federal Wildland Fire Management Policy is the Department of Agriculture's single cohesive Federal fire policy. This policy contributes to landscape restoration, controls invasive species, reduces uncharacteristic wildfire across the broader landscape, and improves the resiliency of these potential natural vegetation types to adapt to climate change.

Our Response: We have updated this discussion under the heading, ''High-Intensity Wildfires and Sedimentation of Aquatic Habitat'' in the final rule to include reference to the updated fire policy and what it hopes to achieve in the mid to long term.

Comment 45: The proposed rule states that the 2011 Wallow Fire impacted 97 percent of perennial streams in the Black River subbasin and 70 percent of perennial streams in the Gila River subbasin. We request the Service clarify how they are defining a subbasin. Typically, a subbasin is a fourth code Hydrologic Unit. We do not consider the Wallow Fire to have affected any of the Gila River subbasins in New Mexico.

Our Response: We use the term subbasin in a general sense as a stream basin within a larger stream basin. We further defined the area impacted by the 2011 Wallow Fire as within Apache-Sitgreaves National Forest, White Mountain Apache Indian Tribe, and San Carlos Apache Indian Reservation lands in Apache, Navajo, Graham, and Greenlee counties in Arizona, as well as Catron County, New Mexico. We recommend the review of InciWeb (2011), Meyer (2011; p. 3, Table 1), and Coleman (2011, pp. 2–3) for information on the effects of the 2011 Wallow Fire.

Comment 46: On the Apache-Sitgreaves National Forest forested vegetation types, historic fire-return intervals varied from frequent, low-intensity surface fires in ponderosa pine types (every 2–17 years), to mixed-severity fires in wet mixed-conifer forests (every 35–50 years), to high-severity, stand-replacement fires of the spruce-fir ecosystems (every 150–400 years).

Our Response: We included these fire-return interval data under the heading, ''High-Intensity Wildfires and Sedimentation of Aquatic Habitat'' in the final rule.

Comments From States

Comment 47: The AGFD recognizes that both species have declined considerably throughout their respective ranges in Arizona, and acknowledge that listing under the Act is warranted. We also applaud the Service's decision to propose a 4(d) rule that would exempt take of northern Mexican gartersnakes as a result of livestock use at or maintenance of livestock tanks located on non-federal lands. We also encourage the Service to continue to work closely with the AGFD to effect meaningful conservation actions for both species.

Our Response: We agree, and we look forward to continued coordination with the AGFD in addressing the most serious threats that affect either species and to exploring opportunities for recovery with Federal, State, and local partners and stakeholders.

Comment 48: The statement that ''The decline of the northern Mexican gartersnake is primarily the result of predation by and competition with harmful nonnative species . . .'' should be modified to reflect that this is a leading theory, but not necessarily true.

Our Response: We think that harmful nonnative species (bullfrogs, crayfish, and warm-water, predatory fish) are the primary driving factors behind the decline of the northern Mexican and narrow-headed gartersnake. In the proposed and final rules to list these gartersnakes, we reviewed the best available scientific and commercial information to reach this conclusion. We do acknowledge that other threats such as climate change-induced drought, dewatering of habitat, large-scale wildfires, and others may have also significantly contributed to the decline of these gartersnakes, often in synergistic fashion with other threats affecting primary prey species. We also acknowledge that some populations of northern Mexican gartersnakes in particular, have persisted in the presence of harmful nonnative species to which further study is under way. However, these ecological situations are rare within the distribution of these gartersnakes, as evidenced by widespread population declines, and they should not be construed as evidence that either gartersnake is ecologically compatible with harmful nonnative species in the long term. Rather, the scientific information is convincing that harmful nonnative species are largely responsible for the declines in these gartersnakes.

Comment 49: Reducing the status of the species at each historical locality as either ''likely viable,'' ''likely not viable,'' or ''likely extirpated'' as described in tables 1 and 2 may not accurately capture the status of gartersnake populations. Perhaps an ''Unknown'' category would have been useful. Also, a low-density population does not always indicate that the population is not viable.

Our Response: We agree that adequately describing the status of each population at each historic locality as falling into one of three categories is challenging. However, the general lack of data on many populations does not allow us to refine these categories further. In most cases, we have more information on the presence of threats at each locality than good information on the resident gartersnake population. It was our interpretation that, in the presence of known, and in some cases severe, threats that a low-density population is, at a minimum, at risk of losing viability, most notably from effects to reproduction and recruitment such as in the presence of harmful nonnative species.

Additionally, the process of designating critical habitat requires us to create a rule set for determining whether the species is present or not in each historic locality, therefore, a category called ''Unknown'' is not appropriate. Appendix A provides background information that contributed to our site-by-site determinations of population status.

Comment 50: We caution against using percentages to express possible population extirpations or shifts to low densities because unrealistic expectations of recovery can be established.

Our Response: We use percentages in this listing rule and others to capture the rangewide context of the status of a given species' populations to allow the public a coarse, quantitative assessment of the perceived status of a species, given the best available scientific and commercial data.

Comment 51: We suggest removing the word ''harmful'' when referring to the suite of nonnative species that have been identified as the most incompatible with the gartersnakes. While they may be incompatible, they are not harmful in a general context.

Our Response: We use the adjective ''harmful'' to distinguish those nonnative species that pose unique ecological risks to sustaining wild populations of northern Mexican and narrow-headed gartersnakes and their prey species. We consider bullfrogs, crayfish, and warm-water, predatory sport fish as ''harmful nonnative species.'' This distinction is based on the predatory, or otherwise, notably adverse interactions these species have with the gartersnakes and their prey. This distinction is important because not all nonnative species are completely incompatible with gartersnakes, and some are used as prey for wild gartersnake populations; nonnative trout are an example.

Comment 52: There are no direct data to prove that declines in native leopard frogs have contributed to declines in northern Mexican gartersnake populations. The Service should caveat the statement with a degree of uncertainty.

Our Response: We specifically used the word ''contributed'' to acknowledge that leopard frog declines are a contributing factor to northern Mexican gartersnake declines, not the sole factor. As noted by the AGFD, leopard frogs are an extremely important component to the northern Mexican gartersnake's prey base—a fact also accepted within the scientific community and demonstrated in field study.

Comment 53: Potential risks to gartersnake populations from fisheries management activities were mischaracterized in the proposed rule. Potential effects to gartersnakes are evaluated by the AGFD though an Environmental Assessment Checklist process.

Our Response: In our evaluation of how fisheries management activities could adversely affect gartersnake populations, we reviewed procedures specific to fisheries management as provided in adopted protocols. The Environmental Assessment Checklist process is a parallel, internal process implemented by the AGFD in planning exercises that applies to multiple types of management activities considered by the State. We have added discussion of this process to the final rule under the heading ''Risks to Gartersnakes from Fisheries Management Activities'' and appreciate that potential effects to these gartersnakes (or any nontarget species) are fully evaluated prior to implementing any activity within occupied or designated critical habitat for the gartersnakes.

Comment 54: In Arizona, the trapping and subsequent use of baitfish in angling is generally constrained to areas where sport fish and sport fishing dominate, and, therefore, there is little chance the activity would affect gartersnakes. In addition, regulations specify that bait fish must be used at the point of capture and not transported elsewhere for use.

Our Response: We agree that, where angling activities are concentrated, it is likely due to the presence of sport fish and in the case where warm-water, predatory fish species are present, it is less likely that northern Mexican or narrow-headed gartersnakes are immediately present. However, there are a few areas where angling is concentrated in habitat that could be occupied by either or both gartersnake species such as Oak Creek, the Verde River, Tonto Creek, or Parker Canyon Lake in Arizona where it is possible that effects to resident gartersnakes could occur. Regardless, we included a statement in this final listing rule that notes that AGFD requires that baitfish must be used where they are captured and appreciate being notified of the regulation and its benefits for gartersnake conservation.

Comment 55: Please elaborate on what is meant by the statement in reference to the rate of Lake Roosevelt water level fluctuation as a benefit to harmful nonnative fish species. Reservoir levels there fluctuate substantially.

Our Response: We agree that water levels in Lake Roosevelt do fluctuate and further qualified the statement on this issue in the final rule. We intended to frame this discussion for comparative purposes. That is to say, that compared to Horseshoe Reservoir, which is managed to minimize reproduction of harmful nonnative species in most years, Lake Roosevelt has several times the capacity of Horseshoe Reservoir and fluctuation in water levels occur at a slower rate. The rate at which water levels decline in these reservoir systems affects the reproduction and recruitment of harmful nonnative fish species; the faster the decline, the more negative the effect.

Comment 56: It is not clear how ''build-out'' (in reference to human population growth and urban development) will affect Redrock Canyon (in the vicinity of Patagonia, Arizona).

Our Response: The discussion in the proposed and final rules where the issue of build-out is addressed refers to the long-term development plan along the major transportation corridors of I–19, I–10, and I–17 in Arizona. We identified extant gartersnake populations that were geographically proximal to these proposed corridors which could experience indirect effects of development and growth in the human population (which is expected to double by 2030). Redrock Canyon is near the Town of Patagonia, which is near Nogales and the I–19 corridor. If predictions for development and human population growth in Arizona are accurate, we expect increased development in the Patagonia area, higher levels of human recreation on public lands, and possible effects to water availability as a result of increased regional groundwater pumping or additional diversions. We acknowledge in the final rule that, of the areas identified where there could be effects to gartersnake populations, Redrock Canyon is buffered geographically more so than other areas identified.

Comment 57: The section of the proposed rule that discusses the Arizona Department of Water Resources Active Management Areas (AMAs) overstates the significance of the AMA designation for both gartersnake species. For example, the Phoenix AMA includes no modern records of either species and will not affect long-term recovery. In another example, the Pima AMA includes only short stretches of the Gila River; the rest of the AMA is outside the range of either gartersnake's distribution.

Our Response: In our evaluation of the effect of groundwater pumping on gartersnake habitat, we found several references that discuss the known hydrological connection between groundwater and surface flow in southwestern streams. This is an established concept in the scientific community and the basis for widespread public concern in several areas of Arizona with respect to surface flows including the Verde and San Pedro Rivers. We explained how overdrafts in groundwater use exceed aquifer recharge (conditions that result in an AMA designation) and result in a cone of depression that can reduce or eliminate surface flows in affected streams. We listed the AMAs that both overlap with the historical range of either gartersnake and provide context for the discussion of effects of increasing human population growth on gartersnake populations through indirect effects of groundwater demands. In doing so, we accurately captured the links in this cause and effect relationship. With respect to the Phoenix AMA, we acknowledge that effects on gartersnake populations are no longer occurring. However, it was our intent to discuss the causes of historical population extirpations, which were a precursor to rangewide declines observed today. Effects of the development of the greater Phoenix metropolitan area include effects from increasing regional demands on groundwater. Aquifer overdrafts were likely contributing factors in the extirpation of northern Mexican gartersnake populations in the lower Salt, lower Gila, and lower Agua Fria River systems.

Comment 58: No scientific evidence has been produced that confirms a relationship between livestock grazing in occupied gartersnake habitat in the presence of harmful nonnative species and that without their presence.

Our Response: We concur that no specific scientific study has been afforded to this specific issue with

respect to either the northern Mexican gartersnake or the narrow-headed gartersnake. However, we have documented observations made of gartersnake populations in Mexico in the presence of harmful nonnative species, as well as in their absence, in habitat heavily affected by other land uses such as unmanaged livestock grazing. As discussed at length in the subsection below entitled ''The Relationship between Harmful Nonnative Species and Adverse Effects to Physical Habitat,'' we found a unique opportunity in Mexico to observe populations in habitat significantly compromised by land use activities such as unmanaged livestock grazing where the aquatic community was considered wholly native. Opportunities to observe this scenario in the United States generally do not occur due to applied grazing management prescriptions that largely prohibit extreme effects to riparian habitat, and the fact that harmful nonnative species are largely ubiquitous in habitat occupied by these gartersnakes in the United States. Species experts involved in the Mexico survey effort were in consensus that the most significant predictor of gartersnake occupancy in these affected habitats was the presence or absence of harmful nonnative species. The fact that gartersnakes will use vegetative cover to hide from harmful nonnative species, and the fact that, in the United States, gartersnake populations that currently persist at seemingly adequate densities in the presence of harmful nonnatives also occur in habitat with adequate vegetative cover, provides further support of this relationship. The best available scientific and commercial data, coupled with the opinion of species experts, suggests this relationship is most likely real, and we fully endorse further scientific study of this issue, if that opportunity exists.

Comment 59: In Mexico, the Mexican gartersnake is listed as threatened throughout its range in that country and at the species level of its taxonomy. The discussion of the threatened status of northern Mexican gartersnake, as it applies to this rulemaking, is, therefore, misleading given that there are currently 10 subspecies, and the northern Mexican gartersnake in Mexico occurs in some of the least accessible and least likely disturbed aquatic habitats in the country.

Our Response: In Mexico, the clear majority of the distribution of the Mexican gartersnake (*T. eques*) is composed of the northern Mexican gartersnake (*T. e. megalops*). The Mexican gartersnake (*T. e. eques*) comprises the second highest percentage of the species' distribution along the southwestern quadrant of the species' distribution in Mexico (Rossman *et al.* 1996, p. 173). The remaining eight subspecies have much smaller distributions and in some cases are highly endemic; constrained to perhaps a single lake. In our analysis of the status of northern Mexican gartersnake in Mexico, we made every attempt to analyze only those threats that geographically overlap our understanding of the subspecies' distribution, which supports the position of a weakened status, commensurate with Mexico's listing. We do not disagree that there are likely habitats within its distribution in Mexico that remain largely intact, physically and ecologically. We also note that harmful nonnative species, once introduced into a system, have an ecological advantage over native species and will expand their distribution and, therefore, the scope of their effects on the landscape, much like what has been observed in Arizona for decades. This fact, and the preponderance of scientific and commercial data we evaluated that pertained to threats in Mexico, supports the position taken by the Mexican Government in listing the Mexican gartersnake (*T. eques*) as threatened and is largely applicable to the northern Mexican gartersnake.

Comment 60: We recommend removing the discussion referring to the fact that many of the recovery projects for the Chiricahua leopard frog have not provided direct benefits to the northern Mexican gartersnake. The Service does not provide citations for their statement that indirect benefits for both gartersnake species occur through recovery actions designed for their prey species, and since the Chiricahua leopard frog was listed under the Act, significant strides have been made in its recovery and the mitigation of its known threats.

Our Response: In assessing how recovery activities for currently listed species may benefit either gartersnake, it is important to discuss both the benefits and limitations of these activities on conserving or recovering nontarget species such as the northern Mexican gartersnake. We used reasonable principles in conservation biology in making the basic assertion that either gartersnake may benefit by recovery activities implemented for their native prey species, such as the Chiricahua leopard frog. For example, when harmful nonnative species removal projects are implemented on regional scales, such as for bullfrogs, the predation and competition pressure on gartersnake prey species are reduced, which may lead to significant expansions in prey species distribution or increases in their biomass or population densities. This activity benefits the gartersnakes that use these prey communities. In another example, the construction of a fish barrier to prevent the upstream migration of harmful nonnative fish into a stream provides direct benefits to the resident gartersnake population by reducing predation pressure on the gartersnakes and their prey base. As for the recovery achievements made for the Chiricahua leopard frog, we agree that, in some areas, these activities have benefited the gartersnakes, particularly for the northern Mexican gartersnake where they have occurred in lentic habitat on landscape scales, and specifically in southern Arizona. However, many recovery actions specific to the Chiricahua leopard frog have occurred at specific tanks higher in the watershed, not within the floodplain of larger perennial stream systems, where they would yield much more significant benefits to gartersnake populations.

Comment 61: Maintaining nonnative sport fish populations does not necessarily ''significantly reduce the potential for the conservation and recovery on northern Mexican and narrow-headed gartersnakes.'' The Biological and Conference Opinion issued by the Service that addresses the AGFD's 10-year sport fish stocking program (''sport fish consultation'') includes mitigation measures to ''address the effects of the proposed action and improve the baseline conditions for native aquatic species.''

Our Response: We agree that maintaining nonnative sport fish populations in some areas may have little effect or may even benefit some gartersnake populations. Not all nonnative species have the same ecological effect on native aquatic communities. For this reason, and for the purposes of the greater listing analysis afforded to these two gartersnakes in this rulemaking, we specifically use the phrase ''harmful nonnative species'' when discussing those which significantly threaten the northern Mexican or narrow-headed gartersnake. As previously stated, we consider harmful nonnative species to include bullfrogs, crayfish, and warm-water, predatory fish. The majority of specific stocking activities that were subject to the sport fish consultation involved primarily salmonids (*i.e.,* trout), which we do not consider to be particularly harmful to these gartersnakes or many of their prey species. For example, in some areas,

nonnative trout are an important component to the narrow-headed gartersnake prey base. Stocking activities under the sport fish consultation that involved harmful nonnative species were few, were constrained to lentic habitat (lakes, ponds, etc.), and were a significant factor behind the ''likely to adversely affect'' determination made for these gartersnakes and several of their prey species.

Comment 62: In the discussion regarding potential ramifications for gartersnake recovery with respect to watershed-level fisheries management designations, the conclusions that were drawn seem premature. Not all nonnative fishes are considered as, or managed as, sport fish in Arizona, including many of the nonnative fishes that are problematic for gartersnakes.

Our Response: Our intention was not to predict which watersheds or particular streams would likely be designated as nonnative sport fisheries in the future. Rather, we simply acknowledged that surface water is generally scarce in the arid Southwest and large perennial streams, even more so. We assume that some streams currently occupied by the gartersnakes are likely to be designated for nonnative fisheries because of the scarcity of these aquatic systems in Arizona, the existing access infrastructure, and the fish communities that currently reside in larger perennial streams. We are concerned that if large, perennial streams, which are important occupied habitat for northern Mexican and narrow-headed gartersnakes (as well as their prey species), are designated as nonnative sport fisheries in the future, they will be lost to the gartersnakes, which would negatively affect their recovery rangewide. Furthermore, we have a high degree of certainty that if any habitat occupied by either gartersnake is designated strictly as a nonnative fishery (that includes warm-water, predatory species), that habitat will no longer possess the values that are important (or imperative) for species recovery and the value of these areas for recovery will be largely eliminated. Regarding nonnative species that are problematic to gartersnakes and which are not considered sport fish by the AGFD, we look forward to partnering with the AGFD and other public and private stakeholders in the removal of these species where they occur, and view this and similar recovery actions as the highest priority.

Comment 63: The proposed rule discussed at length the issue of declining native fishes and degradation of aquatic systems in Mexico but did so without discussing the status of the northern Mexican gartersnake. This type of argument is an apparent effort to build the case for listing the subspecies throughout its range based on inferred effects of the decline of native fish communities and habitat degradation, despite the fact that clear data for the northern Mexican gartersnake decline are only available for Arizona and New Mexico.

Our Response: We do not have population studies of northern Mexican gartersnakes in Mexico. However, we have used the best scientific and commercial data available. The information shows the status of native aquatic vertebrates in habitat currently or formerly occupied by the northern Mexican gartersnake generally correlate to the status of northern Mexican gartersnakes. We cited examples of how aquatic ecosystems are adversely affected by leading threats, such as dewatering or the expansion of harmful nonnative species, can affect the northern Mexican gartersnake and its native prey species, such as fish. Native fish comprise an important prey source for northern Mexican gartersnakes. Gartersnakes need them for nutrition in order to carry out their life-history functions. We found a significant amount of information that concluded that native fish communities were significantly at risk, as documented by declines of many species in several subbasins across the distribution of the northern Mexican gartersnake in Mexico. Therefore, when a major source of prey for northern Mexican gartersnakes becomes rare or disappears entirely, the gartersnake population will be negatively affected through declines in the fitness of individuals associated with poor nutrition, stress, and starvation. Several different factors that are contributing to the decline in native fish communities include harmful nonnative species, dewatering of habitat, and pollution of habitat. These stressors also negatively affect northern Mexican gartersnake populations both directly and indirectly. Native fish are, therefore, an effective surrogate for use in determining how threats are acting on individual northern Mexican gartersnakes and their populations throughout their distribution in Mexico.

Comment 64: We caution against extrapolation, such as the statement that there has been a 17-fold increase (since 1961) in the number of native fish species in Mexico that have been listed by the Mexican Federal Government as either endangered, facing extinction, under special protection, or likely extinct. The data cited do not speak to the status of these native fish species rangewide.

Our Response: We cited references that discuss the status of native fish in Mexico in our discussion of the status of the northern Mexican gartersnake in Mexico, and we did not imply those trends represented their status rangewide.

Comment 65: The Service identified a number of streams or aquatic communities in Mexico that have been adversely affected by threats such as declining native fisheries, sedimentation from logging, pollution, etc. Yet, our observations often point to the inverse in several headwaters of these identified streams. In other examples, such as the Río Colorado in Sonora, the vicinity of Mexico City, or unnamed streams draining the Sierra Madre, evidence that these areas were occupied by the northern Mexican gartersnake or occur within its distribution was not clearly presented.

Our Response: Much like what has been observed and documented in the southwestern United States, headwater streams are often less impacted than the mainstem rivers they feed. This is often because of the remote nature of these headwaters, which can limit the effect of human-caused threats (watershed-scale effects increase in the downstream direction), as well as the presence of natural or man-made barriers that prevent upstream migration of harmful nonnative species. Therefore, it may not be appropriate to infer that, simply because a headwater system is intact, that the same holds true for the system lower in the watershed. With respect to whether streams identified as being impacted by various threats in Mexico are within the distribution of the northern Mexican gartersnake, the references cited were not presented at a geographic scale fine enough to definitively conclude that a complete overlap with the distribution of the northern Mexican gartersnake exists, but rather a portion of the stream overlaps. In addition, a number of the streams that were called into question by the AGFD occur at the periphery of the subspecies' range in Mexico, which is still not precisely understood by the scientific community. Therefore, we presented the data in a regional context, as evidence that such threats could affect the gartersnake where they overlap.

Regarding whether the northern Mexican gartersnake ever existed in the Río Colorado in Sonora, there are two verified records from the Colorado River at Yuma from 1889 and 1890. We assume the species also occurred downstream into Mexico where suitable

habitat historically existed. We also presented data on threats to aquatic habitat in the vicinity of Mexico City. While we agree that this area represents the extreme southern end of the subspecies' distribution, we also acknowledge that threats, particularly harmful nonnative species, can have a larger geographic impact over time. Lastly, we presented information that suggested that threats may be affecting streams that drain the Sierra Madre, which in some cases were not specifically identified by the principal investigators. Considering that the Sierra Madre represents a large portion of the northern Mexican gartersnakes' distribution in Mexico, it was appropriate to include these data in our evaluation in a conservative assumption that many, if not most, of the streams were historically or currently occupied by this subspecies.

Comment 66: The New Mexico Department of Game and Fish encourages an expansion of activities authorized under a special rule under section 4(d) of the Act to exempt landowners from prohibitions of take under section 9 of the Act, for those actions that benefit the two gartersnakes, such as: (1) Enhancement and restoration of native riparian vegetation and stream structure; (2) control of harmful nonnative species, such as American bullfrogs and crayfish; (3) intensive research into the biology of the two species of gartersnake; and (4) continuing research into captive rearing and repatriation of the northern Mexican and narrow-headed gartersnakes.

Our Response: We agree that section 4(d) of the Act can provide important conservation potential in the recovery of these two gartersnakes, and we appreciate the New Mexico Department of Game and Fish's willingness to explore such opportunities. We have included a section 4(d) rule for the northern Mexican gartersnake in this rulemaking, which addresses the management of livestock tanks on non-Federal lands. Of the four special rule possibilities offered by the New Mexico Department of Game and Fish, controlling (removing) harmful nonnative species is most likely to provide the highest conservation benefit for northern Mexican and narrow-headed gartersnakes, and we are interested in looking further into this issue with our cooperators and stakeholders, such as the New Mexico Department of Game and Fish. In order to be most effective, such a 4(d) rule would have to be developed in close coordination with affected agencies, explicitly authorize the removal of bullfrogs, crayfish, and predatory fish species, and include precautions to minimize potential harm to affected gartersnake populations during project implementation. However, at this time, we do not have sufficient information to allow us to adequately confirm whether such a 4(d) rule would be necessary and advisable for the conservation of the species. We can consider such a rule in the future. Permitting authority for research needs is addressed through the issuance of section 10(a)(1)(A) permits. With respect to the enhancement and restoration of native riparian vegetation and stream structure, where water occurs, the vegetative structure is not viewed as limiting for gartersnake occupation in most cases. Where water has been removed from streams by dams, diversions, or groundwater pumping, correcting these scenarios and returning water to the system would be construed as a beneficial effect. For any activity not explicitly addressed in our proposed 4(d) rule that would result in take of either gartersnake, a section 10 permit would be required to avoid a violation of section 9 of the Act.

Tribes

Comment 67: In discussing the potential impacts of dams and reservoirs on resident fish communities, the proposed rule identifies the San Carlos Reservoir as an example of a reservoir that benefits harmful nonnative species and, therefore, negatively affects the northern Mexican and narrow-headed gartersnakes. This statement should be omitted from the final rule for two reasons. First, the proposed rule makes this conclusory adverse effect determination without any support whatsoever. Second, this conclusory determination is unnecessary to establish that the northern Mexican gartersnake or the narrow-headed gartersnake should be designated as threatened. In 1924, Congress enacted the San Carlos Project Act, which authorized the construction of the Coolidge Dam and the creation of the San Carlos Reservoir ''for the purpose . . . of providing water for the irrigation of lands allotted to the Pima Indians on the Gila River Reservation, Arizona.'' A statement in the proposed rule that the San Carlos Reservoir adversely affects northern Mexican and narrow-headed gartersnakes could affect the federally mandated delivery of water to the Gila River Indian Community. Any impediment to the Gila River Indian Community's irrigation system threatens the Gila River Indian Community's agriculture, economy, and most importantly, the survival of its culture, the value of which is immeasurable.

Our Response: In the final rule, we deleted the reference to the San Carlos Reservoir as an example of a reservoir within the range of the gartersnakes that may be benefitting harmful nonnative species, because there are several other examples. USFWS (2008, pp. 112–131) provides a complete scientific analysis of the relationship of reservoirs to resident aquatic communities upstream and downstream, includes many scientific references that have been incorporated by reference in this final rule, and comprises the basis for the issuance of a section 10(a)(1)(B) incidental take permit for the operation of Horseshoe and Bartlett Reservoirs, in that case. We believe the same relationships likely are true at San Carlos Reservoir. We look forward to work with interested parties to identify solutions that meet water use interests and the conservation needs of listed species.

Public Comments

General

Comment 68: Threats to the gartersnakes are those caused by Federal and State fish and wildlife management actions, or on Federal lands that can be dealt with outside of the Act. Approximately 85 percent of the habitat for the northern Mexican gartersnake is in Mexico. In Mexico, any activity that intentionally destroys or adversely modifies occupied northern Mexican gartersnake habitat is prohibited.

Our Response: As stated in the proposed rule, the Act requires us to make listing determinations based on the five threat factors, singly or in combination, as set forth in section 4(a)(1) of the Act. The Act further requires us to make listing determinations solely on the basis of the best scientific and commercial data available after taking into account those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species, whether by predator control, protection of habitat and food supply, or other conservation practices within any area under its jurisdiction. The Act requires us to give consideration to species that have been designated as requiring protection from unrestricted commerce by any foreign nation or pursuant to any international agreement; or identified as in danger of extinction or likely to become so within the foreseeable future, by any State agency or by any agency of a foreign nation that is responsible for the conservation of fish or wildlife or plants.

A number of existing regulations potentially address issues affecting the northern Mexican and narrow-headed gartersnakes and their habitats. However, existing regulations within the range of northern Mexican and narrow-headed gartersnakes typically address only the direct take of individuals without a permit and provide little, if any, protection of gartersnake habitat. Arizona and New Mexico statutes do not provide protection of habitat and ecosystems. Legislation in Mexico prohibits intentional destruction or modification of northern Mexican gartersnake habitat, but neither that, nor prohibitions of take, appear to be adequate to address ongoing threats. See ''The Inadequacy of Existing Regulatory Mechanisms'' in the proposed rule for further information.

Comment 69: There is more recent data on surface activity of northern Mexican gartersnakes than Rosen (1991, pp. 308–309). More recent observations indicate radio-tracked snakes were not surface active 64 percent of the time at Bubbling Ponds and 60 percent of the time at Tavasci Marsh (upper Verde River) and the middle Verde River.

Our Response: We have updated the discussion under ''Habitat and Natural History'' for the northern Mexican gartersnake in this final rule to reflect more recent information, such as the information provided in the comment.

Comment 70: The proposed rule states that the northern Mexican gartersnake appears to be most active during July and August, followed by June and September. Based on recent survey efforts it would probably be most accurate to state that the species appears to be most active between May and September.

Our Response: We have updated the discussion under ''Habitat and Natural History'' for the northern Mexican gartersnake in this final rule to reflect more recent information, such as the information provided in the comment.

Comment 71: The proposed rule so broadly describes the species' physical habitat that it is difficult to determine what types of riparian, wetland, and terrestrial habitats are important to each of the gartersnakes and is conflicting with previous characterizations.

Our Response: The habitat descriptions we provide in the proposed and final rules reflect the current understanding of the types of habitat that are used by either gartersnake species. The descriptions appear broad because these gartersnakes, in particular the northern Mexican gartersnake, can occur in varied ecological settings.

Comment 72: All five of the waters where there are viable populations of Mexican gartersnakes are already protected and do not need further protection under the Act. Oak Creek, Tonto Creek, and the Upper Verde River are protected by spikedace and loach minnow critical habitat. The San Rafael Valley is protected by The Nature Conservancy and San Rafael State Park. The Bill Williams River is a National Wildlife Refuge.

Our Response: We acknowledged in our proposed rule that other listed species' historic ranges overlap with the historical distribution of northern Mexican and narrow-headed gartersnakes. However, as stated above and in the proposed rule, the Act requires us to make listing determinations based on the five threat factors, singly or in combination, after taking into account those efforts being made by any State or foreign nation to protect such species. Management by Federal or State agencies, or non-governmental organizations does not necessarily eliminate activities that threaten these subspecies.

Comment 73: The northern Mexican gartersnake in the United States is not a distinct population segment and does not require protection under the Act.

Our Response: We did not propose to list either gartersnake as a distinct population segment. We proposed to list the northern Mexican and narrow-headed gartersnakes as threatened throughout their ranges. We also reviewed the best available scientific and commercial information to conclude that the northern Mexican gartersnake is a valid subspecies as defined under the Act.

Comment 74: The Service must follow the guidance of Executive Order 13563 of January 18, 2011, concerning making a new Federal rule.

Our Response: Executive Order (E.O.) 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Comment 75: These gartersnakes are already protected by the New Mexico Department of Game and Fish.

Our Response: A number of existing regulations potentially address issues affecting the northern Mexican and narrow-headed gartersnakes and their habitats. However, existing regulations within the range of northern Mexican and narrow-headed gartersnakes typically address only the direct take of individuals without a permit, and provide little, if any, protection of gartersnake habitat. Arizona and New Mexico statutes do not provide protection of habitat and ecosystems. Legislation in Mexico prohibits intentional destruction or modification of northern Mexican gartersnake habitat, but neither that legislation, nor prohibitions of take, completely address ongoing threats. See ''The Inadequacy of Existing Regulatory Mechanisms'' in this final rule for further information.

Comment 76: The Strategic Water Reserve, managed by the New Mexico Interstate Stream Commission, already holds and utilizes water rights to benefit endangered fish and wildlife species in New Mexico. Since the Service gives strongest weight to statutes because they are nondiscretionary and enforceable, the New Mexico Interstate Stream Commission expects the Service to give weight to the Strategic Water Reserve statute in this final rule.

Our Response: We considered the Strategic Water Reserve managed by the New Mexico Interstate Stream Commission and have updated the discussion in the final rule with this new information. However, collectively, existing regulations within the range of northern Mexican and narrow-headed gartersnakes are not fully ameliorating ongoing threats such that the subspecies would not meet the definition of threatened. See ''The Inadequacy of Existing Regulatory Mechanisms'' in this final rule for further information.

Comment 77: Contrary to what is implied in the proposed rule, Clean Water Act section 404 nationwide permits receive rigorous environmental review by the Corps.

Our Response: We recognize that the Clean Water Act section 404 nationwide permits receive environmental review by the Corps; however, this process does not appear to be ameliorating ongoing threats to northern Mexican or narrow-headed gartersnakes such that the subspecies would not meet the definition of threatened. See ''The Inadequacy of Existing Regulatory Mechanisms'' in this final rule for further information.

Comment 78: What is the problem with the management or resources at the

Buenos Aires National Wildlife Refuge (BANWR) that makes populations likely not viable.

Our Response: The abundance of bullfrogs on the BANWR, specifically in the vicinity of Arivaca Lake and Arivaca Cienega, contributes to the northern Mexican gartersnake population being categorized as likely not viable. As stated in our proposed rule, bullfrogs (and other harmful nonnatives) are a primary threat to the gartersnakes. The presence of a single juvenile northern Mexican gartersnake was confirmed on the BANWR in 2000 (Rosen *et al.* 2001, Appendix I). The observation of this juvenile suggests that at least some level of reproduction had occurred and may still be occurring but more recent survey work has not occurred there. The presence of dense cover probably helps any remaining northern Mexican gartersnakes to avoid predation.

In recent years, there has been a concerted management effort on the BANWR to recover the Chiricahua leopard frog in an array of tanks and their associated drainages, all of which have been designated as critical habitat for the Chiricahua leopard frog. As a result, it is likely that any northern Mexican gartersnakes that successfully immigrate into the central tanks area of the BANWR have an increased chance of persistence because of improved available habitat and a stable prey base in an area that is likely free of nonnative predators. We also expect that dispersing Chiricahua leopard frogs might help sustain a low-density population of northern Mexican gartersnakes on the refuge. We consider the northern Mexican gartersnake to be extant as a low-density population on the BANWR based on historical and recent records and the abundance of available, suitable habitat and prey populations in the vicinity of the most recent record. Appendix A contains additional details on the status of the northern Mexican gartersnake at this and other refuges.

Comment 79: What is the relationship of the Arizona Department of Water Resource laws and the proposed listing of the two gartersnakes? For New Mexico, the New Mexico State Engineer indicated that any person in New Mexico can apply to the State Engineer for a permit for the lease of a valid existing water right to augment or maintain stream flow for the beneficial use of fish and wildlife habitat, maintenance or restoration. Further, permits for the permanent transfer of water rights for such purposes have already been granted to the New Mexico Interstate Stream Commission. Both the Strategic Water Reserve option and the leasing option retain a water right's original priority date.

Our Response: Existing water laws in Arizona and New Mexico may not be fully adequate to protect gartersnake habitat from the dewatering effects of groundwater withdrawals. New Mexico water law now includes provisions for instream water rights to protect fish and wildlife and their habitats. Arizona water law also recognizes such provisions; however, because this change is relatively recent, instream water rights have low priority and are often never fulfilled because more senior diversion rights have priority. With respect to New Mexico, we have updated the discussion on New Mexico water rights laws in the final rule to correct any inaccuracies.

Comment 80: The information in Table 1 of the proposed rule does not match the information on page 41515. Page 41515 states that a former large, local population of northern Mexican gartersnakes at the San Bernardino National Wildlife Refuge has experienced correlative decline of leopard frogs and are now thought to occur at very low population density or may be extirpated. Table 1 states likely not viable.

Our Response: We consider gartersnake populations with very low population densities, and thus at higher risk of extirpation, such as the one at San Bernardino National Wildlife Refuge, to be likely not viable. While the population could already be extirpated, we did not have sufficient information to categorize it as likely extirpated and so called it likely not viable.

Surveys and Monitoring

Comment 81: The proposed rule states that the northern Mexican gartersnake has declined significantly in the last 30 years, but then goes on to state that there are several areas where the species was known to occur but has received no or very little survey effort in the past decades.

Our Response: We based our conclusions on the best scientific and commercial data available at the time of listing. We have concluded that, in as many as 24 of 29 known localities in the United States (83 percent), the northern Mexican gartersnake population is likely not viable and may exist at low population densities that could be threatened with extirpation or may already be extirpated. In most localities where the species may occur at low population densities, existing survey data are insufficient to verify extirpation. Only five populations of northern Mexican gartersnakes in the United States are considered likely viable.

Comment 82: The Service assumes the populations at Whitewater Creek and Middle Fork Gila River are likely deteriorated or have been severely jeopardized after the Whitewater-Baldy Complex Fire, but subsequent survey data have not been collected. In the absence of subsequent survey data, the Service lacks information to supports its assumption that the narrow-headed gartersnake populations have deteriorated. Further, we understand that some of the northern Mexican gartersnakes discovered in the Gila National Forest in June 2013 were found precisely in Whitewater Creek. Among the discovered snakes were young males and at least one viable reproducing female, suggesting that the populations of northern Mexican gartersnakes are living and reproducing in the area. The discovery of a reproducing population of northern Mexican gartersnakes in this area suggests that populations of narrow-headed gartersnakes may not be as likely deteriorated as the Service suggests.

Our Response: The proposed rule states that the status of those populations has likely deteriorated as a result of subsequent declines in resident fish communities due to wildfires followed by heavy ash and sediment flows, resulting fish kills, and the removal of snakes. Immediately after the Whitewater-Baldy Complex Fire, but before the subsequent monsoon, we were actively working with other agencies and species experts on assessing the likely damage to the resident fish community and planning salvage operations for narrow-headed gartersnakes. As stated in Appendix A (available at *http://www.regulations.gov,* Docket No. FWS–R2–ES–2013–0071), populations are thought to remain extant at Whitewater Creek and Middle Fork Gila River, but in the short to mid term we anticipate the density of the narrow-headed gartersnake population to be low due to the Whitewater-Baldy Complex Fire. These sites may rebound in the mid to long term when subbasin conditions stabilize and fish begin to recolonize the stream or are otherwise reintroduced through restoration efforts. See ''High-Intensity Wildfires and Sedimentation of Aquatic Habitat'' section of the final rule for additional information. The best available scientific and commercial data indicated that high-intensity wildfires have the potential to eliminate gartersnake populations through a reduction or loss of their prey base.

Northern Mexican gartersnakes have never been documented in Whitewater

Creek, but were rediscovered in the Gila River in 2013.

Comment 83: Haney *et al.* (2008, p. 61) declared the northern Mexican gartersnake as nearly lost from the Verde River, but also suggested that diminished river flow may be an important factor. Given the multiple recent detections of northern Mexican gartersnakes along the upper and middle Verde River, this statement does not seem relevant to include in the proposed rule.

Our Response: More recent population status data for the northern Mexican gartersnake for the Verde River were preliminary and unpublished at the time the proposed rule was drafted. These newer data have been incorporated into the final rule and Appendix A.

Comment 84: Is a consistent survey protocol being followed each year? Is data collected from different surveys comparable? Without scientific survey protocol implemented consistently for at least 10 years, there can be no real evidence of population trends.

Our Response: There is currently no accepted protocol for northern Mexican or narrow-headed gartersnake surveys; however, some investigators have attempted to revisit locations where others have surveyed in the past in an attempt to establish population trends. Variability in survey design and effort makes it difficult to compare population sizes or trends among sites and between sampling periods. For each of the sites discussed in Appendix A, we have attempted to translate and quantify search and capture efforts into comparable units (*i.e.,* person-search hours and trap-hours) and have conservatively interpreted those results. Where population trends have been established, they have been reported and reflect significant declines in both species.

Comment 85: The Service has failed to survey, analyze data, and incorporate the effects of the thousands of livestock tanks and other impoundments that have been constructed in recent times that are now occupied by the narrow-headed and northern Mexican gartersnakes. These stock tanks and manmade impoundments offer the best opportunity for refugia for the narrow-headed and northern Mexican gartersnakes and could prove to be very important for the future survival of these gartersnakes, as well as the Chiricahua leopard frog. Given the quantity of tanks and other impoundments constructed in the last 50 years, the number of these structures that are used by the gartersnakes could be substantial, and, therefore, the potential population count for the species could be significantly higher than speculated.

Our Response: Surveys of every stock tank that could occur within the distribution of both gartersnake species have not been done. The Act requires that we base our evaluation on the best scientific and commercial information available. We agree that well-managed stock tanks represent conservation and recovery opportunities for the northern Mexican gartersnake and have consequently developed a rule under section 4(d) of the Act that exempts otherwise unauthorized take of northern Mexican gartersnakes from livestock use or maintenance of stock tanks on non-Federal lands. Stock tanks are not considered suitable habitat for narrow-headed gartersnakes, and the species has never been reported using a stock tank.

Harmful Nonnative Species and Other Threats

Comment 86: No information is provided describing San Carlos Reservoir operations and their effects on nonnative and native aquatic species, whether there are or ever has been gartersnakes in or near the San Carlos Reservoir and the status of any nonnative fish populations on the Gila River at San Carlos Reservoir. This is not based on the best available science.

Our Response: Distribution data strongly suggest that northern Mexican and narrow-headed gartersnakes historically occurred along the middle Gila River, as this was formerly a major perennial river with several known populations both upstream and within numerous tributaries, with suitable habitat, and a robust native prey base. Post-construction of the San Carlos Reservoir, survey data are limited. Thus it remains difficult to ascertain the current status of gartersnake populations upstream, downstream, or within the reservoir itself. As far as the effect of the reservoir on the up- or downstream aquatic community, similar analysis have been performed for the Horseshoe and Bartlett Reservoirs, which resulted in the issuance of a section 10(a)(1)(B) permit for the incidental take of native fish species, the lowland leopard frog, the northern Mexican gartersnake, and the narrow-headed gartersnake. USFWS (2008, pp. 112–131) supports our rationale as to how adverse effects to native aquatic species occur from the presence and operation of reservoirs in the Gila River basin of Arizona.

Comment 87: In the proposed rule, the Service refers to the potential development of the Hooker Dam on the mainstem Gila River above Mogollon Creek and below Turkey Creek. The U.S. Bureau of Reclamation has abandoned any intention of completing Hooker Dam, and its reference as a possible future project should be deleted from the final rule.

Our Response: We have confirmed with the U.S. Bureau of Reclamation that there are no current plans to develop Hooker Dam, and it is not referenced in the final rule.

Comment 88: Barriers to fish movement out of Roosevelt Lake should be acknowledged in the final rule. The Roosevelt Dam on the Salt River serves as an effective barrier to upstream fish movement, which would prevent nonnative fish from moving upstream.

Our Response: In the final rule, we added a statement in our discussion of dams to reflect this fact.

Comment 89: The proposed rule states that additional land and water use activities along Tonto Creek and the Salt River, including areas upstream of Roosevelt Lake, contribute to the persistence of nonnative aquatic species that negatively affect the gartersnakes. However, the Tonto Creek exhibits seasonally intermittent flows in the lower reaches below Gun Creek. Sections of dry streambed serve as a barrier to upstream fish migration. Further, high flow events have been documented to remove nonnative species by flushing them downstream. In addition, nonnative spiny-rayed fish are not typically motivated to migrate upstream out of lakes because they prefer lentic over lotic habitats.

Our Response: Connectivity between otherwise spatially intermittent reaches is established during seasonal periods of snowmelt runoff as well as during medium- to large-scale flood pulses. These opportunities contribute to the distribution of harmful nonnative fish throughout Tonto Creek, as demonstrated in fish survey data that has been collected, reviewed, and reported in Appendix A. With respect to whether harmful nonnative fish are ''not typically motivated to migrate upstream out of lakes,'' the data are lacking to clearly defend this statement, especially when reservoir levels decrease, which lessens the amount of space available in reservoirs, which may in turn trigger dispersal or movement behaviors in harmful nonnative fish that are known to be territorial by their nature. Additionally, the simple presence of otherwise ''lentic'' nonnative species in lotic habitat upstream of reservoirs to which they are hydrologically connected, suggests this perceived preference may not be altogether true; green sunfish are an excellent example.

Comment 90: A number of other activities (both present and historical) in the area of Tonto Creek and the Salt River in the vicinity and upstream of Roosevelt Lake are likely contributing to the decline of gartersnakes and the aquatic and riparian habitat on which they depend. Specifically, a historical stocking program of nonnatives, manmade impoundments within the Tonto Creek floodplain, and other activities identified in the proposed rule, such as groundwater pumping, flood control projects, urbanization, and livestock grazing. The major activities reducing flows and dewatering habitat are occurring upstream of Roosevelt Lake. A bridge is proposed over Tonto Creek, and 320 to 640 residences are projected to be built on the east side of Tonto Creek, under the Gila County's comprehensive plan. This would increase water and recreational use. The U.S. Forest Service's Motorized Travel Management Plan has the potential to open 2,567 miles (4,131 km) of road to high clearance vehicles and 967 miles (1,556 km) to passenger vehicles. The Tonto National Forest's Salt River Allotments Vegetative Management Plan would allow continued grazing on more than 275,000 acres (111,000 ha) along the Upper Salt River. Potential impacts to the narrow-headed gartersnake are noted, and the potentially suitable habitat for the northern Mexican gartersnake that occurs along the Salt River is the same area that the USFS proposes for grazing.

Our Response: We agree that numerous threats are affecting the status of both gartersnake species in Tonto Creek. The final rule (see ''Altering or Dewatering Aquatic Habitat'') references land use activities in this area that we consider as having an effect on resident gartersnake populations.

Comment 91: The Service's generalized and unsupported assertions that all dams have the same impacts on gartersnakes should be removed from the final rule. The ''Altering or Dewatering Aquatic Habitat'' section of the proposed rule is not supported by any citations regarding water level fluctuations in reservoirs and cross-section profiles of a reservoir. This section should provide citations and recognize the diversity of the various types of reservoirs.

Statements regarding the effect of Roosevelt Lake on gartersnake populations in Tonto Creek and the upper Salt River lack any scientific or technical basis and should be removed from the final rule. Other than referencing a biological opinion (USFWS 2008, pp. 112–131), the proposed rule provides no basis for the assertion that harmful nonnative fish are moving upstream out of Roosevelt Lake into Tonto Creek or the Salt River. Since the biological opinion in 2008, monitoring conducted under the Horseshoe-Bartlett Habitat Conservation Plan has been implemented to document the movement of nonnative fish upstream of the Horseshoe Reservoir into the Verde River, and reaches of the Verde River have been sampled, and to date no evidence of fish movement has been detected.

Our Response: We agree that not every dam has the same effect on the stream on which it is located. We disagree that our treatment of the effects of dams on occupied lotic habitat are unsupported. The identified section discusses general effects of dams, based on available literature, as a suite of effects common in all instances in various degrees. This same section also includes referenced discussion of specific dams or diversions and their specific effects on certain gartersnake populations. The relationship of the cross-sectional profiles and water level fluctuations of reservoirs to benefits to harmful nonnative fish communities was an integral part of a 4-year evaluation, in close collaboration with the operators of those reservoirs themselves, dedicated to the development of the habitat conservation plan for Bartlett and Horseshoe Reservoirs on the Verde River. We incorporated by reference this exhaustive analysis, which used the best available data to date (see SRP 2008, entire; USFWS 2008, pp. 112–131).

We are not aware of any analysis afforded specifically to the potential benefits of Roosevelt Dam operations to the sustainment or production of harmful nonnative fish populations in Roosevelt Lake, Tonto Creek, or the Salt River, upstream of Roosevelt Dam. The exhaustive analysis of these effects as they are attributed to similarly sized dams and reservoirs on the Verde River system referenced immediately above represent the most applicable, current, and robust analyses to date. We do note that Roosevelt Lake does not fluctuate as much as does Horseshoe Reservoir on the Verde River and, therefore, most likely provides greater benefits to the resident harmful nonnative fish community. With respect to fish sampling data from the implementation of the Horseshoe and Bartlett HCP, sampling events do not occur during the most appropriate time to capture movement of fish out of the reservoir (during periods of rapid drawdown or during drawdown after periods of prolonged storage) and thus may not adequately capture these relationships. Additionally, more fish have to be marked in the reservoir to create better opportunities for their discovery elsewhere in the watershed. Lastly, recent northern Mexican gartersnake records have been reported immediately upstream, if not adjacent to, Roosevelt Lake, which affirms that adverse effects from harmful nonnative species that occur in Roosevelt Lake present a demonstrable threat to that population of northern Mexican gartersnakes.

Comment 92: The proposed rule states that, on the upper Verde River, native species dominated the total fish community at greater than 80 percent from 1994 to 1996, before dropping to approximately 20 percent in 1997 and 19 percent in 2001. This statement points to specific empirical data regarding declining native fish species in the upper Verde River watershed, but there is no reference to verify the sources, context, or specific species to which it is referring.

Our Response: Rinne *et al.* (2005, pp. 6–7) contains a discussion of shifting fish communities in the Verde River, and Bonar *et al.* (2004, entire) contains a detailed analysis of the role harmful nonnative fishes have had on the native fish community of the Verde River. Also Bonar *et al.* (2004, pp. 6–7) summarizes this information.

Comment 93: If it is true that the narrow-headed and northern Mexican gartersnakes have declined substantially in the United States and the decline of these species is most likely due to the introduction of nonnative predator and competitor species as stated in the 2006 and 2008 status reports, then the listing of these species as threatened will do little for their recovery.

Our Response: As stated in the proposed rule, conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition of conservation needs of species through listing under the Act results in public awareness and conservation by Federal, State, tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and recovery plans will identify recovery actions that will benefit listed species. See ''Available Conservation Measures'' in this final rule for additional information on this subject.

Comment 94: Local persons are catching gartersnakes in contests and seeing how many they can kill to win the contest.

Our Response: We have no information to indicate that collection of

gartersnakes is a significant threat. However, if this activity is occurring, it will be considered a prohibited take of the species, once listed.

Comment 95: The Service should take into account the adverse effects of the past Federal land management agency burning programs and the recent wildfires that have occurred in the narrow-headed and northern Mexican gartersnakes home ranges. Closer scrutiny of the current Federal land management burning program, and lack of a coherent thinning and logging program, coupled with a better understanding of the effects of the recent large wildfires, should be completed in order to focus future protection and restoration efforts towards what is truly causing the decline of the narrow-headed and northern Mexican gartersnakes. There is no benefit to immediately listing these gartersnakes as threatened when there is doubt concerning the current and future potential cause for decline of the species.

Our Response: In the proposed rule, we discuss effects of recent fire management policies on aquatic communities in Madrean Oak Woodland biotic communities in the southwestern United States. Existing wildfire suppression policies intended to protect the expanding number of human structures on forested public lands have altered the fuel loads in these ecosystems and increased the probability of high-intensity wildfires (Rinne and Neary 1996, p. 143). The historical actions affecting a species are considered as background in our assessment in terms of their contribution to the present-day status of these species. However, in evaluating the status of the species, the Act requires that we assess present and future factors that may threaten the species. If past actions are continuing threats, these threats are evaluated under the five-factor analysis. If these past actions are not continued factors, then these actions are not assessed in the analysis of the future status because they are no longer present or future factors threatening the species.

Section 7(a)(1) of the Act requires that all Federal agencies shall utilize their authorities in furtherance of the purposes of the Act by carrying out programs for the conservation of endangered and threatened species. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us. Lastly, while we acknowledge in the proposed and final rules that large wildfires can have significant adverse effects on gartersnake populations and their prey base (in particular for narrow-headed gartersnakes), the literature is clear that harmful nonnative species pose the most significant threat to both species, rangewide, through a variety of ecological mechanisms.

Comment 96: The proposed rule states that Cavazos and Arriaga (2010, entire) found that average temperatures along the Mexican Plateau in Mexico could rise by as much as 1.8 °F (1 °C) in the next 20 years and by as much as 9 °F (5 °C) in the next 20 years, according to their models. This statement is confusing because the reference cites two different temperatures for the same timeframe in the same area.

Our Response: Climate models often report a range of scenarios, as was the case in this instance. We did revise that language for clarity. However, we expect precipitation and temperature trends, as modeled under future climate change projections, to increase regional aridity in Mexico within the distribution of the northern Mexican gartersnake, which is expected to place additional drought stress on stream flow and reduce the permanency of cienegas, marshes, and livestock tanks. As streams dry, they will become unsuitable as habitat for this gartersnake and its prey base over the next several decades.

Comment 97: We request that the Service provide clarification and more information regarding the presence of mercury in Tonto Creek and likely sources of this substance. No study was cited for the claim that mercury appears to be bioaccumulating in fish in the lower reaches of the Tonto Creek, only a personal communication with Arizona Department of Environmental Quality. The information in the proposed rule is contrary to the Arizona Department of Environmental Quality's 2011 report on ''Fish Consumption Risk Analysis for Tonto Creek, Arizona.'' Specifically, desert suckers have the fourth highest mercury levels, not the second.

Our Response: We updated this discussion under ''Environmental Contaminants'' in the final rule to include data reported by ADEQ (2011, entire), as well as other information, and acknowledged in the proposed and final rules that no study on the bioaccumulation of mercury in resident gartersnakes has been implemented that we are aware of. The suggestion that bioaccumulation of mercury could be occurring is based on the accepted scientific premise regarding the toxicology of mercury in ecosystems and its ability to increase its concentration in tissue with increasing trophic orders. Gartersnakes are tertiary consumers and, therefore, are expected to bioaccumulate contaminants such as mercury in their tissues.

Comment 98: The term excessive sedimentation as used in the proposed rule is open to interpretation and should be defined to eliminate unnecessary waste of resources of the Service in defending its finding. Any large storm event that changes the morphology of a channel or adjoining riparian habitat can be used to control all human activities in that they can be construed to have caused the resulting flooding.

Our Response: It is beyond our scope to quantitatively define what level of sedimentation is excessive for every stream. However, we agree that flood pulses naturally liberate sediment in arid southwestern watersheds. In the absence of absolute values or metrics, we consider excessive sedimentation that level in which resident gartersnake prey species or gartersnakes themselves are not able to adequately carry out life-history functions such as feeding, sheltering, or breeding as a result of the effects of sedimentation. Arizona and New Mexico also have turbidity or total dissolved solid standards for surface water, which can also be used as a reference.

Comment 99: The proposal to list is based on the false premise that riparian habitats are declining in the Southwest (see Webb *et al.* 2007).

Our Response: A comprehensive analysis of the scientific literature supports our evaluation of the status of habitat where these gartersnakes historically or currently occur.

Comment 100: We request the Service clarify the year of reference in their projection that annual precipitation amounts in the southwestern United States may decrease by 10 percent by the year 2100.

Our Response: Overpeck (2008, entire) is a presentation where this information was originally presented although much of the information used in Overpeck (2008) was from the Intergovernmental Panel on Climate Change (IPCC 2007). We presume the year(s) of reference may be 2007–2008 because that is the time period when the reference was created.

Comment 101: The Service should acknowledge the uncertainty of broad predictions associated with climate change in their final rule.

Our Response: In our analyses, we use our expert judgment to weigh relevant information, including uncertainty, in

our consideration of various aspects of climate change and their predicted effects on northern Mexican and narrow-headed gartersnakes.

Comment 102: The Service states that wildfire is a threat to the narrow-headed gartersnake throughout its range. However, the Service also discusses the Dry Lakes Fire of 2002, which resulted in a complete fish kill in Turkey Creek. Turkey Creek has since been recolonized by native fish species almost exclusively. Consequently, it is conceivable that snakes that survived a period without fish might then find themselves in an environment better suited to their needs (i.e., devoid of nonnative species) than before the fire. Further, the Service states that both species of gartersnakes are somewhat resilient to physical habitat disturbance where harmful nonnative species are absent.

Our Response: We agree that if enough individual narrow-headed gartersnakes can survive the post-fire period of ash flows and fish kills, without risking genetic bottlenecking within the population, that an ensuing native-only fish community would be highly beneficial. However, field research has proven that over time and without a barrier to upstream movement, harmful nonnative fish ultimately make their way back into these streams and negatively affect the native aquatic community. Therefore, any plausible post-fire benefits to surviving narrow-headed gartersnakes are most likely short-lived.

Information Quality and Quantity

Comment 103: Personal communications of a graduate student are a weak basis for determining the current status of the narrow-headed gartersnake in New Mexico (or, as found in other citations, the effects of the Whitewater Baldy fire on the narrow-headed and northern Mexican gartersnakes). Personal communications or gray literature are not subject to the necessary vigorous peer review and substantiation that would meet the Act's requirements for science-based or commercial data.

Our Response: As required by the Act, we based our proposal and this final rule on the best available scientific and commercial data. Our Policy on Information Standards Under the Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. Information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, other unpublished materials, or experts' opinions or personal knowledge. We receive and use information on the biology, ecology, distribution, abundance, status, and trends of species from a wide variety of sources as part of their responsibility to implement the Act. This information includes status surveys, biological assessments, and other unpublished material (that is, ''gray literature'') from State natural resource agencies and natural heritage programs, Tribal governments, other Federal agencies, consulting firms, contractors, and individuals associated with professional organizations and higher educational institutions. We also use published articles from juried professional journals. The reliability of the information contained in these sources can be as variable as the sources themselves. As part of their routine activities, our biologists are required to gather, review, and evaluate information from these sources prior to undertaking listing, recovery, consultation, and permitting actions.

Comment 104: If science-based and commercial data are not available for populations, then any projections for populations in the United States based on northern Mexican gartersnake populations would necessarily be speculative.

Our Response: The Act requires that we use the best scientific and commercial data available at the time of listing. Appendix A (available at *http://www.regulations.gov,* Docket No. FWS–R2–ES–2013–0071) discusses such considerations as the physical condition of habitat, the composition of the aquatic biological community, the existence of significant threats, and the length of time since the last known observation of the subspecies in presenting rationale for determining occupancy status at each locality.

Comment 105: The Service's statement that as much as 90 percent of historical populations in the United States either occur at low densities or are extirpated due to the total number of stream miles that are now permanently dewatered appears to be pure speculation and not supported by factual data. It is doubtful that an accurate accounting exists of stream miles in the United States that historically supported the northern Mexican gartersnakes, and it is further doubtful that an accurate accounting exists of stream miles that historically were perennial and are now ephemeral. This kind of information would require dealing with specific time periods and specific stream reaches, which is not offered in the statement.

Our Response: This assessment is based on the best available scientific and commercial data for northern Mexican gartersnakes in the United States. Museum records and habitat requirements indicate the species technically occurred in every county and nearly every subbasin within Arizona. We used GIS and information on threats and status of historical populations as well as habitat preferences, in arriving at the 90 percent figure, which we consider to be reasonably accurate given the information available. Considering the large number of stream miles that were historically perennial within the historical distribution of the northern Mexican gartersnake in Arizona that are now ephemeral, and the degraded status of populations as a result of a multitude of threats, our presentation of the data represents the most accurate possible.

Effect of Listing on Non-Federal Interests

Comment 106: The language in the proposed rule that lists activities which could result in the reduction of the distribution or abundance of important gartersnake prey species, as well as reduce the distribution and amount of suitable physical habitat on a regional landscape for the gartersnakes themselves, is an invitation for many organizations to sue the Service for allowing activities deemed to affect the gartersnake on a regional landscape basis. This gives the gartersnakes' prey species endangered status under the Act also.

Our Response: The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all wildlife listed under the ESA. The prohibitions of section 9(a)(2) of the Act make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import, export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species.

We may issue permits to carry out otherwise prohibited activities involving endangered and threatened wildlife species under certain

circumstances. A permit must be issued for the following purposes: For scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a proposed listing on proposed and ongoing activities within the range of species proposed for listing. See the **Available Conservation Measures** section in the proposed rule for a list of activities that could potentially result in a violation of section 9 of the Act. Lastly, it is important to note that our emphasis for the recovery of listed species is to assess and improve ecosystem function as a basic tenant of conservation biology; this includes the physical habitat and biological community where a listed species occurs. This management construct is not unique to these gartersnakes.

Comment 107: Listing will hinder conservation efforts of the New Mexico Department of Game and Fish.

Our Response: We disagree. Once these species are listed, funding for recovery actions may be more accessible from a variety of sources, including Federal grants, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of Arizona and New Mexico will be eligible for Federal funds to implement management actions that promote the protection or recovery of the narrow-headed and northern Mexican gartersnakes.

Section 4(d) Rule

Comment 108: If the Service decides to list the species, then we recommend the development of a 4(d) rule to exempt landowners from prohibitions of take under section 9 of the Act for those actions benefitting the two species of gartersnakes, as was the case for the Chiricahua leopard frog.

Our Response: We proposed a special rule for the northern Mexican gartersnake under section 4(d) of the Act that would exempt take of northern Mexican gartersnakes as a result of livestock use at or maintenance of livestock tanks located on non-Federal lands, and a final 4(d) rule is incorporated into this final rule. We do not have the necessary information at this time to determine that general actions benefitting the two species of gartersnakes would meet the standard of a 4(d) rule to be necessary and advisable for the conservation of the species. We would need more specific information regarding the actions under consideration.

Comment 109: Concerned with the language in the proposed 4(d) rule, which states: ''Incidental take of northern Mexican gartersnakes is not a violation of section 9 of the Act if it occurs from any other otherwise legal activities involving northern Mexican gartersnakes and their habitat that are conducted in accordance with applicable State, Federal, tribal, and local laws and regulations.'' This language could be interpreted to allow incidental take for any activity in the snake's habitat as long as the activity was legal. We suggest the following language: (3) What activities are allowed? Incidental take of northern Mexican gartersnakes is not a violation of section 9 of the Act if it occurs from (a) otherwise legal activities involving northern Mexican gartersnakes and their habitat that are conducted in accordance with applicable State, Federal, tribal, and local laws and regulations, and (b) such activities occurring in northern Mexican gartersnake habitat pertain to maintenance activities at livestock tanks located on private, State, or tribal lands. A livestock tank is an existing or future impoundment in an ephemeral drainage or upland site constructed primarily as a watering site for livestock.

Our Response: We have amended the 4(d) rule, in the final rule, to reflect this recommendation. We revised the language in the 4(d) rule to better describe our intention for the rule to exempt only activities related to the construction, use, and maintenance of stock tanks for livestock watering. These changes did not alter the scope of the 4(d) rule.

Determination—Standard for Review

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination.

Until recently the Service has presented its evaluation of information under the five listing factors in an outline format, discussing all of the information relevant to any given factor and providing a factor-specific conclusion before moving to the next factor. However, the Act does not require findings under each of the factors, only an overall determination as to the species' status (for example, threatened, endangered, or not warranted). Ongoing efforts to improve the efficiency and efficacy of the Service's implementation of the Act have led us to present this information in a different format that we believe leads to greater clarity in our understanding of the science, its uncertainties, and our application of our statutory framework to that science. Therefore, while the presentation of information in this rule differs from past practice, it differs in format only. We have evaluated the same body of information we would have evaluated under the five listing factors outline format in the past, we are applying the same information standard, and we are applying the same statutory framework in reaching our conclusions.

Determination for Northern Mexican Gartersnake

The Act defines an endangered species as any species (or subspecies) that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We have carefully assessed the best scientific and commercial information available regarding the status of the northern Mexican gartersnake and have determined that this subspecies meets the definition of a threatened subspecies under the Act based on its current status and the future threats to the subspecies.

We find that the northern Mexican gartersnake is not currently in danger of extinction because it remains extant in most of the subbasins where it historically occurred, and its known threats have not yet resulted in substantial range reduction or a substantial number of population extirpations to put the subspecies on the brink of extinction. Currently, only 6 former United States populations were found to be likely extirpated, and 29 populations are believed to remain extant. Therefore, we determined that the present risk of extinction is not

sufficient to warrant a finding of endangered under the Act.

However, the northern Mexican gartersnake has undergone declines in its abundance, and we found only 5 of 29 current populations in the United States are likely viable into the foreseeable future, or what we consider to be the next several decades. While we are not able to quantify the status of all populations in Mexico, based on the threats and the declining status of aquatic communities there, we assume a similar status in the Mexican portion of its range. We expect the status of the subspecies will decline in the next several decades mainly as a result of the continuing and expanding impacts of harmful nonnative species and the increasing nature of threats associated with human population growth and climate change. As the effects of these threats escalate on the landscape (as summarized below), we expect that additional populations will be extirpated, and that the northern Mexican gartersnake will be in danger of extinction in the foreseeable future.

In our review of the best available scientific and commercial information, we found that aquatic ecosystems upon which the northern Mexican gartersnake relies have been significantly degraded by the introduction and proliferation of harmful nonnative species (Factors C and E). Harmful nonnative species (mainly predatory fishes, bullfrogs, and crayfish) have been intentionally released or have naturally moved into nearly every subbasin throughout the range of the northern Mexican gartersnake. This has resulted in widespread declines in native fish and amphibian communities, which are integral to the continued survival of the northern Mexican gartersnake because they serve as their primary food source. Harmful nonnative species have indirectly impacted northern Mexican gartersnakes by predation on their prey base (native fish and amphibians) and have directly impacted them through preying on young gartersnakes (Factor B), which impacts gartersnake populations through declines in the recruitment of young snakes into the reproductive age class. In combination, these factors have resulted in population declines, range restrictions within subbasins, and some population extirpations. We found the threat related to harmful nonnative species to be the most significant and pervasive of all threats affecting the subspecies.

Additional threats to the habitat of northern Mexican gartersnakes include water use activities, climate change, and drought (Factor A). Dams, water diversions, flood-control projects, and groundwater pumping have dewatered entire reaches of historically occupied habitat in some areas. The rapidly growing human population in the arid southwestern United States, combined with a drought-limited supply of surface water, will further increase future needs for water supplies and associated infrastructure (dams, diversions, and groundwater pumping) that will also contribute to habitat losses in the next several decades. Losses of aquatic habitats are also expected due to the impacts of climate change, which includes increased aridity, lower annual precipitation totals, lower snow pack levels, higher variability in flows (lower low-flows and higher high-flows) in the southwestern United States and northern Mexico. The population-level effect of factors that modify or destroy the physical attributes of gartersnake habitat is amplified when they act in the presence of harmful nonnative species.

Other factors act in combination to negatively affect the northern Mexican gartersnake, including mismanaged or unmanaged livestock grazing (Mexico; Factor A); road construction, use, and maintenance (Factor A); adverse human interactions (Factor E); environmental contaminants (Factor A); erosion control techniques (Factor A); and possible competitive pressures from sympatric species (Factor E). These threats occur within the distribution of this gartersnake and contribute to further population declines or extirpations where gartersnakes already occur at low population densities due to the impacts of harmful nonnative species. The existing regulatory mechanisms currently in place (Factor D) do not target the conservation of this subspecies or its habitat in the United States or Mexico.

Therefore, on the basis of the best available scientific and commercial information, we find the northern Mexican gartersnake is likely to become in danger of extinction throughout all of its range within the foreseeable future, and we are listing the northern Mexican gartersnake as a threatened subspecies in accordance with sections 3(20) and 4(a)(1) of the Act.

Determination for Narrow-Headed Gartersnakes

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We have carefully assessed the best scientific and commercial information available regarding the status of the narrow-headed gartersnake and have determined that this species meets the definition of a threatened subspecies under the Act based on its current status and the future threats to the species.

We find that the narrow-headed gartersnake is not currently in danger of extinction because it remains extant in most of the subbasins where it historically occurred, and its known threats have not yet resulted in substantial range reduction or a substantial number of population extirpations to put the species on the brink of extinction. Currently, only 5 former populations were found to be likely extirpated, and 36 populations are believed to remain extant. Therefore, we determined that the present risk of extinction is not sufficient to warrant a finding of endangered under the Act.

However, the narrow-headed gartersnake has undergone declines in its abundance, and we found only 5 of 36 current populations are likely viable into the foreseeable future, or what we consider to be the next several decades. We expect the status of the species will decline in the next several decades mainly as a result of the continuing and expanding impacts of harmful nonnative species and the increasing nature of threats associated with human population growth and climate change. As the effects of these threats escalate on the landscape (as summarized below), we expect that additional populations will be extirpated, and that the narrow-headed gartersnake will be in danger of extinction in the foreseeable future.

In our review of the best available scientific and commercial information, we found that native fish communities, upon which the narrow-headed gartersnake relies heavily, have been significantly degraded by the introduction and proliferation of harmful nonnative species (Factors C and E). Harmful nonnative species (mainly predatory fishes, bullfrogs, and crayfish) have been intentionally released or have naturally moved into nearly every subbasin throughout the range of the narrow-headed gartersnake. This has resulted in widespread declines in native fish communities, which are integral to the continued survival of the narrow-headed gartersnake because they serve as their primary food source. Harmful nonnative species have indirectly impacted narrow-headed gartersnakes by predation on their prey base (native fish) and have directly impacted them through preying on young gartersnakes (Factor B), which impacts gartersnake populations through the decline in

recruitment of young snakes into the reproductive age class. In combination, these factors have resulted in population declines, range restrictions within subbasins, and some population extirpations. We found the threat related to harmful nonnative species to be the most significant and pervasive of all threats affecting the species.

Additional threats to the habitat of narrow-headed gartersnakes include water use activities, climate change, and wildfires (Factor A). Dams, water diversions, flood-control projects, and groundwater pumping have dewatered entire reaches of historically occupied habitat in some areas. The rapidly growing human population in the arid southwestern United States, combined with a drought-limited supply of surface water, will further increase future needs for water supplies and associated infrastructure (dams, diversions, and groundwater pumping) that will also contribute to habitat losses in the next several decades. Losses of aquatic habitats are also expected due to the impacts of climate change, which includes increased aridity, lower annual precipitation totals, lower snow pack levels, higher variability in flows (lower low-flows and higher high-flows), and enhanced stress on ponderosa pine communities in the southwestern United States. Wildfires in the arid southwestern United States have grown more frequent and severe, due in part to the fire management policies of past decades. High-intensity wildfires that affect large areas contribute to significant flooding and sedimentation, resulting in fish kills and the filling-in of interstitial spaces in river cobble, which the species uses for hunting fish), as well as important pool habitat. These impacts negatively affect the fish and amphibian prey base for narrow-headed gartersnakes for extended periods of time. The frequency and intensity of large wildfires is likely to increase in the foreseeable future as an indirect effect of drier and hotter landscape conditions associated with climate change. The population-level effect of factors that modify or destroy the physical attributes of gartersnake habitat is amplified when they act in the presence of harmful nonnative species.

Other factors act in combination to negatively affect the narrow-headed gartersnake, including road construction, use, and maintenance (Factor A); adverse human interactions (Factor E); environmental contaminants (Factor A); and erosion control techniques (Factor A). These threats occur within the distribution of this gartersnake and contribute to further population declines or extirpations where gartersnakes already occur at low population densities due to the impacts of harmful nonnative species. The existing regulatory mechanisms currently in place (Factor D) do not target the conservation of this species or its habitat.

Therefore, on the basis of the best available scientific and commercial information, we find the narrow-headed gartersnake is likely to become in danger of extinction throughout all of its range within the foreseeable future, and we are listing the narrow-headed gartersnake as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed, preparation of a draft and final recovery plan, and revisions to the plan as significant new information becomes available. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. The recovery plan identifies site-specific management actions that will achieve recovery of the species, measurable criteria that determine when a species may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from our Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribal, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Following publication of this final listing rule, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, under section 6 of the Act, the States of Arizona and New Mexico would be eligible for Federal funds to implement management actions that promote the protection and recovery of the northern Mexican and narrow-headed gartersnakes. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for these species. Additionally, we invite you to submit any new information on these species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or

threatened and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal agency actions within the species' habitats that may require conference or consultation or both as described in the preceding paragraph include management and any other landscape-altering activities on Federal lands administered by the Fish and Wildlife Service, U.S. Bureau of Reclamation, or U.S. Forest Service; issuance of section 404 Clean Water Act permits by the U.S. Army Corps of Engineers; construction and management of gas pipeline and power line rights-of-way by the Federal Energy Regulatory Commission; construction and maintenance of roads or highways by the Federal Highway Administration; and other discretionary actions that affect the species composition of biotic communities where these species or their habitats occur, such as funding or permitting programs that result in the continued stocking of nonnative, predatory fish.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. The prohibitions of section 9(a)(2) of the Act, codified at 50 CFR 17.21 for endangered wildlife, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import, export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. Under the Lacey Act (18 U.S.C. 42–43; 16 U.S.C. 3371–3378), it is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies. The prohibitions of section 9(a)(2) of the Act, codified at 50 CFR 17.31 for threatened wildlife, make it such that all the provisions of 50 CFR 17.21 apply, except § 17.21(c)(5).

We may issue permits to carry out otherwise prohibited activities involving endangered and threatened wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 for endangered species, and at § 17.32 for threatened species. A permit must be issued for the following purposes: For scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a proposed listing on proposed and ongoing activities within the range of species proposed for listing. The following activities could potentially result in a violation of section 9 of the Act; this list is not comprehensive:

(1) Unauthorized collecting, handling, possessing, selling, delivering, carrying, or transporting of the species, including import or export across State lines and international boundaries, except for properly documented antique specimens of these taxa at least 100 years old, as defined by section 10(h)(1) of the Act;

(2) The unauthorized introduction of harmful nonnative species that compete with or prey upon northern Mexican and narrow-headed gartersnakes or their prey species, such as the stocking of nonnative, predatory fish, or illegal transport, use, or release of bullfrogs or crayfish in the States of Arizona and New Mexico;

(3) The unauthorized release of biological control agents that attack any age class of northern Mexican and narrow-headed gartersnakes or any life stage of their prey species;

(4) Unauthorized modification of the channel, reduction or elimination of water flow of any stream or water body, or the complete removal or significant destruction of riparian vegetation associated with occupied northern Mexican or narrow-headed gartersnake habitat; and

(5) Unauthorized discharge of chemicals or fill material into any waters in which northern Mexican and narrow-headed gartersnakes are known to occur.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). Requests for copies of the regulations concerning listed animals and general inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, P.O. Box 1306, Albuquerque, New Mexico 87103 (telephone (505) 248–6920, facsimile (505) 248–6922).

Rule for the Northern Mexican Gartersnake Under Section 4(d) of the Act

The Act does not specify particular prohibitions, or exceptions to those prohibitions, for threatened species. Instead, under section 4(d) of the Act, the Secretary of the Interior has the discretion to issue such regulations as she deems necessary and advisable to provide for the conservation of such species. The Secretary also has the discretion to prohibit by regulation with respect to any threatened species, any act prohibited under section 9(a)(1) of the Act. Exercising this discretion, the Service developed general prohibitions (50 CFR 17.31) and exceptions to those prohibitions (50 CFR 17.32) under the Act that apply to most threatened species. Alternately, for other threatened species, the Service may develop specific prohibitions and exceptions that are tailored to the specific conservation needs of the species. In such cases, some of the prohibitions and authorizations under 50 CFR 17.31 and 17.32 may be appropriate for the species and incorporated into a rule under section 4(d) of the Act. However, these rules, known as 4(d) rules, will also include provisions that are tailored to the specific conservation needs of the threatened species and may be more or less restrictive than the general provisions at 50 CFR 17.31.

Provisions of the Section 4(d) Rule

Under section 4(d) of the Act, the Secretary may promulgate a special rule that modifies the standard protections for threatened species with measures tailored to the conservation of the species that are determined to be necessary and advisable. Under this 4(d) rule, all of the prohibitions under 50 CFR 17.31 and 17.32 will apply to the northern Mexican gartersnake, except as discussed below. The 4(d) rule will not remove or alter in any way the consultation requirements under section 7 of the Act.

The creation, use, and maintenance of stock tanks are important components of livestock grazing in the southwestern United States. A stock tank (or livestock tank) is defined as an existing or future impoundment in an ephemeral drainage or upland site (as opposed to an active stream channel) constructed primarily as a watering site for livestock. Well-managed stock tanks can provide important habitats for northern Mexican gartersnakes and their prey base, especially when the tank: (1) Remains devoid of harmful nonnative species while supporting native prey species; (2) provides adequate vegetation cover for predator aversion and prey base support; and (3) provides reliable water sources in periods of prolonged drought. However, to create or maintain these physical attributes of well-managed tanks, management and maintenance can be necessary, which may have temporary negative effects to these habitat attributes, but also long-term beneficial effects to wildlife, including the northern Mexican gartersnake and its prey. Therefore, the management of stock tanks is an important consideration for northern Mexican gartersnakes.

The 4(d) rule allows for use of stock tanks by livestock and construction, continued use, and maintenance of those stock tanks. Stock tanks provide habitat for northern Mexican gartersnakes, and thus their presence within the gartersnake's range provides a conservation benefit to the species. This 4(d) rule allows landowners to construct new stock tanks and to continue to use and maintain those stock tanks on non-Federal lands without the need for Federal permitting or oversight regarding compliance with the Act.

This provision may result in some harm or disturbance of individual northern Mexican gartersnakes as a result of livestock or human activities at the stock tanks; however, the level of disturbance is expected to be minimal and outweighed by the benefit to the species from the presence of these habitats that are provided by stock tanks.

Given the benefits of well-managed stock tanks, the presence of well-managed stock tanks are an important component to northern Mexican gartersnake conservation and recovery. This stock tank provision in the 4(d) rule allows for construction, continued use, and maintenance of stock tanks on non-Federal lands, and, therefore, because of the benefits associated with the habitat provided by well-managed stock tanks, the 4(d) rule is necessary and advisable for the conservation of the northern Mexican gartersnake.

Nothing in this 4(d) rule changes in any way the recovery planning provisions of section 4(f) and consultation requirements under section 7 of the Act or the ability of the Service to enter into partnerships for the management and protection of the northern Mexican gartersnake. Livestock use and maintenance of stock tanks on Federal lands will be addressed through the section 7 consultation process; this 4(d) rule applies only to non-Federal lands.

4(d) Rule Determination

Section 4(d) of the Act states that ''the Secretary shall issue such regulations as she deems necessary and advisable to provide for the conservation'' of species listed as a threatened species. Conservation is defined in the Act to mean ''to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to (the Act) are no longer necessary.'' Additionally, section 4(d) states that the Secretary ''may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1).''

The courts have recognized the extent of the Secretary's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, the Secretary may find that it is necessary and advisable not to include a taking prohibition, or to include a limited taking prohibition. See *Alsea Valley Alliance* v. *Lautenbacher,* 2007 U.S. Dist. Lexis 60203 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service,* and 2002 U.S. Dist. Lexis 5432 (W.D. Wash. 2002). In addition, as affirmed in *State of Louisiana* v. *Verity,* 853 F.2d 322 (5th Cir. 1988), the rule need not address all the threats to the species. As noted by Congress when the Act was initially enacted, ''once an animal is on the threatened list, the Secretary has an almost infinite number of options available to her with regard to the permitted activities for those species.'' She may, for example, permit taking, but not importation of such species, or she may choose to forbid both taking and importation but allow the transportation of such species, as long as the measures will ''serve to conserve, protect, or restore the species concerned in accordance with the purposes of the Act'' (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Section 9 prohibitions make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, shoot, wound, kill, trap, capture, or collect; or attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any wildlife species listed as an endangered species, without written authorization. It also is illegal under section 9(a)(1) of the Act to possess, sell, deliver, carry, transport, or ship any such wildlife that is taken illegally. Prohibited actions consistent with section 9 of the Act are outlined for threatened species in 50 CFR 17.31(a) and (b). This 4(d) rule applies all of the prohibitions in 50 CFR 17.31(a) and (b) to the northern Mexican gartersnake, except activities on non-Federal lands that are incidental to construction, continued use, and maintenance of stock tanks. Based on the rationale explained above, the provisions included in this 4(d) rule are expected to contribute to the conservation of the northern Mexican gartersnake and are, therefore, necessary and advisable to provide for the conservation of the northern Mexican gartersnake.

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of NEPA, need not be prepared in connection with listing a species as an endangered or threatened species under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). As documented in the Service's Endangered Species Listing Handbook (Service 1994), it is the position of the Service that rules promulgated under section 4(d) of the Act concurrently with listing of the species fall under the same rationale as outlined in the October 25, 1983, determination; thus preparation of an environmental assessment for the 4(d) rule is not required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility

to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes.

Native American tribes potentially affected by the listing of these two gartersnakes include the San Carlos Apache Tribe, White Mountain Apache Tribe, and Yavapai Apache Tribe. On March 12, 2013, we mailed correspondence to these three tribes to request to meet with each tribe to discuss our listing recommendations for the gartersnakes. We met with representatives of the San Carlos Apache Tribe on May 1, 2013, and no concerns regarding the proposed listings were noted. We held a government-to-government meeting with the White Mountain Apache Tribe on September 27, 2013, to discuss the gartersnake listing recommendations, and we agreed to review their Native Fish Management Plan for conservation benefit to proposed and listed aquatic vertebrate species that occur on their lands. We provided comments on that plan during a conference call discussion on December 16, 2013. The Yavapai Apache Tribe did not have any comments on the proposed gartersnake listings.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the Arizona Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

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

PART 17—[AMENDED]

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

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

■ 2. Amend § 17.11(h) by adding entries for ''Gartersnake, narrow-headed'' and ''Gartersnake, northern Mexican'' to the List of Endangered and Threatened Wildlife in alphabetical order under Reptiles to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
Reptiles.							
*	*	*	*	*	*		*
Gartersnake, narrow-headed.	*Thamnophis rufipunctatus*.	U.S.A. (AZ, NM)	Entire	T		NA	NA.
Gartersnake, northern Mexican.	*Thamnophis eques megalops*.	U.S.A. (AZ, NM), Mexico.	Entire	T		NA	17.42(g).
*	*	*	*	*	*		*

■ 3. Amend § 17.42 by adding a new paragraph (g) to read as follows:

§ 17.42 Special rules—reptiles.

* * * * *

(g) Northern Mexican gartersnake *(Thamnophis eques megalops*). (1) *Prohibitions.* Except as noted in paragraph (g)(2) of this section, all prohibitions and provisions of §§ 17.31 and 17.32 apply to the northern Mexican gartersnake.

(2) *Exemptions from prohibitions.* Incidental take of the northern Mexican gartersnake will not be considered a violation of section 9 of the Act if the take occurs on non-Federal land and is incidental to activities pertaining to construction, continued use, and maintenance of stock tanks. A stock tank is an existing or future impoundment in an ephemeral drainage or upland site constructed primarily as a watering site for livestock.

Dated: June 9, 2014.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–14615 Filed 7–7–14; 8:45 am]

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