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# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 9 CFR Part 2

**[Docket No. APHIS–2009–0053]**

**RIN 0579–AD23**

## Animal Welfare; Importation of Live Dogs

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** We are amending the regulations to implement an amendment to the Animal Welfare Act (AWA). The Food, Conservation, and Energy Act of 2008 added a new section to the AWA to restrict the importation of certain live dogs. Consistent with this amendment, this rule prohibits the importation of dogs, with limited exceptions, from any part of the world into the continental United States or Hawaii for purposes of resale, research, or veterinary treatment, unless the dogs are in good health, have received all necessary vaccinations, and are at least 6 months of age. This action is necessary to implement the amendment to the AWA and will help to ensure the welfare of imported dogs.

**DATES:** *Effective date:* November 17, 2014.

**FOR FURTHER INFORMATION CONTACT:** Dr. Gerald Rushin, Veterinary Medical Officer, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1236; (301) 851–3740.

**SUPPLEMENTARY INFORMATION:**

### Background

Under the Animal Welfare Act (AWA or the Act, 7 U.S.C. 2131 *et seq.*), the Secretary of Agriculture is authorized to promulgate standards and other requirements governing the humane handling, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, operators of auction sales, and carriers and intermediate handlers. The Secretary has delegated responsibility for administering the AWA to the Administrator of U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS). Within APHIS, the responsibility for administering the AWA has been delegated to the Deputy Administrator for Animal Care (AC). Regulations and standards are established under the AWA and are contained in the Code of Federal Regulations (CFR) in 9 CFR parts 1, 2, and 3 (referred to below as the regulations). Part 2 provides administrative requirements and sets forth institutional responsibilities for regulated parties.

The Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246, signed into law on June 18, 2008) added a new section 18 to the Animal Welfare Act (7 U.S.C. 2148) to restrict the importation of certain live dogs. As amended, the AWA now prohibits the importation of dogs into the United States for resale purposes, unless the Secretary determines that the dogs are in good health, have received all necessary vaccinations, and are at least 6 months of age. Section 18 of the AWA includes a scoping definition for the term ''resale.'' When read in context of the requirements of that section, the term ''resale'' includes, but is not limited to, any transfer of ownership or control of imported dogs to another person, for more than *de minimis* consideration. The AWA further provides that the Secretary, by regulation, must provide an exception to these requirements in any case in which a dog is imported for research purposes or veterinary treatment. The AWA also provides an exception to the at least 6-month age requirement for dogs that are lawfully imported into Hawaii from the British Isles, Australia, Guam, or New Zealand in compliance with the applicable regulations of Hawaii, provided the dogs are not transported out of Hawaii for purposes of resale at less than 6 months of age.

The AWA provides that any importer who fails to comply with these provisions is subject to penalties under 7 U.S.C. 2149 and must provide for the care (including appropriate veterinary care), forfeiture, and adoption of each applicable dog, at his or her expense.

On September 1, 2011, we published in the **Federal Register** (76 FR 54392–54397, Docket No. APHIS–2009–0053) a proposed rule [1] to add requirements concerning the importation of certain live dogs as required by the Food, Conservation, and Energy Act of 2008.

We proposed, with limited exceptions, to prohibit the importation of any dog for resale, veterinary treatment, or research [2] unless the dog is in good health; has received vaccinations for rabies and distemper, hepatitis, leptospirosis, parvovirus, and parainfluenza virus (DHLPP); and is at least 6 months of age. We proposed to require that the dog be accompanied by an import permit issued by APHIS and a health certificate and rabies vaccination certificate issued by a veterinarian with a valid license to practice veterinary medicine in the country of export. We proposed to allow exceptions to health, vaccination, and age requirements for dogs imported for veterinary treatment that cannot be obtained in the exporting country and for dogs imported for use in research, tests, or experiments if the requirement would interfere with a research protocol approved by the research facility's Institutional Animal Care and Use Committee (IACUC). Additionally, we proposed that dogs less than 6 months old could be lawfully imported into Hawaii from the British Isles, Australia, Guam, or New Zealand as long as the dog was not transported from Hawaii for resale purposes at less than 6 months of age.

We solicited comments for 60 days ending October 31, 2011. We received a total of 74,218 comments. These included 382 unique comments from animal welfare associations, private breeders, veterinarians, foreign exporters, domestic importers, and other individuals. Two animal welfare associations mailed an additional 73,836 comments that had been

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2009-0053.*

[2] Under the AWA, as amended, dogs imported for resale include dogs imported for the purpose of transferring ownership or control to a research facility or to a veterinarian for veterinary treatment. However, because research and veterinary treatment are not commonly considered resale purposes, we separately identify each of these activities as context requires.

submitted directly to them. Issues raised by the commenters are discussed by topic below.

*Applicability of the Rule*

Several commenters asked that we define the term ''resale'' in the regulations to clarify which imports are subject to the new restrictions regarding dogs imported for resale.

As used in section 18 of the AWA, the term ''dogs imported for resale'' includes dogs imported for sale in wholesale channels, at retail, and for adoption after arrival in the United States, as well as dogs imported for other purposes involving transfer of ownership or control of the dog to another person for more than *de minimis* consideration after the dog's arrival in the United States. With limited exceptions for dogs lawfully imported into Hawaii, and for dogs imported for veterinary treatment or research, the restrictions regarding health, vaccinations, and age apply to all such imported dogs.

Many of the comments submitted through an animal welfare association and some others supported the proposed rule with an exception for imports for rescue purposes. They said the rule should not prevent puppies rescued from disasters, neglect, or foreign puppy mills in foreign countries from being imported into the United States for adoption. Some said that the adoption fee charged by many nonprofit rescue groups should be viewed as *de minimis* consideration under the rule. A number of other commenters stated that the rule should apply to dogs imported as ''rescues'' as these dogs are often in poor health and present a risk of transmitting diseases to dogs in the United States.

The AWA does not provide for exceptions to age, vaccination, or health requirements for dogs rescued in foreign countries and brought into the United States for subsequent placement. We consider *de minimis* to have the standard dictionary meaning, which, according to Merriam-Webster, is ''lacking significance or importance; so minor as to merit disregard.'' Similarly, we consider ''consideration'' to have the standard dictionary meaning, which is defined by Merriam-Webster as ''the inducement to a contract or other legal transaction; specifically: An act or forbearance or the promise thereof done or given by one party in return for the act or promise of another.'' While we recognize that adoption fees charged by some nonprofits may not recover all of the costs incurred by the organization to rescue and care for the dog prior to adoption, we do not consider the fee to be *de minimis* consideration. The rule does not, therefore, provide a specific exception for rescue dogs.

Many commenters were concerned that this rule would prohibit the importation of dogs less than 6 months of age for personal use, including as pets, for sport, for shows or competitions, or for breeding. One commenter said the proposal did not take into account dogs imported for semen collection. A number of other commenters expressed concern that the rule would prohibit them from importing puppies into training programs for working dogs, including dogs to be used as service dogs, for search and rescue, or for police work.

This rule does not apply when there is no transfer of ownership or control of a dog to another person for more than *de minimis* consideration after the dog's importation into the United States. Therefore, dogs imported by a person who will use the dog as a personal pet, for sport, for shows or competitions, or for breeding or semen collection are not subject to the 6-month age restriction or any other requirements of this rule. Additionally, we do not consider dogs imported for training as working dogs to be imported for purposes of resale. Thus, the rule will not apply to puppies imported by legitimate training organizations for the purpose of training the dog to be a working dog.

All dogs imported into the United States may, however, be subject to other laws and regulations. For example, dogs imported from regions of the world where screwworm is considered to exist must meet requirements in 9 CFR part 93, § 93.600, to ensure their freedom from screwworm, and dogs imported from any part of the world except Canada, Mexico, and regions of Central America and the West Indies that are to be used in the handling of livestock must meet requirements in § 93.600 to mitigate the risk of tapeworm. In addition, the Centers for Disease Control and Prevention (CDC) have requirements for importing dogs that must be met for a dog to be cleared for entry into the United States. These requirements may include a rabies vaccination certificate or a confinement agreement if a dog is too young to receive the rabies vaccine.

A few commenters expressed concern about whether a dog imported for personal use or into a working dog training program and did not work out in the home or program could be placed elsewhere without violating the regulations. Some asked whether a dog had to be kept for any specific length of time before it could be rehomed.

This rule does not require that such dogs be kept for any specific length of time before ownership or control may be transferred, including through sale. APHIS understands that dogs imported in good faith for personal use or special training programs sometimes do not meet the needs for which they were imported and have to be placed elsewhere. We will still consider the dogs to have been imported for personal use or training. However, we expect such transfers of ownership or control, particularly relatively close to the time of importation, will be infrequent. If we have reason to believe that dogs were imported into the continental United States or Hawaii for resale without import permits or without meeting other requirements of the regulations, we may initiate an investigation to ascertain the purpose of the importation and whether there may have been a violation of the regulations.

A few commenters asked if this rule applies to U.S. territories. They expressed concern that an importer could bring dogs into a U.S. territory for subsequent resale elsewhere in the United States. One commenter asked whether the rule will affect persons in Puerto Rico who sell puppies to the U.S. mainland.

This rule applies to dogs imported into the continental United States and Hawaii from any other location, including Puerto Rico and any of the other U.S. territories (American Samoa, the Federated States of Micronesia, Guam, the Midway Islands, the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the U.S. Virgin Islands). Thus, while an importer may bring a dog into a U.S. territory for resale, research, or veterinary treatment without the dog meeting the requirements of this rule, dogs originating in a foreign country or any U.S. territory may not be shipped from a U.S. territory into the continental United States or Hawaii for any of those purposes except as provided in this rule. Any person intending to import such a dog into the continental United States or Hawaii, or his or her agent, must present the required import permit and any applicable certifications and veterinary treatment agreement required by this rule to the collector of customs at the port of first arrival.

One commenter asked whether the regulations apply to dogs labeled ''wild animal.''

The AWA regulations in 9 CFR part 1 define ''dog'' to mean any dog of the species *Canis familiaris* (*C. familiaris*) or any dog-hybrid cross. Therefore, this rule applies to any dog of the species *C.*

*familiaris* or any dog-hybrid cross. Any such dog that is imported for purposes of resale, research, or veterinary treatment, even if labeled ''wild animal,'' will be subject to the regulations.

Some commenters stated that there should be no exceptions to the 6-month age requirement and that it should be applicable to all imported dogs.

Section 18 of the AWA applies only to live dogs imported for resale, veterinary treatment, or research. It specifically provides an exception to the age requirement for certain dogs legally imported into Hawaii, provided the dogs are not transported from Hawaii for resale purposes at less than 6 months of age. It also requires us to provide exceptions to health, vaccination, and age requirements for dogs imported for research purposes or veterinary treatment.

*Identification of Dogs*

A few commenters suggested that we require microchips or tattoos to ensure that dogs imported under permit are the same ones listed on the import permit.

We proposed to require that dogs imported for resale, veterinary treatment, or research be identified on permit applications, health certificates, and rabies vaccination certificates by breed, sex, age, color, markings, and other identifying information. Other identifying information would include microchip numbers or tattoos if a dog has them, but the rule does not require them. We believe this information is sufficient to verify the identity of dogs presented for importation. This is the same information that CDC requires on rabies vaccination certificates for imported dogs.

One commenter recommended that we require all imported dogs to be microchipped so that we would be able to track the dogs and see where they end up.

APHIS believes that such a requirement is beyond the intent of the AWA, as amended.

*Intended Use of Imported Dogs*

Some commenters questioned how officials at a port of entry would determine whether imported dogs were intended for resale or personal use. A few expressed concern that dogs imported for personal use, and thus arriving without a permit, might be seized at the port of entry.

Dogs imported for personal use, without transfer of ownership or control after arrival in the United States, are not subject to this rule and will not be refused entry or seized because they arrive without a permit. If APHIS has reason to believe that a person is importing dogs for resale, research, or veterinary treatment without meeting the requirements of this rule, we may initiate an investigation and take appropriate action based on the results of that investigation.

Several commenters expressed concern that entities importing dogs less than 6 months of age for resale could circumvent the new requirements by not providing an import permit and claiming the dogs are for personal use. Commenters suggested a variety of actions to prevent such occurrences, including requiring that dogs be issued identification numbers, which would have to be shown on import permits; requiring the use of transit permits for all imported dogs that would include a statement of purpose of the import; requiring importers to provide a sworn statement that dogs imported without a permit are not for resale; limiting the number of imported dogs of less than 6 months of age that a person may import a year for personal use; and establishing an import notification system that would allow APHIS to notify authorities at the ports of entry that a dog import is expected and having the import documents sent to APHIS upon arrival for verification.

APHIS appreciates the suggestions from commenters on ways to help prevent fraud, and we have considered them all. Requiring dogs imported for resale to have numerical identification and to include the numbers on the permit would not prevent an importer from fraudulently claiming a dog is imported for his or her personal use. Importers wishing to circumvent this rule could also falsify statements of purpose. Similarly, if we limited the number of dogs that could be imported for personal use, either per shipment or per year, importers wishing to circumvent this rule could get around these restrictions, too, by breaking up shipments or importing under different names. Regarding port of entry notifications and APHIS verification of import documents, the rule already requires importers or their agents to present the import permit and other required documents for dogs covered by this rule to the collector of customs at the port of first arrival in the continental United States or Hawaii. Inspectors with U.S. Customs and Border Protection will review the paperwork to ensure the shipment is in compliance with the regulations; there would be no added benefit in sending the paperwork to APHIS for verification. Advance notifications would only provide earlier notice of shipments of dogs already identified as being imported for resale, research, or veterinary treatment.

We are developing guidance for port inspectors to use to identify potentially fraudulent imports and report them to APHIS. If it appears that a person is importing dogs for resale, research, or veterinary treatment without meeting the requirements of this rule, we may initiate an investigation and take appropriate action based on the results of that investigation.

*Import Permits*

Some commenters suggested that the requirement for an import permit would increase the cost of importation for the importer and exporter as a result of the additional time needed to receive an import permit. The commenters also said that obtaining an import permit could delay a sick dog from receiving medical attention.

We expect that any time-related costs associated with obtaining an import permit will be minimal. There is no charge for the permit itself.

Permit applications must include basic information that should be readily available to the importer: The name and address of the person intending to export the dog; the name and address of the importer; the number of dogs to be imported and their breed, sex, age, color, markings, and other identifying information; the purpose of the importation; the port of embarkation and mode of transportation; the port of entry in the United States; the proposed date of arrival in the continental United States or Hawaii; the name and address of the person who will take delivery of the dogs; and, if the dogs will be used for research, the USDA registration number of the research facility. APHIS anticipates that it will need 7 to 10 days to process a permit application once it is received. Thus, in most cases, dogs can be shipped within 2 weeks of the importer submitting an application for permit. Upon request, APHIS will attempt to expedite permit processing for dogs requiring urgent veterinary medical attention in the United States.

One commenter objected to the proposed requirement that dogs be accompanied by an original import permit. The commenter stated that few original documents are required at ports of entry as systems move to electronic documentation and that requiring a hard copy of the import permit is unnecessary and will only increase the likelihood that imported dogs will be forfeited or returned to their country of export due to missing or erroneous originals. Another commenter stated that we should not require originals of

any document to be presented at the port of arrival.

Our rule requires an original health certificate. This requirement will prevent copies of a health certificate from being used for multiple shipments and thus reduce fraud. Our rule does not require an original import permit, and, as explained in the preamble to the proposed rule, we will accept a copy of the rabies vaccination certificate required by the Public Health Service regulations in 42 CFR 71.51.

*Vaccinations*

A few commenters asked that we clarify the requirement in proposed § 2.151(a)(1)(iv) that dogs be vaccinated in accordance with currently accepted practices as cited in veterinary medicine reference guides. They expressed concern that there may be conflicting consensus on vaccination requirements and practices. One commenter provided a list of reference guides and encouraged us to include them in the regulations.

We acknowledge that there are various accepted vaccination practices cited in veterinary medicine reference guides used in the United States and foreign countries. It is not our intention to specify one or another, which is why we worded the requirement in this way. Rather, we will rely on the veterinarians who are signing the health certificates to make good decisions on behalf of the dog's welfare.

Several commenters stated that our list of required vaccinations is inconsistent with the list provided by American Veterinary Medical Association. They were specifically concerned about our proposed requirements for leptospirosis and parainfluenza vaccination, stating that they are unnecessary and may be harmful. One commenter said that leptospirosis vaccines may cause life threatening reactions in some small breeds of dogs.

Leptospirosis is a bacterium that can cause liver disease, kidney failure, and even death. While leptospirosis is less likely to occur in urban areas of the country, it is still a disease of concern in many areas of the United States. Parainfluenza, also a disease of concern in the United States, is a highly contagious respiratory infection that can lead to pneumonia and even death. Veterinarians routinely administer these vaccinations to dogs to prevent infection and spread of those diseases. Small breed dogs, as well as other breeds, can receive the leptospirosis vaccination, which may need to be administered under the direction and/or supervision of a veterinarian.

Several commenters objected to our proposed requirement for rabies vaccination. One commenter suggested that additional studies be performed to evaluate the source of rabies outbreaks in the United States to analyze the necessity for rabies vaccines prior to importation. Another commenter asked that dogs imported from rabies-free countries be exempt from the rabies certification requirement to decrease the time and cost of importation for those dogs. The commenter also expressed concern that some States may not recognize rabies vaccinations given in other countries.

We consider rabies vaccination necessary not only to ensure that imported dogs do not have rabies, but also to ensure that they are protected from rabies after they arrive in the United States. Rabies exists in the United States, primarily in wildlife such as raccoons, skunks, foxes, and coyotes. It is transmissible, usually through the bite of an infected animal, to other mammals, including humans and unvaccinated dogs. The rabies virus infects the central nervous system, ultimately causing disease in the brain and death. For this reason, the rabies vaccine is one of the core vaccinations given to dogs in the United States as part of a national rabies prevention and control program. It should be noted that the CDC also requires most dogs, regardless of age or purpose of importation, to be accompanied by proof of rabies vaccination or a confinement agreement if a dog is too young to have received a rabies vaccine prior to entry into the United States. If a State does not accept rabies vaccination given in a foreign country, the importer may have several options, including petitioning the State to accept serologic testing of the vaccinated dog as proof of immunological protection or having the dog revaccinated after consultation with his or her veterinarian.

One commenter suggested that we add *Bordetella bronchiseptica* to the list of required vaccinations.

APHIS believes that the current vaccination protocol provides adequate immunity protection for the health and well-being of dogs imported into the United States for resale. In addition, importers in consultation with their veterinarians can elect to include *Bordetella* or other vaccines in their dog's vaccination regimen before or after import.

One commenter stated that we overestimated the cost of vaccinations in our economic analysis. The commenter suggested that most commercial breeders purchase vaccines from suppliers and administer the vaccines themselves at a cost of less than $5 per injection.

We acknowledge that this may be the case. Our estimates of the vaccination costs were based on costs of vaccinations performed at veterinary clinics. The economic analysis did state that breeders in the United States typically administer the vaccinations themselves. If the vaccination costs are lower, the overall costs associated with this rule will be lower.

*Veterinary Inspection*

Several commenters asked if dogs imported for resale, research, or veterinary treatment will be inspected by a veterinarian at the port of entry to verify the age and condition of the animals listed on the health certificate. Several commenters recommended veterinary inspection upon arrival and further recommended that importation of the dogs be limited to certain ports of entry where veterinary inspectors are available and where dogs can receive veterinary care if they arrive in poor health.

Under this rule, dogs imported for resale, veterinary treatment, or research must be examined by a veterinarian licensed in the country of export prior to shipment to the United States. Inspectors with U.S. Customs and Border Protection will check shipments, including health and vaccination certifications for the dogs, upon their arrival in the United States for compliance with this rule. Our rule does not require additional veterinary inspection upon arrival. If officials at the port of entry observe sick or injured dogs in a shipment, they will notify Animal Care, which can arrange for appropriate veterinary care if needed.

*Parasites*

One commenter stated that our rule should require proof of flea, tick, and parasite treatment prior to importation. In addition, the commenter recommended that dogs found to be infected or sick at the port of entry should be placed in a quarantine facility before returning to the country of origin.

While this rule does not require dogs to be treated for parasites prior to importation, it does require that a veterinarian in the country of export attest on the health certificate that the dog is in good health, which includes freedom from parasitic infections. Dogs that are imported for resale purposes and found to be infested with parasites or to be ill upon arrival are subject to the provisions in § 2.153 of this rule, which include being seized and placed

for veterinary care at the importer's expense.

*Exceptions for Veterinary Treatment*

One commenter stated that our rule should contain requirements for the transportation and housing of dogs imported for veterinary treatment, including a determination that it would not be harmful for a dog to travel.

Under this rule, dogs may be imported for veterinary treatment without meeting all of the age, health, and vaccination requirements only if a licensed veterinarian in the country of export certifies that the dog is in need of veterinary treatment that cannot be obtained in the country of export. Additionally, the importer must have completed a veterinary treatment agreement with Animal Care and confine the dog until the conditions specified in the agreement have been met. Confinement entails maintaining the dog in isolation from other animals and from people other than those necessary to provide for its care. If taken from the building or other enclosure where it is housed, the dog should be leashed. Confinement must continue until all terms of the veterinary treatment agreement are met. These may include determinations by the licensed veterinarian in the United States that the dog is in good health, has been adequately vaccinated against DHLPP and rabies, and is at least 6 months of age.

Regarding the suggestion that we require certification that it would not be harmful for a dog to travel, we believe it would be very difficult for a veterinarian to make such a statement, particularly for a dog in need of veterinary treatment. Rather, we expect that veterinarians who refer a dog to a U.S. veterinarian for treatment will use their professional judgment to weigh the benefits of treatment for the dog in the United States with the risks associated with the dog traveling to the United States before issuing a health certificate for the dog.

One commenter stated that the regulations should prohibit dogs imported for veterinary treatment from being sold after treatment.

As explained above, the regulations provide exceptions to age, health, and vaccination requirements for dogs imported for veterinary treatment only when veterinary treatment for that dog cannot be obtained in the country of export. We anticipate that relatively few dogs will be imported into the United States under these circumstances, as veterinary care for most conditions affecting dogs will be available in the country of export and the costs for importing a dog into the United States for specialized treatment are likely to be quite high. If a dog is imported into the United States under this rule for veterinary care and is maintained in confinement until all conditions of the veterinary treatment agreement are met, the dog may be transferred to another person in the United States through a sale or otherwise.

One commenter said that, as a veterinarian working in foreign countries, he had often referred dogs to U.S. veterinarians for treatment. He expressed concern that this rule could prevent such referrals from being a treatment option.

This rule allows exceptions to be made to age, vaccination, and health requirements for dogs to be imported for veterinary treatment that is not available to the dogs in the foreign country.

One commenter said that the proposed rule did not take into account dogs imported ''for dentals, orthopedics, or other procedures.''

We consider these procedures to be veterinary treatment.

*Penalties*

One commenter suggested that the rule include notice that violators of the rule are subject to penalties under section 19 of the AWA (7 U.S.C. 2149).

The AWA, as amended, provides that any importer that fails to comply with the requirements regarding the importation of live dogs shall be subject to penalties under section 19 and shall be responsible for the care (including appropriate veterinary care), forfeiture, and adoption of each applicable dog, at the expense of the importer. Section 2149 provides for criminal and civil penalties for violations of the AWA, including civil penalties of up to $10,000 for each violation. Any person who violates our regulations will be subject to these penalties. The regulations include a citation to the AWA in the authority citation at the beginning of part 2. We do not believe it is necessary to include the language of the statute in the regulations.

*Miscellaneous*

One commenter suggested that the estimate of 17,000 dogs imported annually seems low.

This estimate of 17,000 imported dogs is an annual average for 2005 through 2010 from the foreign trade statistics compiled by the U.S. Census Bureau. Since the publication of the proposed rule, the U.S. Census Bureau has released updated foreign trade statistics that state that 8,634 dogs were imported each year between 2009 and 2013. We have revised the regulatory impact analysis to include these updated numbers. This data source contains all shipments brought into the United States with a fair market value of at least $2,000. The CDC estimated that about 287,000 dogs were brought into the United States in 2006. However, this total covers all types of dogs, including companion animals that are not intended for resale. Because this rule primarily covers dogs imported for resale, we focused our cost estimates on the import number reported by the U.S. Census Bureau.

One commenter suggested that these regulations would make the practice of brokerage illegal and put people out of business.

Brokers who import dogs will still be allowed to do so, but they must abide by these regulations to ensure the dogs they are importing for resale are in good health and meet vaccination and age requirements. Brokers who have been dealing exclusively or in large part in puppies under the age of 6 months will be affected by the rule and may have to change their business model.

Several commenters stated that requiring puppies to be at least 6 months of age before they can be imported into the United States will eliminate free commerce, eliminate jobs in the United States, and cause an increase in the cost of puppies for the ultimate buyer.

Those businesses that have been dependent on income related to imported puppies less than 6 months of age for resale will have to change or may go out of business. The rule should have very little effect on competition in the market for dogs, however. While the cost of imported puppies may increase because of the minimum age requirement, the overall effect on competition in the United States should be very small. Imported dogs comprise a very small fraction of the U.S. dog population. The upper-end estimate of 287,000 dogs entering the United States annually (including companion animals in addition to those intended for resale) represents less than four-tenths of one percent of the U.S. dog population. Buyers who want to purchase a dog under 6 months of age will still be able to do so from domestic sources. Domestic breeders and wholesalers are likely to see increased volumes of business, serving customers who currently rely on foreign suppliers. Some current importers are also domestic breeders and will likely shift from sales of imported puppies to sales of puppies bred at their own domestic facilities.

*Nonsubstantive Change*

We are making a minor editorial change to the language in proposed § 2.153 to make it consistent with the language in the AWA. Specifically, we are removing the words ''the cost of'' in the phrase ''. . . any person intending to import the dog shall provide for the cost of the care . . . at his or her expense.''

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the change discussed in this document.

Executive Orders 12866 and 13563 and Regulatory Flexibility Act

This final rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis, as required by Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The economic analysis also examines the potential economic effects of this rule on small entities, as required by the Regulatory Flexibility Act. The economic analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

The analysis examines impacts of a rule that amends the Animal Welfare regulations to prohibit, with certain exceptions, the importation of dogs for purposes of resale, research, or veterinary treatment, unless they are in good health, have all necessary vaccinations, and are 6 months of age or older. The vaccinations are rabies vaccination (which is already required by the CDC for imported dogs in most instances) and DHLPP vaccination. The rule includes limited exceptions for (1) dogs imported for certain research studies or veterinary treatment, and (2) dogs lawfully imported into the State of Hawaii from the British Isles, Australia, Guam, or New Zealand in compliance with applicable regulations of the State of Hawaii, provided the dogs are not transported out of the State of Hawaii for resale at less than 6 months of age.

The rule promotes the humane treatment of certain imported dogs and benefits most U.S. dog importers and dealers by ensuring that these dogs are in good health, vaccinated, and not too young. The benefits of these changes include an unquantifiable enhancement of animal welfare. The benefits also include the avoided costs of a potential disease outbreak. In addition, there could be a positive economic impact for U.S. commercial dog breeding facilities, given that puppies currently imported at less than 6 months of age compete for the same market, but at lower prices. The only entities that may be adversely affected are those that currently import dogs, or purchase imported dogs, that do not meet the new requirements. There may be a reduction in importers' volume of business, to the extent to which the importation of dogs that are 6 months of age or older does not replace the importation of younger dogs. APHIS does not have information about the demand for imported dogs that are younger than 6 months compared to the demand for older imported dogs. Buyers who want to purchase a dog under 6 months will still be able to do so from domestic sources. Domestic breeders and wholesalers are likely to see increased volumes of business, serving customers who currently rely on foreign suppliers. Some current importers are also domestic breeders and will likely shift from sales of imported puppies to sales of puppies bred at their own domestic facilities.

The requirements of this rule may mean additional costs related to vaccines, veterinary care, and paperwork for some entities. The cost of a complete series of rabies and DHLPP vaccinations can range between $60 and $124 per dog. Veterinary care and vaccinations are regular responsibilities of owning a companion animal in the United States and these requirements of the rule are therefore normal for the care of a dog.

Importers will face increased vaccination and care costs abroad, unless they already vaccinate or they qualify for the narrow exceptions for dogs imported for certain research studies or veterinary treatment. We note that while this rule specifies that dogs imported for resale must be vaccinated against rabies prior to entry into the United States, rabies vaccinations are already required by CDC for dogs imported into the United States but may occur either before or after arrival under those rules. Therefore, most of the additional vaccination costs associated with this rule are likely to fall on those importers that do not already provide DHLPP vaccinations prior to entry. Assuming that all imported dogs need both rabies and DHLPP vaccinations, and all are at least 6 months of age, the total cost of providing the DHLPP vaccinations for imported dogs could range from $518,000 to $1.07 million annually, based on the average number of dogs imported from 2009 through 2013, as recorded in the U.S. Census Bureau's foreign trade statistics. Although DHLPP vaccination is expected to represent the single largest cost of the rule (there may be costs to obtaining a health certificate as well), APHIS believes that many imported dogs already receive this vaccination prior to entry. Dogs imported for resale are covered in U.S. Census Bureau statistics. However, these statistics may understate the total number of dogs affected by the rule, particularly since they do not include shipments with a fair market value of less than $2,000.

Any increase in costs for importers may be wholly or partially passed on to entities buying the imported dogs. On the other hand, such entities may be positively affected due to the greater assurance that an imported dog is in good health and of legal minimum age.

The Small Business Administration (SBA) has established guidelines for determining firms considered to be small under the Regulatory Flexibility Act. Importers of live dogs for resale, research, and veterinary treatment will be directly affected by this rule. While the exact number and size of affected entities is not known, in 2007 there were about 12,600 establishments in the generalized category of ''other miscellaneous nondurable goods merchant wholesalers'' (NAICS 424990), which includes importers of dogs, and about 99 percent of those establishments were considered small in 2007.[3]

Theoretically, any change in the number of imported dogs into the United States could affect the demand for foreign veterinary services and domestic veterinary services, dog products and dog food. However, we expect that any impact of the rule on these industries will be negligible. Imported dogs comprise a very small fraction of the U.S. dog population, well under 1 percent. It is therefore highly unlikely that any change because of this rule in the number of imported dogs will significantly affect those domestic markets.

[3] U.S. Department of Commerce, Census Bureau, 2007 Economic Census.

We believe that the benefits of this rule, including the unquantifiable enhancement of animal welfare, justify the costs. Benefits of the rule include promoting the humane treatment of covered imported dogs in keeping with the requirements of the Animal Welfare Act and with standard health practices for dogs in the United States. The rule could also yield benefits in preventing the spread of communicable diseases by unvaccinated, imported dogs to other dogs or humans in the United States.

**Executive Order 12988**

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. The Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

**Paperwork Reduction Act**

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579–0379, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

**E-Government Act Compliance**

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

**List of Subjects in 9 CFR Part 2**

Animal welfare, Pets, Reporting and recordkeeping requirements, Research.

Accordingly, we are amending 9 CFR part 2 as follows:

## PART 2—REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

**Authority:** 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

■ 2. Subpart J, consisting of §§ 2.150 through 2.153, is added to read as follows:

**Subpart J—Importation of Live Dogs**

Sec.
2.150 Import permit.
2.151 Certifications.
2.152 Notification of arrival.
2.153 Dogs refused entry.

## Subpart J—Importation of Live Dogs

### § 2.150 Import permit.

(a) No person shall import a live dog from any part of the world into the continental United States or Hawaii for purposes of resale, research, or veterinary treatment unless the dog is accompanied by an import permit issued by APHIS and is imported into the continental United States or Hawaii within 30 days after the proposed date of arrival stated in the import permit.

(b) An application for an import permit must be submitted to the Animal and Plant Health Inspection Service, Animal Care, 4700 River Road Unit 84, Riverdale, MD 20737–1234 or though Animal Care's Web site (*http://www.aphis.usda.gov/animal_welfare/*). Application forms for import permits may be obtained from Animal Care at the address listed above.

(c) The completed application must include the following information:

(1) The name and address of the person intending to export the dog(s) to the continental United States or Hawaii;

(2) The name and address of the person intending to import the dog(s) into the continental United States or Hawaii;

(3) The number of dogs to be imported and the breed, sex, age, color, markings, and other identifying information of each dog;

(4) The purpose of the importation;

(5) The port of embarkation and the mode of transportation;

(6) The port of entry in the United States;

(7) The proposed date of arrival in the continental United States or Hawaii; and

(8) The name and address of the person to whom the dog(s) will be delivered in the continental United States or Hawaii and, if the dog(s) is or are imported for research purposes, the USDA registration number of the research facility where the dog will be used for research, tests, or experiments.

(d) After receipt and review of the application by APHIS, an import permit indicating the applicable conditions for importation under this subpart may be issued for the importation of the dog(s) described in the application if such dog(s) appears to be eligible to be imported. Even though an import permit has been issued for the importation of a dog, the dog may only be imported if all applicable requirements of this subpart and any other applicable regulations of this subchapter and any other statute or regulation of any State or of the United States are met.

(Approved by the Office of Management and Budget under control number 0579–0379)

### § 2.151 Certifications.

(a) *Required certificates.* Except as provided in paragraph (b) of this section, no person shall import a live dog from any part of the world into the continental United States or Hawaii for purposes of resale, research, or veterinary treatment unless the following conditions are met:

(1) *Health certificate.* Each dog is accompanied by an original health certificate issued in English by a licensed veterinarian with a valid license to practice veterinary medicine in the country of export that:

(i) Specifies the name and address of the person intending to import the dog into the continental United States or Hawaii;

(ii) Identifies the dog on the basis of breed, sex, age, color, markings, and other identifying information;

(iii) States that the dog is at least 6 months of age;

(iv) States that the dog was vaccinated, not more than 12 months before the date of arrival at the U.S. port, for distemper, hepatitis, leptospirosis, parvovirus, and parainfluenza virus (DHLPP) at a frequency that provides continuous protection of the dog from those diseases and is in accordance with currently accepted practices as cited in veterinary medicine reference guides;

(v) States that the dog is in good health (i.e., free of any infectious disease or physical abnormality which would endanger the dog or other animals or endanger public health, including, but not limited to, parasitic infection, emaciation, lesions of the skin, nervous system disturbances, jaundice, or diarrhea); and

(vi) Bears the signature and the license number of the veterinarian issuing the certificate.

(2) *Rabies vaccination certificate.* Each dog is accompanied by a valid rabies vaccination certificate [6] that was issued in English by a licensed veterinarian with a valid license to practice veterinary medicine in the country of export for the dog not less

[6] Alternatively, this requirement can be met by providing an exact copy of the rabies vaccination certificate if so required under the Public Health Service regulations in 42 CFR 71.51.

than 3 months of age at the time of vaccination that:

(i) Specifies the name and address of the person intending to import the dog into the continental United States or Hawaii;

(ii) Identifies the dog on the basis of breed, sex, age, color, markings, and other identifying information;

(iii) Specifies a date of rabies vaccination at least 30 days before the date of arrival of the dog at a U.S. port;

(iv) Specifies a date of expiration of the vaccination which is after the date of arrival of the dog at a U.S. port. If no date of expiration is specified, then the date of vaccination shall be no more than 12 months before the date of arrival at a U.S. port; and

(v) Bears the signature and the license number of the veterinarian issuing the certificate.

(b) *Exceptions.* (1) *Research.* The provisions of paragraphs (a)(1)(iii), (a)(1)(iv), (a)(1)(v), and/or (a)(2) of this section do not apply to any person who imports a live dog from any part of the world into the continental United States or Hawaii for use in research, tests, or experiments at a research facility, provided that: Such person submits satisfactory evidence to Animal Care at the time of his or her application for an import permit that the specific provision(s) would interfere with the dog's use in such research, tests, or experiments in accordance with a research proposal and the proposal has been approved by the research facility IACUC.

(2) *Veterinary care.* The provisions of paragraphs (a)(1)(iii) through (a)(1)(v) and (a)(2) of this section do not apply to any person who imports a live dog from any part of the world into the continental United States or Hawaii for veterinary treatment by a licensed veterinarian, provided that:

(i) The original health certificate required in paragraph (a)(1) of this section states that the dog is in need of veterinary treatment that cannot be obtained in the country of export and states the name and address of the licensed veterinarian in the United States who intends to provide the dog such veterinary treatment; and

(ii) The person who imports the dog completes a veterinary treatment agreement with Animal Care at the time of application for an import permit and confines the animal until the conditions specified in the agreement are met. Such conditions may include determinations by the licensed veterinarian in the United States that the dog is in good health, has been adequately vaccinated against DHLPP and rabies, and is at least 6 months of age. The person importing the dog shall bear the expense of veterinary treatment and confinement.

(3) *Dogs imported into Hawaii from the British Isles, Australia, Guam, or New Zealand.* The provisions of paragraph (a)(1)(iii) of this section do not apply to any person who lawfully imports a live dog into the State of Hawaii from the British Isles, Australia, Guam, or New Zealand in compliance with the applicable regulations of the State of Hawaii, provided that the dog is not transported out of the State of Hawaii for purposes of resale at less than 6 months of age.

(Approved by the Office of Management and Budget under control number 0579–0379)

**§ 2.152 Notification of arrival.**

Upon the arrival of a dog at the port of first arrival in the continental United States or Hawaii, the person intending to import the dog, or his or her agent, must present the import permit and any applicable certifications and veterinary treatment agreement required by this subpart to the collector of customs for use at that port.

**§ 2.153 Dogs refused entry.**

Any dog refused entry into the continental United States or Hawaii for noncompliance with the requirements of this subpart may be removed from the continental United States or Hawaii or may be seized and the person intending to import the dog shall provide for the care (including appropriate veterinary care), forfeiture, and adoption of the dog, at his or her expense.

Done in Washington, DC, this 12th day of August 2014.

**Gary Woodward,**

*Deputy Under Secretary for Marketing and Regulatory Programs.*

[FR Doc. 2014–19515 Filed 8–15–14; 8:45 am]

**BILLING CODE 3410–34–P**

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## DEPARTMENT OF COMMERCE

## Bureau of Industry and Security

## 15 CFR Parts 740, 742, and 758

**[Docket No. 140221165–4621–02]**

**RIN 0694–AG11**

## Corrections and Clarifications to the Export Administration Regulations; Correction

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule; correcting amendments.

**SUMMARY:** The Bureau of Industry and Security (BIS) is correcting certain provisions of the Export Administration Regulations that were amended by two final rules appearing in the **Federal Register** on June 5, 2014 and on May 13, 2014. Both rules amended a number of the same provisions of the Export Administration Regulations, and certain language was either removed or changed inadvertently. This final rule corrects those provisions to accurately reflect the revisions made by both rules.

**DATES:** This rule is effective August 18, 2014.

**FOR FURTHER INFORMATION CONTACT:** Timothy Mooney, Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–2440, Fax: (202) 482–3355, Email: *rpd2@bis.doc.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

The Bureau of Industry and Security (BIS) publishes this final rule to make corrections to certain provisions of the Export Administration Regulations that were amended by two final rules appearing in the **Federal Register** on June 5, 2014 (79 FR 32612) and on May 13, 2014 (79 FR 27417). These two rules were drafted and finalized simultaneously, however they separately revised some of the same provisions of the Export Administration Regulations and certain language was either removed or changed inadvertently. This final rule corrects those provisions to accurately reflect the revisions made by both rules. These corrections include reinserting two sentences inadvertently removed because of an incorrect instruction in the June 5 rule, and reinserting a phrase inadvertently removed by the May 13 rule, which did not reflect a correction made in a final rule published on October 3, 2013 (78 FR 61745).

### Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute 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 final rule, which is a consolidation of corrections and clarifications of final rules published in 2013 and 2014, has been determined to be not significant for purposes of Executive Order 12866.

2. The Department of Commerce finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act otherwise requiring prior notice and the opportunity for public comment because they are unnecessary. The revisions made by this rule are technical corrections to provisions that have already been subject to public notice and the opportunity to comment. These revisions in this rule are important to get in place as soon as possible to avoid confusion by the public regarding the intent and meaning of recent changes to the EAR. In addition, BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3). As mentioned previously, the revisions made by this rule are technical corrections that need to be in place as soon as possible to avoid confusion by the public regarding the intent and meaning of recent changes to the EAR.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for these amendments by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are not applicable.

**List of Subjects**

*15 CFR Parts 740 and 758*

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

*15 CFR Part 742*

Exports, Terrorism.

Accordingly, parts 740, 742 and 758 of the Export Administration Regulations (15 CFR parts 730–774) are corrected as follows:

## PART 740—[AMENDED]

■ 1. The authority citation for 15 CFR part 740 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (Aug. 11, 2014).

■ 2. In § 740.10, revise paragraph (b)(1) to read as follows:

### § 740.10 License Exception Servicing and replacement of parts and equipment (RPL).

* * * * *

(b) * * *

(1) The provisions of this paragraph (b) authorize the export and reexport to any destination, except for 9x515 or ''600 series'' items to destinations identified in Country Group D:5 (see Supplement No. 1 to this part) or otherwise prohibited under the EAR, of commodities and software that were sent to the United States or to a foreign party for servicing and replacement of commodities and software ''subject to the EAR'' (see § 734.2(a) of the EAR) that are defective or that an end user or ultimate consignee has found unacceptable.

* * * * *

■ 3. In § 740.20, add two new sentences after the second sentence and revise the last two sentences of paragraph (d)(2) to read as follows:

### § 740.20 License Exception Strategic Trade Authorization (STA).

* * * * *

(d) * * *

(2) *Prior Consignee Statement.* One statement may be used for multiple shipments of the same items between the same parties so long as the party names, the description(s) of the item(s), and the ECCNs are correct. The exporter, reexporter, and transferor must maintain a log or other record that identifies each shipment made pursuant to this section and the specific consignee statement that is associated with each shipment. Paragraph (d)(2)(viii) is also required for transactions including 9x515 items.

[INSERT NAME OF CONSIGNEE]:

* * * * *

## PART 742—[AMENDED]

■ 4. The authority citation for 15 CFR part 742 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 7, 2014, 79 FR 46959 (Aug. 11, 2014); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013).

■ 5. In § 742.6, revise the first sentence of paragraph (b)(1) to read as follows:

### § 742.6 Regional Stability.

* * * * *

(b) * * * (1) Applications for exports and reexports of 9x515 and ''600 series'' items will be reviewed on a case-by-case basis to determine whether the transaction is contrary to the national security or foreign policy interests of the United States, including the foreign policy interest of promoting the observance of human rights throughout the world. * * *

* * * * *

## PART 758—[AMENDED]

■ 6. The authority citation for part 758 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (Aug. 11, 2014).

■ 7. In section 758.1, revise paragraph (b)(3) to read as follows:

### § 758.1 The Electronic Export Information (EEI) filing to the Automated Export System (AES).

* * * * *

(b) * * *

(3) For all exports of 9x515 or ''600 series'' items enumerated or otherwise described in paragraphs .a through .x of a 9x515 or ''600 series'' ECCN regardless of value or destination, including exports to Canada;

* * * * *

Dated: August 11, 2014.

**Matthew S. Borman,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 2014–19348 Filed 8–15–14; 8:45 am]

BILLING CODE 3510–33–P

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[TD 9689]**

**RIN 1545–BL52**

## Guidance Regarding Dispositions of Tangible Depreciable Property

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations regarding dispositions of property subject to depreciation under section 168 of the Internal Revenue Code (Code) (Modified Accelerated Cost Recovery System (MACRS) property). The final regulations also amend the general asset account regulations and the accounting for MACRS property regulations. The final regulations provide rules for determining gain or loss upon the disposition of MACRS property, determining the asset disposed of, and accounting for partial dispositions of MACRS property. The final regulations affect taxpayers that dispose of MACRS property. The final

regulations also remove temporary regulations under section 168 regarding general asset accounts and disposition of MACRS property.

**DATES:** *Effective Date:* These regulations are effective on August 18, 2014.

*Applicability Dates:* These regulations apply to taxable years beginning on or after January 1, 2014. For dates of applicability of the final regulations, see §§ 1.168(i)–1(m), 1.168(i)–7(e), and 1.168(i)–8(j).

**FOR FURTHER INFORMATION CONTACT:** Kathleen Reed or Patrick Clinton, Office of Associate Chief Counsel (Income Tax and Accounting), (202) 317–7005 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

## Background

On December 27, 2011, the IRS and the Treasury Department published in the **Federal Register** (76 FR 81060) temporary regulations (TD 9564) regarding the accounting for, and dispositions of, property subject to depreciation under section 168 (MACRS property). The temporary regulations also amended the general asset account regulations under § 1.168(i)–1. On the same date, the IRS published in the **Federal Register** (76 FR 81128) a notice of proposed rulemaking (REG–168745–03) cross-referencing the temporary regulations (2011 proposed regulations). The IRS and the Treasury Department received numerous written comments responding to the 2011 proposed regulations and held a public hearing on May 9, 2012.

The temporary regulations initially applied to taxable years beginning on or after January 1, 2012. In response to the comments received and the statements made at the public hearing, the IRS and the Treasury Department released Notice 2012–73, 2012–51 IRB 713, on November 20, 2012, announcing that, to help taxpayers transition to the final regulations, the IRS and the Treasury Department would change the applicability date of the temporary regulations to taxable years beginning on or after January 1, 2014, while permitting taxpayers to choose to apply the temporary regulations to taxable years beginning on or after January 1, 2012, and before the applicability date of the final regulations. Notice 2012–73 also alerted taxpayers that the IRS and the Treasury Department intended to publish final regulations in 2013 and expected the final regulations to apply to taxable years beginning on or after January 1, 2014, but that the final regulations would permit taxpayers to apply the provisions of the final regulations to taxable years beginning on or after January 1, 2012. On December 17, 2012, the IRS and the Treasury Department published in the **Federal Register** (77 FR 74583) a technical amendment to TD 9564, which amended the applicability date of the temporary regulations to taxable years beginning on or after January 1, 2014, while permitting taxpayers to choose to apply the temporary regulations to taxable years beginning on or after January 1, 2012, and before the applicability date of the final regulations.

Notice 2012–73 also alerted taxpayers that the IRS and the Treasury Department intended to revise the disposition rules in the temporary regulations. After considering the comment letters and the statements made at the public hearing, the IRS and the Treasury Department removed the temporary regulations under section 167 and § 1.168(i)–7 and issued final regulations in the **Federal Register** on September 19, 2013 (78 FR 57686). The final regulations under section 167 provide rules for depreciation of leasehold improvements and amend existing regulations under section 167 regarding accounting for and retirement of depreciable property. Section 1.168(i)–7 provides rules for how to account for MACRS property. On the same date, the IRS also withdrew the 2011 proposed regulations under §§ 1.168(i)–1 and 1.168(i)–8 and published a notice of proposed rulemaking (REG–110732–13) under §§ 1.168(i)–1, 1.168(i)–7, and 1.168(i)–8 (2013 proposed regulations) in the **Federal Register** (78 FR 57547). The 2011 proposed regulations under § 1.168(i)–1 amended the existing regulations on general asset accounts, and the 2011 proposed regulations under § 1.168(i)–8 provided rules for dispositions of MACRS property. The IRS and the Treasury Department did not withdraw or remove the temporary regulations under §§ 1.168(i)–1T and 1.168(i)–8T and taxpayers continued to have the option of applying those temporary regulations to taxable years beginning on or after January 1, 2012, and before the applicability date of the final regulations.

No comments were received from the public in response to the 2013 proposed regulations. No public hearing was requested or held. However, the IRS and the Treasury Department are making clarifying changes to the 2013 proposed regulations regarding the determination of the unadjusted depreciable basis of a disposed asset in a general or multiple asset account or a disposed portion of an asset, and the manner of making certain disposition elections for assets included in a general asset account when section 280B applies. These revisions are discussed in this preamble. The IRS and the Treasury Department are removing the temporary regulations under §§ 1.168(i)–1T and 1.168(i)–8T and are issuing final regulations under §§ 1.168(i)–1, 1.168(i)–7, and 1.168(i)–8. The 2013 proposed regulations are adopted as amended by this Treasury decision.

## Explanation of Provisions and Revisions

### I. Overview

The final regulations under §§ 1.168(i)–1, 1.168(i)–7, and 1.168(i)–8 generally retain all of the provisions of the 2013 proposed regulations. Section 1.168(i)–1 amends the existing general asset account regulations regarding establishment of general asset accounts, depreciation of a general asset account, and dispositions of assets in a general asset account. Section 1.168(i)–7 amends the existing regulations on accounting for MACRS property to address partial dispositions of MACRS property. Section 1.168(i)–8 provides rules for dispositions of MACRS property. These final regulations generally apply to taxable years beginning on or after January 1, 2014.

### II. Disposition Rules for MACRS Property Under § 1.168(i)–8

Section 1.168(i)–8 provides the basic rules applicable to dispositions of MACRS property, and § 1.168(i)–1 provides special rules applicable to MACRS property included in a general asset account.

#### *A. Definition of Disposition*

The final regulations retain the definition of ''disposition'' for MACRS property that is set forth in the 2013 proposed regulations. A disposition occurs when ownership of the asset is transferred or when the asset is permanently withdrawn from use either in the taxpayer's trade or business or in the production of income. A disposition includes the sale, exchange, retirement, physical abandonment, or destruction of an asset. A disposition also includes the retirement of a structural component (or a portion thereof) of a building only if the partial disposition rule (discussed in II.C) applies to such structural component (or a portion thereof). Finally, the manner of disposition (for example, abnormal retirement or normal retirement) is not taken into consideration in determining whether a disposition occurs or gain or loss is recognized.

*B. Determining Appropriate Disposed Asset*

The final regulations also retain the rules in the 2013 proposed regulations for determining the disposed asset for tax disposition purposes. In general, the facts and circumstances of each disposition are considered in determining the appropriate disposed asset. However and as provided in the 2013 proposed regulations, the asset for tax disposition purposes may not consist of items placed in service by the taxpayer on different dates (without taking into account the applicable convention). Further, the unit of property as determined under § 1.263(a)–3(e) or in published guidance in the Internal Revenue Bulletin under section 263(a) does not apply for purposes of determining what is the appropriate disposed asset.

In addition to these general rules, the final regulations provide special rules for certain types of properties. The final regulations retain the rule in the 2013 proposed regulations that each building (including its structural components) is the asset for tax disposition purposes, unless more than one building (including its structural components) is treated as the asset under § 1.1250–1(a)(2)(ii), there is an improvement or addition to an existing building (including its structural components), or the building includes two or more condominium or cooperative units. If there is an improvement or addition to an existing building (including its structural components), the improvement or addition is the asset. If a building includes two or more condominium or cooperative units, each condominium or cooperative unit (including its structural components) is the asset.

The final regulations also provide that if a taxpayer properly includes an item in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87–56 (1987–2 CB 674) or classifies an item in one of the categories under section 168(e)(3) (other than a category that includes buildings or structural components; for example, retail motor fuels outlet and qualified leasehold improvement property), each item is the asset provided it is not an improvement or addition to an existing asset.

Finally, and consistent with section 168(i)(6), the final regulations provide that if the taxpayer places in service an improvement or addition to an asset after the taxpayer placed the asset in service, the improvement or addition is a separate asset.

*C. Partial Dispositions*

The final regulations also retain the partial disposition rule in the 2013 proposed regulations. Consequently, the disposition rules in the final regulations apply to a partial disposition of an asset (for example, the disposition of a roof (or a portion of a roof)). The partial disposition rule allows taxpayers to claim a loss upon the disposition of a structural component (or a portion thereof) of a building or upon the disposition of a component (or a portion thereof) of any other asset without identifying the component as an asset before the disposition event. The partial disposition rule also minimizes circumstances in which an original part and any subsequent replacements of the same part are required to be capitalized and depreciated simultaneously. These final regulations provide examples demonstrating the application of the partial disposition rule.

In many cases, the partial disposition rule is elective (''partial disposition election''). However, consistent with the 2013 proposed regulations and the operation of sections 165, 168(i)(7), 1031, and 1033, and because sales of a portion of an asset are common, the partial disposition rule is required to be applied to a disposition of a portion of an asset as a result of a casualty event described in section 165, to a disposition of a portion of an asset for which gain (determined without regard to section 1245 or 1250) is not recognized in whole or in part under section 1031 or 1033, to a transfer of a portion of an asset in a step-in-the-shoes transaction described in section 168(i)(7)(B), or to a sale of a portion of an asset. Consequently, a disposition includes a disposition of a portion of an asset under these circumstances, even if the taxpayer does not make the partial disposition election for that disposed portion. For other transactions, a disposition includes a disposition of a portion of an asset only if the taxpayer makes the partial disposition election for that disposed portion.

A taxpayer may make the partial disposition election for the disposition of a portion of any type of MACRS property, including an asset that is properly included in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87–56. However, consistent with section 168(i)(6) and the 2013 proposed regulations, a taxpayer making the partial disposition election for the disposition of a portion of an asset that is properly included in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87–56 must classify the replacement portion of the asset under the same asset class as the disposed portion of the asset.

The partial disposition election is made on the taxpayer's timely filed original Federal tax return, including extensions, for the taxable year in which the portion of the asset is disposed of by the taxpayer. This election may not be made or revoked by the filing of an application for a change in method of accounting. A taxpayer may revoke a partial disposition election by filing a request for a letter ruling and obtaining the consent of the Commissioner of Internal Revenue to revoke this election. The Commissioner may grant a request to revoke this election if the taxpayer acted reasonably and in good faith, and the revocation will not prejudice the interests of the Government. In deciding whether to grant such a request, the Commissioner anticipates applying standards similar to the standards under § 301.9100–3 of this chapter for granting extensions of time for making regulatory elections. If a taxpayer chooses to apply these final regulations to its taxable year beginning in 2012 or 2013, these final regulations also provide rules for making the partial disposition election for the portion of an asset disposed of by the taxpayer during those taxable years.

The final regulations also provide a special partial disposition rule to address the effect of an IRS disallowance of a taxpayer's characterization of the replacement of a portion of an asset as a repair. When the IRS disallows a taxpayer's repair deduction for the amount paid or incurred for the replacement of a portion of an asset and capitalizes such amount under § 1.263(a)–2 or § 1.263(a)–3, the taxpayer may make the partial disposition election for the disposition of the portion of the asset to which the IRS's adjustment pertains by filing an application for change in accounting method, provided the asset of which the disposed portion was a part is owned by the taxpayer at the beginning of the year of change (as defined for purposes of section 446(e)).

*D. Gain or Loss*

The final regulations also retain the rules in the 2013 proposed regulations for determining gain or loss upon the disposition of MACRS property. These rules are generally consistent with the disposition rules under § 1.168–6 of the proposed regulations on the Accelerated Cost Recovery System of former section 168 (ACRS) (which generally have been applied to MACRS property). If an asset is disposed of by sale, exchange, or involuntary conversion, gain or loss is recognized under the applicable

provisions of the Code. If an asset is disposed of by physical abandonment, loss is recognized in the amount of the asset's adjusted depreciable basis at the time of the abandonment, unless an abandoned asset is subject to nonrecourse indebtedness in which case the asset is treated in the same manner as an asset disposed of by sale. Finally, if an asset is disposed of other than by sale, exchange, involuntary conversion, physical abandonment, or conversion to personal use (for example, when the asset is transferred to a supplies or scrap account), gain is not recognized but loss is recognized in the amount of the excess of the asset's adjusted depreciable basis over its fair market value at the time of disposition. The same rules apply when the partial disposition rule applies to a disposition of a portion of an asset.

*E. Determination of Basis of Disposed Asset*

The final regulations retain the rule in the 2013 proposed regulations on determining the unadjusted depreciable basis of a disposed asset if that asset is in a multiple asset account and it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of the disposed asset. In such a situation, the final regulations provide that the taxpayer may use any reasonable method that is consistently applied to all assets in the same multiple asset account. The IRS and the Treasury Department expect that reasonable methods are available that use information readily available or known to the taxpayer and do not necessitate undertaking an expensive study.

These final regulations also provide nonexclusive examples of reasonable methods. These examples are the same examples in the 2013 proposed regulations, except that the final regulations do not include discounting the cost of the replacement asset by the Consumer Price Index as an example of a reasonable method. After further review, the IRS and the Treasury Department have determined that the Producer Price Index for Finished Goods (and its successor, the Producer Price Index for Final Demand) more accurately reflects inflation for capital expenditures. The final regulations also clarify that discounting the cost of the replacement asset using the Producer Price Index for Finished Goods is a reasonable method only if the replacement asset is a restoration under § 1.263(a)–3(k) and is not a betterment under § 1.263(a)–3(j) or is not an adaptation to a new or different use under § 1.263(a)–3(l). The examples in the final regulations include the following: (1) Discounting the cost of the replacement asset to its placed-in-service year cost using the Producer Price Index for Finished Goods (or its successor, the Producer Price Index for Final Demand, or any other index designated by guidance in the Internal Revenue Bulletin (see § 601.601(d)(2) of the chapter) for purposes of the final regulations) where the replacement asset is a restoration under § 1.263(a)–3(k) and is not a betterment under § 1.263(a)–3(j) or is not an adaptation to a new or different use under § 1.263(a)–3(l); (2) a pro rata allocation of the unadjusted depreciable basis of the multiple asset account based on the replacement cost of the disposed asset and the replacement cost of all of the assets in the multiple asset account; and (3) a study allocating the cost of the asset to its individual components.

The final regulations also provide rules to determine the unadjusted depreciable basis of the disposed portion of an asset when the partial disposition rule applies. While these rules retain most of the rules in the 2013 proposed regulations, the final regulations were changed to clarify when a taxpayer may use a reasonable method for determining the unadjusted depreciable basis of a disposed portion of an asset. The IRS and the Treasury Department intended to allow taxpayers to use a reasonable method under the same circumstances as described above for determining the unadjusted depreciable basis of a disposed asset in a multiple asset account. However, the 2013 proposed regulations did not reflect this intent. Consequently, the final regulations clarify that a taxpayer may use any reasonable method for determining the unadjusted depreciable basis of the disposed portion of the asset only if it is impracticable from the taxpayer's records to determine such unadjusted depreciable basis. If a taxpayer disposes of more than one portion of the same asset and it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of the first disposed portion of the asset, the reasonable method used by the taxpayer must be consistently applied to all portions of the same asset for purposes of determining the unadjusted depreciable basis of each disposed portion of the asset. If the asset, a portion of which is disposed of, is in a multiple asset account, the reasonable method used by the taxpayer must be consistently applied to all assets and portions of assets in the same multiple asset account. Finally, the final regulations provide nonexclusive examples of reasonable methods that are similar to those discussed in the preceding paragraph.

*F. Identification of Disposed Asset*

The final regulations retain the rules in the 2013 proposed regulations for determining the placed-in-service year of a disposed asset. In general, a taxpayer must use the specific identification method. Under this method, the taxpayer can determine when the asset disposed of was placed in service. If an asset is in a multiple asset account and it is impracticable from the taxpayer's records to determine the particular year in which the asset was placed in service by the taxpayer, the final regulations allow the taxpayer to identify the asset by using the following: A first-in, first-out (FIFO) method, a modified FIFO method, a mortality dispersion table if the asset is a mass asset, or any other method designated by the Secretary in published guidance. A last-in, first-out (LIFO) method is not permitted. These rules also apply when the partial disposition rule applies to a disposition of a portion of an asset and it is impracticable from the taxpayer's records to determine the particular taxable year in which the asset was placed in service by the taxpayer. The final regulations provide an additional example of the LIFO method, which is impermissible.

**III. General Asset Accounts Under § 1.168(i)–1**

Section 168(i)(4) provides that, under regulations, a taxpayer may maintain one or more general asset accounts for any MACRS property. Except as provided in regulations, all proceeds realized on any disposition of property in a general asset account shall be included in income as ordinary income.

The final regulations generally retain all of the provisions in the 2013 proposed regulations for general asset accounts. The final regulations apply only to assets for which the taxpayer has made an election to account for the assets in general asset accounts. Each general asset account effectively is treated as the asset.

*A. Establishing General Asset Accounts*

The final regulations retain the rules in the 2013 proposed regulations for establishing general asset accounts. The final regulations provide that assets may be grouped into one or more general asset accounts. In general, each general asset account must include assets that have the same depreciation method, recovery period, and convention, and

are placed in service in the same taxable year. However and as provided in the 2013 proposed regulations, the final regulations provide special rules in certain circumstances for establishing general asset accounts. For example, assets eligible for the additional first year depreciation deduction cannot be grouped with assets ineligible for the additional first year depreciation deduction. Also, assets eligible for the additional first year depreciation deduction may be grouped only with assets eligible for the same percentage of the additional first year depreciation.

*B. Depreciation of a General Asset Account*

The final regulations retain the rules in the 2013 proposed regulations for determining depreciation for each general asset account. The final regulations explain how to determine depreciation for a general asset account when all the assets in the account are eligible for the additional first year depreciation deduction and when all the assets in the account are not eligible for that deduction.

*C. Disposition of an Asset From a General Asset Account*

1. Disposition Definition

The final regulations retain the definition of ''disposition'' that is set forth in the 2013 proposed regulations. This definition is the same as the definition of ''disposition'' that was previously discussed under the disposition rules for MACRS property under § 1.168(i)–8. That is, a disposition occurs when ownership of the asset is transferred or when the asset is permanently withdrawn from use either in the taxpayer's trade or business or in the production of income. A disposition includes the sale, exchange, retirement, physical abandonment, or destruction of an asset. A disposition also includes the retirement of a structural component (or a portion thereof) of a building only if the partial disposition rule (discussed in III.C.4) applies to such structural component (or a portion thereof). Finally, the manner of disposition (for example, abnormal retirement or normal retirement) is not taken into consideration in determining whether a disposition occurs or gain or loss is recognized.

2. Determining the Appropriate Disposed Asset

The final regulations also retain the rules in the 2013 proposed regulations for determining the disposed asset included in a general asset account for tax disposition purposes. These rules are the same as those previously discussed for determining the disposed asset for purposes of § 1.168(i)–8.

In general, the facts and circumstances of each disposition are considered in determining the appropriate disposed asset included in a general asset account. However, the asset for tax disposition purposes may not consist of items placed in service by the taxpayer on different dates (without taking into account the applicable convention under section 168(d)). Further, the unit of property as determined under § 1.263(a)–3(e) or in published guidance in the Internal Revenue Bulletin under section 263(a) does not apply for purposes of determining what is the appropriate disposed asset.

In addition to these general rules, the final regulations retain the special rules in the 2013 proposed regulations for certain types of properties. These special rules are the same as the previously discussed special rules for determining the appropriate disposed asset under § 1.168(i)–8. The final regulations provide special rules for determining the appropriate disposed asset that is included in a general asset account and that is: (a) A building (including its structural components); (b) a building that includes two or more condominium or cooperative units; (c) an item properly included in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87–56 (1987–2 CB 674) or classified in one of the categories under section 168(e)(3) (other than a category that includes buildings or structural components; for example, retail motor fuels outlet and qualified leasehold improvement property); or (d) an improvement or addition to an existing asset.

3. Disposition Rules

The final regulations retain the disposition rules in the 2013 proposed regulations. Immediately before any disposition of an asset (or a portion thereof) in a general asset account, the final regulations provide that the asset (or a portion thereof) is treated as having an adjusted depreciable basis of zero for purposes of section 1011. Therefore, no loss is realized upon the disposition of the asset (or a portion thereof). The final regulations also provide that any amount realized on a disposition generally is recognized as ordinary income. Further, the final regulations provide that the unadjusted depreciable basis and depreciation reserve of the general asset account are not affected by the disposition. Accordingly, a taxpayer continues to depreciate the general asset account, including the disposed asset (or a portion thereof), as though no disposition occurred.

The final regulations also allow a taxpayer to terminate general asset account treatment upon certain dispositions. Under the final regulations, a taxpayer may elect to recognize gain or loss for a general asset account when the taxpayer disposes of all of the assets, the last asset, or the remaining portion of the last asset in the account.

The final regulations further allow a taxpayer to elect to terminate general asset account treatment for an asset in a general asset account when the taxpayer disposes of the asset in a qualifying disposition. A qualifying disposition is a disposition that does not involve all the assets, the last asset, or the remaining portion of the last asset, remaining in a general asset account and that is: (1) A direct result of a fire, storm, shipwreck, or other casualty, or from theft; (2) a charitable contribution for which a deduction is allowable under section 170; (3) a direct result of a cessation, termination, or disposition of a business, manufacturing, or other income producing process, operation, facility, plant, or other unit (other than by transfer to a supplies, scrap, or similar account); or (4) generally a transaction to which a nonrecognition section of the Code applies. If a taxpayer elects to terminate general asset account treatment for an asset disposed of in a qualifying disposition, the taxpayer must remove the disposed asset from the general asset account and adjust the unadjusted depreciable basis and depreciation reserve of the account.

The final regulations retain the rules in the 2013 proposed regulations on the manner of making (1) the election to terminate the general asset account upon the disposition of all of the assets, the last asset, or the remaining portion of the last asset in that general asset account, or (2) the qualifying disposition election. The final regulations provide that a taxpayer making either of these elections must apply section 280B and § 1.280B–1 to determine whether and to what extent gain or loss is recognized. Generally, a taxpayer makes these elections by reporting the gain, loss, or other deduction on the taxpayer's timely filed original Federal tax return (including extensions) for the taxable year in which the disposition occurs.

In the case of a loss sustained on account of the demolition of a structure to which section 280B and § 1.280B–1 apply, however, the loss is capitalized to the land on which the demolished structure was located, and no gain or loss is reported at the time of

demolition. Nevertheless, a taxpayer generally will report a depreciation deduction for the demolished structure for the taxable year in which the demolition occurs. Accordingly, the final regulations clarify that a taxpayer makes the election to terminate the general asset account or the qualifying disposition election by ending depreciation for the demolished structure at the time of disposition (taking into account the applicable convention) and reporting the depreciation amount for that structure for the taxable year in which the disposition occurs on the taxpayer's timely filed original Federal tax return (including extensions) for that taxable year.

For assets in general asset accounts, the final regulations also require a taxpayer to terminate general asset account treatment for an asset that is disposed of in a transaction subject to section 167(i)(7)(B), section 1031, or section 1033, disposed of in an abusive transaction described under the final regulations, or used for any personal use. In such a case, the taxpayer must remove the disposed asset from the general asset account and adjust the unadjusted depreciable basis and depreciation reserve of the account.

In addition, the final regulations require a partnership to terminate its general asset accounts upon the technical termination of the partnership under section 708(b)(1)(B). If there is a redetermination of basis of an asset in a general asset account (for example, due to contingent purchase price or discharge of indebtedness), the final regulations provide that the general asset account election for the asset also applies to the increase or decrease in basis and require the taxpayer to establish a new general asset account for that increase or decrease in basis.

4. Partial Dispositions

The final regulations retain the partial disposition rule in the 2013 proposed regulations. Similar to the partial disposition rule under § 1.168(i)–8 that was previously discussed, the disposition rules in § 1.168(i)–1 apply to a partial disposition of an asset included in a general asset account. Consequently, a disposition includes a disposition of a portion of an asset as a result of a casualty event described in section 165, a disposition of a portion of an asset for which gain (determined without regard to section 1245 or 1250) is not recognized in whole or in part under section 1031 or 1033, a transfer of a portion of an asset in a transaction described in section 168(i)(7)(B), a sale of a portion of an asset, or a disposition of a portion of an asset in a transaction described under the anti-abuse rules applicable to general asset accounts. For other transactions, a disposition includes a disposition of a portion of an asset only if the taxpayer makes the election to terminate the general asset account upon the disposition of all of the assets, the last asset, or the remaining portion of the last asset in that general asset account or makes the qualifying disposition election for that disposed portion. A separate partial disposition election is not provided for assets in a general asset account because a taxpayer can claim a loss upon the disposition of an asset (or a portion thereof) in a general asset account only when the taxpayer makes either one of these two elections.

*D. Determination of Basis of Disposed Asset*

The final regulations generally retain the rules in the 2013 proposed regulations on determining the unadjusted depreciable basis of an asset for which general asset account treatment is terminated. Because the general asset account is the asset, the final regulations provide that a taxpayer may use any reasonable method that is consistently applied to all assets in the same general asset account to determine the unadjusted depreciable basis of a disposed asset in that account if it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of that asset. This rule also applies when the partial disposition rule applies to a disposition of a portion of an asset included in a general asset account. The IRS and the Treasury Department expect that reasonable methods are available that use information readily available or known to the taxpayer and do not necessitate undertaking an expensive study.

These final regulations also provide nonexclusive examples of reasonable methods. These examples are the same examples in the 2013 proposed regulations, except the final regulations do not include the Consumer Price Index as an example of a reasonable method for the reason previously discussed in II.E. Similar to the rules for determining the unadjusted depreciable basis of a disposed asset under § 1.168(i)–8, the final regulations clarify that, when discounting the cost of the replacement asset, using the Producer Price Index for Finished Goods (or its successor, the Producer Price Index for Final Demand) is a reasonable method. The examples in the final regulations include the following: (1) Discounting the cost of the replacement asset to its placed-in-service year cost using the Producer Price Index for Finished Goods (or its successor, the Producer Price Index for Final Demand, or any other index designated by guidance in the Internal Revenue Bulletin (see § 601.601(d)(2) of the chapter) only if the replacement asset is a restoration under § 1.263(a)–3(k) and is not a betterment under § 1.263(a)–3(j) or is not an adaptation to a new or different use under § 1.263(a)–3(l); (2) a pro rata allocation of the unadjusted depreciable basis of the general asset account based on the replacement cost of the disposed asset and the replacement cost of all of the assets in the general asset account; and (3) a study allocating the cost of the asset to its individual components.

*E. Identification of Disposed Asset*

The final regulations retain the rules in the 2013 proposed regulations for determining the placed-in-service year of an asset for which general asset account treatment is terminated. These rules are the same as those previously discussed for identifying the placed-in-service year of the disposed asset for purposes of § 1.168(i)–8: The specific identification method, the FIFO method, the modified FIFO method, a mortality dispersion table if the asset is a mass asset, or any other method designated by the Secretary in published guidance. A LIFO method is not permitted. These rules also apply when the partial disposition rule applies to a disposition of a portion of an asset included in a general asset account. The final regulations provide an additional example of the LIFO method, which is impermissible.

## IV. Accounting for MACRS Property Under § 1.168(i)–7

The final regulations retain the rule in the 2013 proposed regulations regarding how to account for a disposed portion of an asset. The final regulations under § 1.168(i)–8 provide that if a taxpayer disposes of a portion of an asset and the partial disposition rule applies to that disposition, the taxpayer must account for the disposed portion in a single asset account beginning in the taxable year in which the disposition occurs. This rule also is provided in the final regulations under § 1.168(i)–7.

## V. Conforming Changes

The final regulations also amend §§ 1.165–2, 1.168(i)–7, 1.263(a)–3, and 1.1016–3 to replace references to the temporary regulations and the 2013 proposed regulations with references to these final regulations.

## VI. Applicability Dates

The final regulations apply to taxable years beginning on or after January 1, 2014. Alternatively, a taxpayer may choose to apply the final regulations to taxable years beginning on or after January 1, 2012.

A taxpayer also may choose to rely on the provisions of the 2013 proposed regulations for taxable years beginning on or after January 1, 2012, and beginning before January 1, 2014. Finally, a taxpayer may choose to apply the temporary regulations to taxable years beginning on or after January 1, 2012, and beginning before January 1, 2014.

## Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the 2013 proposed regulations preceding this regulation were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business, and no comments were received.

## Statement of Availability for IRS Document

For copies of recently issued Revenue Procedures, Revenue Rulings, notices, and other guidance published in the Internal Revenue Bulletin please visit the IRS Web site at *http://www.irs.gov* or the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

## Drafting Information

The principal author of these regulations is Kathleen Reed, Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in their development.

## List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

## Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

## PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is revised by adding an entry for § 1.168(i)–1 to read as follows:

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

Section 1.168(i)–1 also issued under 26 U.S.C. 168(i)(4).

■ **Par. 2.** Section 1.165–2 is amended by revising the first sentence in paragraph (c) to read as follows:

### § 1.165–2 Obsolescence of nondepreciable property.

* * * * *

(c) *Cross references.* For the allowance under section 165(a) of losses arising from the permanent withdrawal of depreciable property from use in the trade or business or in the production of income, see § 1.167(a)–8, § 1.168(i)–1, or § 1.168(i)–8, as applicable. * * *

* * * * *

■ **Par. 3.** Section 1.168(i)-0 is amended by:

■ a. Redesignating the entries for paragraphs (b)(4), (5), and (6) as paragraphs (b)(5), (6), and (7), respectively, and revising newly redesignated paragraphs (b)(6) and (7).

■ b. Adding entries for paragraphs (b)(4), (b)(8), and (b)(9).

■ c. Revising entries for paragraphs (c)(3), (d)(2), (d)(3), (e), (e)(1), (e)(2)(v) through (viii), (e)(3)(vi), (h)(1), (i), and (m).

■ d. Adding entries for paragraphs (e)(1)(i) and (ii).

■ e. Removing the entry for paragraph (h)(2) and redesignating the entry for paragraph (h)(3) as paragraph (h)(2).

The additions and revisions read as follows:

*§ 1.168(i)–0 Table of contents for the general asset account rules.*

* * * * *

*§ 1.168(i)–1 General asset accounts.*

* * * * *

(b) * * *

(4) Building.

* * * * *

(6) Mass assets.

(7) Portion of an asset.

(8) Remaining adjusted depreciable basis of the general asset account.

(9) Structural component.

(c) * * *

(3) Examples.

* * * * *

(d) * * *

(2) Assets in general asset account are eligible for additional first year depreciation deduction.

(3) No assets in general asset account are eligible for additional first year depreciation deduction.

* * * * *

(e) Dispositions from a general asset account.

(1) Scope and definition.

(i) In general.

(ii) Disposition of a portion of an asset.

(2) * * *

(v) Manner of disposition.

(vi) Disposition by transfer to a supplies account.

(vii) Leasehold improvements.

(viii) Determination of asset disposed of.

* * * * *

(3) * * *

(vi) Technical termination of a partnership.

* * * * *

(h) * * *

(1) Conversion to any personal use.

* * * * *

(i) Redetermination of basis.

* * * * *

(m) Effective/applicability dates.

### § 1.168(i)–0T [Removed]

■ **Par. 4.** Section 1.168(i)–0T is removed.

■ **Par. 5.** Section 1.168(i)–1 is amended by revising paragraphs (a) through (l)(1), and (m) to read as follows:

### § 1.168(i)–1 General asset accounts.

(a) *Scope.* This section provides rules for general asset accounts under section 168(i)(4). The provisions of this section apply only to assets for which an election has been made under paragraph (l) of this section.

(b) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Unadjusted depreciable basis* has the same meaning given such term in § 1.168(b)–1(a)(3).

(2) *Unadjusted depreciable basis of the general asset account* is the sum of the unadjusted depreciable bases of all assets included in the general asset account.

(3) *Adjusted depreciable basis of the general asset account* is the unadjusted depreciable basis of the general asset account less the adjustments to basis described in section 1016(a)(2) and (3).

(4) *Building* has the same meaning as that term is defined in § 1.48–1(e)(1).

(5) *Expensed cost* is the amount of any allowable credit or deduction treated as a deduction allowable for depreciation or amortization for purposes of section 1245 (for example, a credit allowable under section 30 or a deduction allowable under section 179,

section 179A, or section 190). Expensed cost does not include any additional first year depreciation deduction.

(6) *Mass assets* is a mass or group of individual items of depreciable assets—

(i) That are not necessarily homogenous;

(ii) Each of which is minor in value relative to the total value of the mass or group;

(iii) Numerous in quantity;

(iv) Usually accounted for only on a total dollar or quantity basis;

(v) With respect to which separate identification is impracticable; and

(vi) Placed in service in the same taxable year.

(7) *Portion of an asset* is any part of an asset that is less than the entire asset as determined under paragraph (e)(2)(viii) of this section.

(8) *Remaining adjusted depreciable basis of the general asset account* is the unadjusted depreciable basis of the general asset account less the amount of the additional first year depreciation deduction allowed or allowable, whichever is greater, for the general asset account.

(9) *Structural component* has the same meaning as that term is defined in § 1.48–1(e)(2).

(c) *Establishment of general asset accounts*—(1) *Assets eligible for general asset accounts*—(i) *General rules.* Assets that are subject to either the general depreciation system of section 168(a) or the alternative depreciation system of section 168(g) may be accounted for in one or more general asset accounts. An asset is included in a general asset account only to the extent of the asset's unadjusted depreciable basis. However, an asset is not to be included in a general asset account if the asset is used both in a trade or business or for the production of income and in a personal activity at any time during the taxable year in which the asset is placed in service by the taxpayer or if the asset is placed in service and disposed of during the same taxable year.

(ii) *Special rules for assets generating foreign source income.* (A) Assets that generate foreign source income, both United States and foreign source income, or combined gross income of a foreign sales corporation (as defined in former section 922), domestic international sales corporation (as defined in section 992(a)), or possession corporation (as defined in section 936) and its related supplier may be included in a general asset account if the requirements of paragraph (c)(2)(i) of this section are satisfied. If, however, the inclusion of these assets in a general asset account results in a substantial distortion of income, the Commissioner may disregard the general asset account election and make any reallocations of income or expense necessary to clearly reflect income.

(B) A general asset account shall be treated as a single asset for purposes of applying the rules in § 1.861–9T(g)(3) (relating to allocation and apportionment of interest expense under the asset method). A general asset account that generates income in more than one grouping of income (statutory and residual) is a multiple category asset (as defined in § 1.861–9T(g)(3)(ii)), and the income yield from the general asset account must be determined by applying the rules for multiple category assets as if the general asset account were a single asset.

(2) *Grouping assets in general asset accounts*—(i) *General rules.* If a taxpayer makes the election under paragraph (l) of this section, assets that are subject to the election are grouped into one or more general asset accounts. Assets that are eligible to be grouped into a single general asset account may be divided into more than one general asset account. Each general asset account must include only assets that—

(A) Have the same applicable depreciation method;

(B) Have the same applicable recovery period;

(C) Have the same applicable convention; and

(D) Are placed in service by the taxpayer in the same taxable year.

(ii) *Special rules.* In addition to the general rules in paragraph (c)(2)(i) of this section, the following rules apply when establishing general asset accounts—

(A) Assets subject to the mid-quarter convention may only be grouped into a general asset account with assets that are placed in service in the same quarter of the taxable year;

(B) Assets subject to the mid-month convention may only be grouped into a general asset account with assets that are placed in service in the same month of the taxable year;

(C) Passenger automobiles for which the depreciation allowance is limited under section 280F(a) must be grouped into a separate general asset account;

(D) Assets not eligible for any additional first year depreciation deduction (including assets for which the taxpayer elected not to deduct the additional first year depreciation) provided by, for example, section 168(k), section 168(l), section 168(m), section 168(n), section 1400L(b), or section 1400N(d), must be grouped into a separate general asset account;

(E) Assets eligible for the additional first year depreciation deduction may only be grouped into a general asset account with assets for which the taxpayer claimed the same percentage of the additional first year depreciation (for example, 30 percent, 50 percent, or 100 percent);

(F) Except for passenger automobiles described in paragraph (c)(2)(ii)(C) of this section, listed property (as defined in section 280F(d)(4)) must be grouped into a separate general asset account;

(G) Assets for which the depreciation allowance for the placed-in-service year is not determined by using an optional depreciation table (for further guidance, see section 8 of Rev. Proc. 87–57, 1987–2 CB 687, 693 (see § 601.601(d)(2) of this chapter)) must be grouped into a separate general asset account;

(H) Mass assets that are or will be subject to paragraph (j)(2)(i)(D) of this section (disposed of or converted mass asset is identified by a mortality dispersion table) must be grouped into a separate general asset account; and

(I) Assets subject to paragraph (h)(2)(iii)(A) of this section (change in use results in a shorter recovery period or a more accelerated depreciation method) for which the depreciation allowance for the year of change (as defined in § 1.168(i)–4(a)) is not determined by using an optional depreciation table must be grouped into a separate general asset account.

(3) *Examples.* The following examples illustrate the application of this paragraph (c):

*Example 1.* In 2014, J, a proprietorship with a calendar year-end, purchases and places in service one item of equipment that costs $550,000. This equipment is section 179 property and also is 5-year property under section 168(e). On its Federal tax return for 2014, J makes an election under section 179 to expense $25,000 of the equipment's cost and makes an election under paragraph (l) of this section to include the equipment in a general asset account. As a result, the unadjusted depreciable basis of the equipment is $525,000. In accordance with paragraph (c)(1) of this section, J must include only $525,000 of the equipment's cost in the general asset account.

*Example 2.* In 2014, K, a proprietorship with a calendar year-end, purchases and places in service 100 items of equipment. All of these items are 5-year property under section 168(e), are not listed property, and are not eligible for any additional first year depreciation deduction. On its Federal tax return for 2014, K does not make an election under section 179 to expense the cost of any of the 100 items of equipment and does make an election under paragraph (l) of this section to include the 100 items of equipment in a general asset account. K depreciates its 5-year property placed in service in 2014 using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and the half-year

convention. In accordance with paragraph (c)(2) of this section, K includes all of the 100 items of equipment in one general asset account.

*Example 3.* The facts are the same as in *Example 2,* except that K decides not to include all of the 100 items of equipment in one general asset account. Instead and in accordance with paragraph (c)(2) of this section, K establishes 100 general asset accounts and includes one item of equipment in each general asset account.

*Example 4.* L, a calendar-year corporation, is a wholesale distributer. In 2014, L places in service the following properties for use in its wholesale distribution business: Computers, automobiles, and forklifts. On its Federal tax return for 2014, L does not make an election under section 179 to expense the cost of any of these items of equipment and does make an election under paragraph (l) of this section to include all of these items of equipment in a general asset account. All of these items are 5-year property under section 168(e) and are not eligible for any additional first year depreciation deduction. The computers are listed property, and the automobiles are listed property and are subject to section 280F(a). L depreciates its 5-year property placed in service in 2014 using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and the half-year convention. Although the computers, automobiles, and forklifts are 5-year property, L cannot include all of them in one general asset account because the computers and automobiles are listed property. Further, even though the computers and automobiles are listed property, L cannot include them in one general asset account because the automobiles also are subject to section 280F(a). In accordance with paragraph (c)(2) of this section, L establishes three general asset accounts: One for the computers, one for the automobiles, and one for the forklifts.

*Example 5.* M, a fiscal-year corporation with a taxable year ending June 30, purchases and places in service ten items of new equipment in October 2014, and purchases and places in service five other items of new equipment in February 2015. On its Federal tax return for the taxable year ending June 30, 2015, M does not make an election under section 179 to expense the cost of any of these items of equipment and does make an election under paragraph (l) of this section to include all of these items of equipment in a general asset account. All of these items of equipment are 7-year property under section 168(e), are not listed property, and are property described in section 168(k)(2)(B). All of the ten items of equipment placed in service in October 2014 are eligible for the 50-percent additional first year depreciation deduction provided by section 168(k)(1). All of the five items of equipment placed in service in February 2015 are not eligible for any additional first year depreciation deduction. M depreciates its 7-year property placed in service for the taxable year ending June 30, 2015, using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 7-year recovery period, and the half-year convention. Although the 15 items of equipment are depreciated using the same depreciation method, recovery period, and convention, M cannot include all of them in one general asset account because some of items of equipment are not eligible for any additional first year depreciation deduction. In accordance with paragraph (c)(2) of this section, M establishes two general asset accounts: one for the ten items of equipment eligible for the 50-percent additional first year depreciation deduction and one for the five items of equipment not eligible for any additional first year depreciation deduction.

(d) *Determination of depreciation allowance*—(1) *In general.* Depreciation allowances are determined for each general asset account. The depreciation allowances must be recorded in a depreciation reserve account for each general asset account. The allowance for depreciation under this section constitutes the amount of depreciation allowable under section 167(a).

(2) *Assets in general asset account are eligible for additional first year depreciation deduction.* If all the assets in a general asset account are eligible for the additional first year depreciation deduction, the taxpayer first must determine the allowable additional first year depreciation deduction for the general asset account for the placed-in-service year and then must determine the amount otherwise allowable as a depreciation deduction for the general asset account for the placed-in-service year and any subsequent taxable year. The allowable additional first year depreciation deduction for the general asset account for the placed-in-service year is determined by multiplying the unadjusted depreciable basis of the general asset account by the additional first year depreciation deduction percentage applicable to the assets in the account (for example, 30 percent, 50 percent, or 100 percent). The remaining adjusted depreciable basis of the general asset account then is depreciated using the applicable depreciation method, recovery period, and convention for the assets in the account.

(3) *No assets in general asset account are eligible for additional first year depreciation deduction.* If none of the assets in a general asset account are eligible for the additional first year depreciation deduction, the taxpayer must determine the allowable depreciation deduction for the general asset account for the placed-in-service year and any subsequent taxable year by using the applicable depreciation method, recovery period, and convention for the assets in the account.

(4) *Special rule for passenger automobiles.* For purposes of applying section 280F(a), the depreciation allowance for a general asset account established for passenger automobiles is limited for each taxable year to the amount prescribed in section 280F(a) multiplied by the excess of the number of automobiles originally included in the account over the number of automobiles disposed of during the taxable year or in any prior taxable year in a transaction described in paragraph (e)(3)(iii) (disposition of an asset in a qualifying disposition), paragraph (e)(3)(iv) (transactions subject to section 168(i)(7)), paragraph (e)(3)(v) (transactions subject to section 1031 or section 1033), paragraph (e)(3)(vi) (technical termination of a partnership), paragraph (e)(3)(vii) (anti-abuse rule), paragraph (g) (assets subject to recapture), or paragraph (h)(1) (conversion to any personal use) of this section.

(e) *Dispositions from a general asset account*—(1) *Scope and definition*—(i) *In general.* This paragraph (e) provides rules applicable to dispositions of assets included in a general asset account. For purposes of this paragraph (e), an asset in a general asset account is disposed of when ownership of the asset is transferred or when the asset is permanently withdrawn from use either in the taxpayer's trade or business or in the production of income. A disposition includes the sale, exchange, retirement, physical abandonment, or destruction of an asset. A disposition also occurs when an asset is transferred to a supplies, scrap, or similar account, or when a portion of an asset is disposed of as described in paragraph (e)(1)(ii) of this section. If a structural component, or a portion thereof, of a building is disposed of in a disposition described in paragraph (e)(1)(ii) of this section, a disposition also includes the disposition of such structural component or such portion thereof.

(ii) *Disposition of a portion of an asset.* For purposes of applying paragraph (e) of this section, a disposition includes a disposition of a portion of an asset in a general asset account as a result of a casualty event described in section 165, a disposition of a portion of an asset in a general asset account for which gain, determined without regard to section 1245 or section 1250, is not recognized in whole or in part under section 1031 or section 1033, a transfer of a portion of an asset in a general asset account in a transaction described in section 168(i)(7)(B), a sale of a portion of an asset in a general asset account, or a disposition of a portion of an asset in a general asset account in a transaction described in paragraph (e)(3)(vii)(B) of

this section. For other transactions, a disposition includes a disposition of a portion of an asset in a general asset account only if the taxpayer makes the election under paragraph (e)(3)(ii) of this section to terminate the general asset account in which that disposed portion is included or makes the election under paragraph (e)(3)(iii) of this section for that disposed portion.

(2) *General rules for a disposition*—(i) *No immediate recovery of basis.* Except as provided in paragraph (e)(3) of this section, immediately before a disposition of any asset in a general asset account or a disposition of a portion of such asset as described in paragraph (e)(1)(ii) of this section, the asset or the portion of the asset, as applicable, is treated as having an adjusted depreciable basis (as defined in § 1.168(b)–1(a)(4)) of zero for purposes of section 1011. Therefore, no loss is realized upon the disposition of an asset from the general asset account or upon the disposition of a portion of such asset as described in paragraph (e)(1)(ii) of this section. Similarly, where an asset or a portion of an asset, as applicable, is disposed of by transfer to a supplies, scrap, or similar account, the basis of the asset or the portion of the asset, as applicable, in the supplies, scrap, or similar account will be zero.

(ii) *Treatment of amount realized.* Any amount realized on a disposition is recognized as ordinary income, notwithstanding any other provision of subtitle A of the Internal Revenue Code (Code), to the extent the sum of the unadjusted depreciable basis of the general asset account and any expensed cost (as defined in paragraph (b)(5) of this section) for assets in the account exceeds any amounts previously recognized as ordinary income upon the disposition of other assets in the account or upon the disposition of portions of such assets as described in paragraph (e)(1)(ii) of this section. The recognition and character of any excess amount realized are determined under other applicable provisions of the Code other than sections 1245 and 1250 or provisions of the Code that treat gain on a disposition as subject to section 1245 or section 1250.

(iii) *Effect of disposition on a general asset account.* Except as provided in paragraph (e)(3) of this section, the unadjusted depreciable basis and the depreciation reserve of the general asset account are not affected as a result of a disposition of an asset from the general asset account or of a disposition of a portion of such asset as described in paragraph (e)(1)(ii) of this section.

(iv) *Coordination with nonrecognition provisions.* For purposes of determining the basis of an asset or a portion of an asset, as applicable, acquired in a transaction, other than a transaction described in paragraph (e)(3)(iv) (pertaining to transactions subject to section 168(i)(7)), paragraph (e)(3)(v) (pertaining to transactions subject to section 1031 or section 1033), and paragraph (e)(3)(vi) (pertaining to technical terminations of partnerships) of this section, to which a nonrecognition section of the Code applies, determined without regard to this section, the amount of ordinary income recognized under this paragraph (e)(2) is treated as the amount of gain recognized on the disposition.

(v) *Manner of disposition.* The manner of disposition (for example, normal retirement, abnormal retirement, ordinary retirement, or extraordinary retirement) is not taken into account in determining whether a disposition occurs or gain or loss is recognized.

(vi) *Disposition by transfer to a supplies account.* If a taxpayer made an election under § 1.162–3(d) to treat the cost of any rotable spare part, temporary spare part, or standby emergency spare part (as defined in § 1.162–3(c)) as a capital expenditure subject to the allowance for depreciation and also made an election under paragraph (l) of this section to include that rotable, temporary, or standby emergency spare part in a general asset account, the taxpayer can dispose of the rotable, temporary, or standby emergency spare part by transferring it to a supplies account only if the taxpayer has obtained the consent of the Commissioner to revoke the § 1.162–3(d) election. If a taxpayer made an election under § 1.162–3T(d) to treat the cost of any material and supply (as defined in § 1.162–3T(c)(1)) as a capital expenditure subject to the allowance for depreciation and also made an election under paragraph (l) of this section to include that material and supply in a general asset account, the taxpayer can dispose of the material and supply by transferring it to a supplies account only if the taxpayer has obtained the consent of the Commissioner to revoke the § 1.162–3T(d) election. See § 1.162–3(d)(3) for the procedures for revoking a § 1.162–3(d) or a § 1.162–3T(d) election.

(vii) *Leasehold improvements.* The rules of paragraph (e) of this section also apply to—

(A) A lessor of leased property that made an improvement to that property for the lessee of the property, has a depreciable basis in the improvement, made an election under paragraph (l) of this section to include the improvement in a general asset account, and disposes of the improvement, or disposes of a portion of the improvement as described in paragraph (e)(1)(ii) of this section, before or upon the termination of the lease with the lessee. See section 168(i)(8)(B); and

(B) A lessee of leased property that made an improvement to that property, has a depreciable basis in the improvement, made an election under paragraph (l) of this section to include the improvement in a general asset account, and disposes of the improvement, or disposes of a portion of the improvement as described in paragraph (e)(1)(ii) of this section, before or upon the termination of the lease.

(viii) *Determination of asset disposed of*—(A) *General rules.* For purposes of applying paragraph (e) of this section to the disposition of an asset in a general asset account, instead of the disposition of the general asset account, the facts and circumstances of each disposition are considered in determining what is the appropriate asset disposed of. The asset for disposition purposes may not consist of items placed in service by the taxpayer on different dates, without taking into account the applicable convention. For purposes of determining what is the appropriate asset disposed of, the unit of property determination under § 1.263(a)–3(e) or in published guidance in the Internal Revenue Bulletin under section 263(a) (see § 601.601(d)(2) of this chapter) does not apply.

(B) *Special rules.* In addition to the general rules in paragraph (e)(2)(viii)(A) of this section, the following rules apply for purposes of applying paragraph (e) of this section to the disposition of an asset in a general asset account instead of the disposition of the general asset account:

(*1*) Each building, including its structural components, is the asset, except as provided in § 1.1250–1(a)(2)(ii) or in paragraph (e)(2)(viii)(B)(*2*) or (*4*) of this section.

(*2*) If a building has two or more condominium or cooperative units, each condominium or cooperative unit, including its structural components, is the asset, except as provided in § 1.1250–1(a)(2)(ii) or in paragraph (e)(2)(viii)(B)(*4*) of this section.

(*3*) If a taxpayer properly includes an item in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87–56 (1987–2 CB 674) (see § 601.601(d)(2) of this chapter) or properly classifies an item in one of the categories under section 168(e)(3), except for a category that includes buildings or structural components (for example, retail motor fuels outlet, qualified leasehold improvement property, qualified

restaurant property, and qualified retail improvement property), each item is the asset, provided that paragraph (e)(2)(viii)(B)(*4*) of this section does not apply to the item. For example, each desk is the asset, each computer is the asset, and each qualified smart electric meter is the asset.

(*4*) If the taxpayer places in service an improvement or addition to an asset after the taxpayer placed the asset in service, the improvement or addition and, if applicable, its structural components are a separate asset.

(ix) *Examples.* The following examples illustrate the application of this paragraph (e)(2):

*Example 1.* A, a calendar-year partnership, maintains one general asset account for one office building that cost $10 million. A discovers a leak in the roof of the building and decides to replace the entire roof. The roof is a structural component of the building. In accordance with paragraph (e)(2)(viii)(B)(*1*) of this section, the office building, including its structural components, is the asset for disposition purposes. The retirement of the replaced roof is not a disposition of a portion of an asset as described in paragraph (e)(1)(ii) of this section. Thus, the retirement of the replaced roof is not a disposition under paragraph (e)(1) of this section. As a result, A continues to depreciate the $10 million cost of the general asset account. If A must capitalize the amount paid for the replacement roof pursuant to § 1.263(a)–3, the replacement roof is a separate asset for disposition purposes pursuant to paragraph (e)(2)(viii)(B)(*4*) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 2.* B, a calendar-year commercial airline company, maintains one general asset account for five aircraft that cost a total of $500 million. These aircraft are described in asset class 45.0 of Rev. Proc. 87–56. B replaces the existing engines on one of the aircraft with new engines. Assume each aircraft is a unit of property as determined under § 1.263(a)–3(e)(3) and each engine of an aircraft is a major component or substantial structural part of the aircraft as determined under § 1.263(a)–3(k)(6). Assume also that B treats each aircraft as the asset for disposition purposes in accordance with paragraph (e)(2)(viii) of this section. The retirement of the replaced engines is not a disposition of a portion of an asset as described in paragraph (e)(1)(ii) of this section. Thus, the retirement of the replaced engines is not a disposition under paragraph (e)(1) of this section. As a result, B continues to depreciate the $500 million cost of the general asset account. If B must capitalize the amount paid for the replacement engines pursuant to § 1.263(a)–3, the replacement engines are a separate asset for disposition purposes pursuant to paragraph (e)(2)(viii)(B)(*4*) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 3.* (i) R, a calendar-year corporation, maintains one general asset account for ten machines. The machines cost a total of $10,000 and are placed in service in June 2014. Of the ten machines, one machine costs $8,200 and nine machines cost a total of $1,800. Assume R depreciates this general asset account using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and a half-year convention. R does not make a section 179 election for any of the machines, and all of the machines are not eligible for any additional first year depreciation deduction. As of January 1, 2015, the depreciation reserve of the account is $2,000 ($10,000 × 20%).

(ii) On February 8, 2015, R sells the machine that cost $8,200 to an unrelated party for $9,000. Under paragraph (e)(2)(i) of this section, this machine has an adjusted depreciable basis of zero.

(iii) On its 2015 tax return, R recognizes the amount realized of $9,000 as ordinary income because such amount does not exceed the unadjusted depreciable basis of the general asset account ($10,000), plus any expensed cost for assets in the account ($0), less amounts previously recognized as ordinary income ($0). Moreover, the unadjusted depreciable basis and depreciation reserve of the account are not affected by the disposition of the machine. Thus, the depreciation allowance for the account in 2015 is $3,200 ($10,000 × 32%).

*Example 4.* (i) The facts are the same as in *Example 3.* In addition, on June 4, 2016, R sells seven machines to an unrelated party for a total of $1,100. In accordance with paragraph (e)(2)(i) of this section, these machines have an adjusted depreciable basis of zero.

(ii) On its 2016 tax return, R recognizes $1,000 as ordinary income (the unadjusted depreciable basis of $10,000, plus the expensed cost of $0, less the amount of $9,000 previously recognized as ordinary income). The recognition and character of the excess amount realized of $100 ($1,100 − $1,000) are determined under applicable provisions of the Code other than section 1245 (such as section 1231). Moreover, the unadjusted depreciable basis and depreciation reserve of the account are not affected by the disposition of the machines. Thus, the depreciation allowance for the account in 2016 is $1,920 ($10,000 × 19.2%).

(3) *Special rules*—(i) *In general.* This paragraph (e)(3) provides the rules for terminating general asset account treatment upon certain dispositions. While the rules under paragraphs (e)(3)(ii) and (iii) of this section are optional rules, the rules under paragraphs (e)(3)(iv), (v), (vi), and (vii) of this section are mandatory rules. A taxpayer elects to apply paragraph (e)(3)(ii) or (iii) of this section by reporting the gain, loss, or other deduction on the taxpayer's timely filed original Federal tax return, including extensions, for the taxable year in which the disposition occurs. However, if the loss is on account of the demolition of a structure to which section 280B and § 1.280B–1 apply, a taxpayer elects to apply paragraph (e)(3)(ii) or (iii) of this section by ending depreciation for the structure at the time of the disposition of the structure, taking into account the convention applicable to the general asset account in which the demolished structure was included, and reporting the amount of depreciation for that structure for the taxable year in which the disposition occurs on the taxpayer's timely filed original Federal tax return, including extensions, for that taxable year. A taxpayer may revoke the election to apply paragraph (e)(3)(ii) or (iii) of this section only by filing a request for a private letter ruling and obtaining the Commissioner's consent to revoke the election. The Commissioner may grant a request to revoke this election if the taxpayer acted reasonably and in good faith, and the revocation will not prejudice the interests of the Government. See generally § 301.9100–3 of this chapter. The election to apply paragraph (e)(3)(ii) or (iii) of this section may not be made or revoked through the filing of an application for change in accounting method. For purposes of applying paragraphs (e)(3)(iii) through (vii) of this section, see paragraph (j) of this section for identifying an asset disposed of and its unadjusted depreciable basis. Solely for purposes of applying paragraphs (e)(3)(iii), (e)(3)(iv)(C), (e)(3)(v)(B), and (e)(3)(vii) of this section, the term *asset* is:

(A) The asset as determined under paragraph (e)(2)(viii) of this section; or

(B) The portion of such asset that is disposed of in a disposition described in paragraph (e)(1)(ii) of this section.

(ii) *Disposition of all assets remaining in a general asset account*—(A) *Optional termination of a general asset account.* Upon the disposition of all of the assets, the last asset, or the remaining portion of the last asset in a general asset account, a taxpayer may apply this paragraph (e)(3)(ii) to recover the adjusted depreciable basis of the general asset account rather than having paragraph (e)(2) of this section apply. Under this paragraph (e)(3)(ii), the general asset account terminates and the amount of gain or loss for the general asset account is determined under section 1001(a) by taking into account the adjusted depreciable basis of the general asset account at the time of the disposition, as determined under the applicable convention for the general asset account. Whether and to what extent gain or loss is recognized is determined under other applicable provisions of the Code, including section 280B and § 1.280B–1. The character of the gain or loss is

determined under other applicable provisions of the Code, except that the amount of gain subject to section 1245 is limited to the excess of the depreciation allowed or allowable for the general asset account, including any expensed cost, over any amounts previously recognized as ordinary income under paragraph (e)(2) of this section, and the amount of gain subject to section 1250 is limited to the excess of the additional depreciation allowed or allowable for the general asset account, over any amounts previously recognized as ordinary income under paragraph (e)(2) of this section.

(B) *Examples.* The following examples illustrate the application of this paragraph (e)(3)(ii):

*Example 1.* (i) T, a calendar-year corporation, maintains a general asset account for 1,000 calculators. The calculators cost a total of $60,000 and are placed in service in 2014. Assume T depreciates this general asset account using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and a half-year convention. T does not make a section 179 election for any of the calculators, and all of the calculators are not eligible for any additional first year depreciation deduction. In 2015, T sells 200 of the calculators to an unrelated party for a total of $10,000 and recognizes the $10,000 as ordinary income in accordance with paragraph (e)(2) of this section.

(ii) On March 26, 2016, T sells the remaining calculators in the general asset account to an unrelated party for $35,000. T elects to apply paragraph (e)(3)(ii) of this section. As a result, the account terminates and gain or loss is determined for the account.

(iii) On the date of disposition, the adjusted depreciable basis of the account is $23,040 (unadjusted depreciable basis of $60,000 less the depreciation allowed or allowable of $36,960). Thus, in 2016, T recognizes gain of $11,960 (amount realized of $35,000 less the adjusted depreciable basis of $23,040). The gain of $11,960 is subject to section 1245 to the extent of the depreciation allowed or allowable for the account, plus the expensed cost for assets in the account, less the amounts previously recognized as ordinary income ($36,960 + $0 − $10,000 = $26,960). As a result, the entire gain of $11,960 is subject to section 1245.

*Example 2.* (i) J, a calendar-year corporation, maintains a general asset account for one item of equipment. This equipment costs $2,000 and is placed in service in 2014. Assume J depreciates this general asset account using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and a half-year convention. J does not make a section 179 election for the equipment, and it is not eligible for any additional first year depreciation deduction. In June 2016, J sells the equipment to an unrelated party for $1,000. J elects to apply paragraph (e)(3)(ii) of this section. As a result, the account terminates and gain or loss is determined for the account.

(ii) On the date of disposition, the adjusted depreciable basis of the account is $768 (unadjusted depreciable basis of $2,000 less the depreciation allowed or allowable of $1,232). Thus, in 2016, J recognizes gain of $232 (amount realized of $1,000 less the adjusted depreciable basis of $768). The gain of $232 is subject to section 1245 to the extent of the depreciation allowed or allowable for the account (plus the expensed cost for assets in the account) less the amounts previously recognized as ordinary income ($1,232 + $0 − $0 = $1,232). As a result, the entire gain of $232 is subject to section 1245.

(iii) *Disposition of an asset in a qualifying disposition*—(A) *Optional determination of the amount of gain, loss, or other deduction.* In the case of a qualifying disposition (described in paragraph (e)(3)(iii)(B) of this section) of an asset, a taxpayer may elect to apply this paragraph (e)(3)(iii) rather than having paragraph (e)(2) of this section apply. Under this paragraph (e)(3)(iii), general asset account treatment for the asset terminates as of the first day of the taxable year in which the qualifying disposition occurs, and the amount of gain, loss, or other deduction for the asset is determined under § 1.168(i)–8 by taking into account the asset's adjusted depreciable basis at the time of the disposition. The adjusted depreciable basis of the asset at the time of the disposition, as determined under the applicable convention for the general asset account in which the asset was included, equals the unadjusted depreciable basis of the asset less the depreciation allowed or allowable for the asset, computed by using the depreciation method, recovery period, and convention applicable to the general asset account in which the asset was included and by including the portion of the additional first year depreciation deduction claimed for the general asset account that is attributable to the asset disposed of. Whether and to what extent gain, loss, or other deduction is recognized is determined under other applicable provisions of the Code, including section 280B and § 1.280B–1. The character of the gain, loss, or other deduction is determined under other applicable provisions of the Code, except that the amount of gain subject to section 1245 or section 1250 is limited to the lesser of—

(*1*) The depreciation allowed or allowable for the asset, including any expensed cost or, in the case of section 1250 property, the additional depreciation allowed or allowable for the asset; or

(*2*) The excess of—

(*i*) The original unadjusted depreciable basis of the general asset account plus, in the case of section 1245 property originally included in the general asset account, any expensed cost; over

(*ii*) The cumulative amounts of gain previously recognized as ordinary income under either paragraph (e)(2) of this section or section 1245 or section 1250.

(B) *Qualifying dispositions.* A *qualifying disposition* is a disposition that does not involve all the assets, the last asset, or the remaining portion of the last asset remaining in a general asset account and that is—

(*1*) A direct result of a fire, storm, shipwreck, or other casualty, or from theft;

(*2*) A charitable contribution for which a deduction is allowable under section 170;

(*3*) A direct result of a cessation, termination, or disposition of a business, manufacturing or other income producing process, operation, facility, plant, or other unit, other than by transfer to a supplies, scrap, or similar account; or

(*4*) A transaction, other than a transaction described in paragraph (e)(3)(iv) (pertaining to transactions subject to section 168(i)(7)), paragraph (e)(3)(v) (pertaining to transactions subject to section 1031 or section 1033), paragraph (e)(3)(vi) (pertaining to technical terminations of partnerships), or paragraph (e)(3)(vii) (anti-abuse rule) of this section, to which a nonrecognition section of the Internal Revenue Code applies (determined without regard to this section).

(C) *Effect of a qualifying disposition on a general asset account.* If the taxpayer elects to apply this paragraph (e)(3)(iii) to a qualifying disposition of an asset, then—

(*1*) The asset is removed from the general asset account as of the first day of the taxable year in which the qualifying disposition occurs. For that taxable year, the taxpayer accounts for the asset in a single asset account in accordance with the rules under § 1.168(i)–7(b);

(*2*) The unadjusted depreciable basis of the general asset account is reduced by the unadjusted depreciable basis of the asset as of the first day of the taxable year in which the disposition occurs;

(*3*) The depreciation reserve of the general asset account is reduced by the depreciation allowed or allowable for the asset as of the end of the taxable year immediately preceding the year of disposition, computed by using the depreciation method, recovery period, and convention applicable to the

general asset account in which the asset was included and by including the portion of the additional first year depreciation deduction claimed for the general asset account that is attributable to the asset disposed of; and

(*4*) For purposes of determining the amount of gain realized on subsequent dispositions that is subject to ordinary income treatment under paragraph (e)(2)(ii) of this section, the amount of any expensed cost with respect to the asset is disregarded.

(D) *Examples.* The following examples illustrate the application of this paragraph (e)(3)(iii):

*Example 1.* (i) Z, a calendar-year corporation, maintains one general asset account for 12 machines. Each machine costs $15,000 and is placed in service in 2014. Of the 12 machines, nine machines that cost a total of $135,000 are used in Z's Kentucky plant, and three machines that cost a total of $45,000 are used in Z's Ohio plant. Assume Z depreciates this general asset account using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and the half-year convention. Z does not make a section 179 election for any of the machines, and all of the machines are not eligible for any additional first year depreciation deduction. As of December 31, 2015, the depreciation reserve for the account is $93,600.

(ii) On May 27, 2016, Z sells its entire manufacturing plant in Ohio to an unrelated party. The sales proceeds allocated to each of the three machines at the Ohio plant is $5,000. This transaction is a qualifying disposition under paragraph (e)(3)(iii)(B)(*3*) of this section, and Z elects to apply paragraph (e)(3)(iii) of this section.

(iii) For Z's 2016 return, the depreciation allowance for the account is computed as follows. As of December 31, 2015, the depreciation allowed or allowable for the three machines at the Ohio plant is $23,400. Thus, as of January 1, 2016, the unadjusted depreciable basis of the account is reduced from $180,000 to $135,000 ($180,000 less the unadjusted depreciable basis of $45,000 for the three machines), and, as of December 31, 2015, the depreciation reserve of the account is decreased from $93,600 to $70,200 ($93,600 less the depreciation allowed or allowable of $23,400 for the three machines as of December 31, 2015). Consequently, the depreciation allowance for the account in 2016 is $25,920 ($135,000 × 19.2%).

(iv) For Z's 2016 return, gain or loss for each of the three machines at the Ohio plant is determined as follows. The depreciation allowed or allowable in 2016 for each machine is $1,440 (($15,000 × 19.2%)/2). Thus, the adjusted depreciable basis of each machine under section 1011 is $5,760 (the adjusted depreciable basis of $7,200 removed from the account less the depreciation allowed or allowable of $1,440 in 2016). As a result, the loss recognized in 2016 for each machine is $760 ($5,000 − $5,760), which is subject to section 1231.

*Example 2.* (i) A, a calendar-year partnership, maintains one general asset account for one office building that cost $20 million and was placed in service in July 2011. A depreciates this general asset account using the optional depreciation table that corresponds with the general depreciation system, the straight-line method, a 39-year recovery period, and the mid-month convention. As of January 1, 2014, the depreciation reserve for the account is $1,261,000.

(ii) In May 2014, a tornado occurs where the building is located and damages the roof of the building. A decides to replace the entire roof. The roof is replaced in June 2014. The roof is a structural component of the building. Because the roof was damaged as a result of a casualty event described in section 165, the partial disposition rule provided under paragraph (e)(1)(ii) of this section applies to the roof. Although the office building, including its structural components, is the asset for disposition purposes, the partial disposition rule provides that the retirement of the replaced roof is a disposition under paragraph (e)(1) of this section. This retirement is a qualifying disposition under paragraph (e)(3)(iii)(B)(*1*) of this section, and A elects to apply paragraph (e)(3)(iii) of this section for the retirement of the damaged roof.

(iii) Of the $20 million cost of the office building, assume $1 million is the cost of the retired roof.

(iv) For A's 2014 return, the depreciation allowance for the account is computed as follows. As of December 31, 2013, the depreciation allowed or allowable for the retired roof is $63,050. Thus, as of January 1, 2014, the unadjusted depreciable basis of the account is reduced from $20,000,000 to $19,000,000 ($20,000,000 less the unadjusted depreciable basis of $1,000,000 for the retired roof), and the depreciation reserve of the account is decreased from $1,261,000 to $1,197,950 ($1,261,000 less the depreciation allowed or allowable of $63,050 for the retired roof as of December 31, 2013). Consequently, the depreciation allowance for the account in 2014 is $487,160 ($19,000,000 × 2.564%).

(v) For A's 2014 return, gain or loss for the retired roof is determined as follows. The depreciation allowed or allowable in 2014 for the retired roof is $11,752 (($1,000,000 × 2.564%) × 5.5/12). Thus, the adjusted depreciable basis of the retired roof under section 1011 is $925,198 (the adjusted depreciable basis of $936,950 removed from the account less the depreciation allowed or allowable of $11,752 in 2014). As a result, the loss recognized in 2014 for the retired roof is $925,198, which is subject to section 1231.

(vi) If A must capitalize the amount paid for the replacement roof under § 1.263(a)–3, the replacement roof is a separate asset for depreciation purposes pursuant to section 168(i)(6). If A includes the replacement roof in a general asset account, the replacement roof is a separate asset for disposition purposes pursuant to paragraph (e)(2)(viii)(B)(*4*) of this section. If A includes the replacement roof in a single asset account or a multiple asset account under § 1.168(i)–7, the replacement roof is a separate asset for disposition purposes pursuant to § 1.168(i)–8(c)(4)(ii)(D).

(iv) *Transactions subject to section 168(i)(7)*—(A) *In general.* If a taxpayer transfers one or more assets, or a portion of such asset, in a general asset account in a transaction described in section 168(i)(7)(B) (pertaining to treatment of transferees in certain nonrecognition transactions), the taxpayer (the transferor) and the transferee must apply this paragraph (e)(3)(iv) to the asset or the portion of such asset, instead of applying paragraph (e)(2), (e)(3)(ii), or (e)(3)(iii) of this section. The transferee is bound by the transferor's election under paragraph (l) of this section for the portion of the transferee's basis in the asset or the portion of such asset that does not exceed the transferor's adjusted depreciable basis of the general asset account or the asset or the portion of such asset, as applicable, as determined under paragraph (e)(3)(iv)(B)(*2*) or (C)(*2*) of this section, as applicable.

(B) *All assets remaining in general asset account are transferred.* If a taxpayer transfers all the assets, the last asset, or the remaining portion of the last asset in a general asset account in a transaction described in section 168(i)(7)(B)—

(*1*) The taxpayer (the transferor) must terminate the general asset account on the date of the transfer. The allowable depreciation deduction for the general asset account for the transferor's taxable year in which the section 168(i)(7)(B) transaction occurs is computed by using the depreciation method, recovery period, and convention applicable to the general asset account. This allowable depreciation deduction is allocated between the transferor and the transferee on a monthly basis. This allocation is made in accordance with the rules in § 1.168(d)–1(b)(7)(ii) for allocating the depreciation deduction between the transferor and the transferee;

(*2*) The transferee must establish a new general asset account for all the assets, the last asset, or the remaining portion of the last asset, in the taxable year in which the section 168(i)(7)(B) transaction occurs for the portion of its basis in the assets that does not exceed the transferor's adjusted depreciable basis of the general asset account in which all the assets, the last asset, or the remaining portion of the last asset, were included. The transferor's adjusted depreciable basis of this general asset account is equal to the adjusted depreciable basis of that account as of the beginning of the transferor's taxable year in which the transaction occurs,

decreased by the amount of depreciation allocable to the transferor for the year of the transfer, as determined under paragraph (e)(3)(iv)(B)(*1*) of this section. The transferee is treated as the transferor for purposes of computing the allowable depreciation deduction for the new general asset account under section 168. The new general asset account must be established in accordance with the rules in paragraph (c) of this section, except that the unadjusted depreciable bases of all the assets, the last asset, or the remaining portion of the last asset, and the greater of the depreciation allowed or allowable for all the assets, the last asset, or the remaining portion of the last asset, including the amount of depreciation for the transferred assets that is allocable to the transferor for the year of the transfer, are included in the newly established general asset account. Consequently, this general asset account in the year of the transfer will have a beginning balance for both the unadjusted depreciable basis and the depreciation reserve of the general asset account; and

(*3*) For purposes of section 168 and this section, the transferee treats the portion of its basis in the assets that exceeds the transferor's adjusted depreciable basis of the general asset account in which all the assets, the last asset, or the remaining portion of the last asset, were included, as determined under paragraph (e)(3)(iv)(B)(*2*) of this section, as a separate asset that the transferee placed in service on the date of the transfer. The transferee accounts for this asset under § 1.168(i)–7 or may make an election under paragraph (l) of this section to include the asset in a general asset account.

(C) *Not all assets remaining in general asset account are transferred.* If a taxpayer transfers an asset in a general asset account in a transaction described in section 168(i)(7)(B) and if paragraph (e)(3)(iv)(B) of this section does not apply to this asset—

(*1*) The taxpayer (the transferor) must remove the transferred asset from the general asset account in which the asset is included, as of the first day of the taxable year in which the section 168(i)(7)(B) transaction occurs. In addition, the adjustments to the general asset account described in paragraphs (e)(3)(iii)(C)(*2*) through (*4*) of this section must be made. The allowable depreciation deduction for the asset for the transferor's taxable year in which the section 168(i)(7)(B) transaction occurs is computed by using the depreciation method, recovery period, and convention applicable to the general asset account in which the asset was included. This allowable depreciation deduction is allocated between the transferor and the transferee on a monthly basis. This allocation is made in accordance with the rules in § 1.168(d)–1(b)(7)(ii) for allocating the depreciation deduction between the transferor and the transferee;

(*2*) The transferee must establish a new general asset account for the asset in the taxable year in which the section 168(i)(7)(B) transaction occurs for the portion of its basis in the asset that does not exceed the transferor's adjusted depreciable basis of the asset. The transferor's adjusted depreciable basis of this asset is equal to the adjusted depreciable basis of the asset as of the beginning of the transferor's taxable year in which the transaction occurs, decreased by the amount of depreciation allocable to the transferor for the year of the transfer, as determined under paragraph (e)(3)(iv)(C)(*1*) of this section. The transferee is treated as the transferor for purposes of computing the allowable depreciation deduction for the new general asset account under section 168. The new general asset account must be established in accordance with the rules in paragraph (c) of this section, except that the unadjusted depreciable basis of the asset, and the greater of the depreciation allowed or allowable for the asset, including the amount of depreciation for the transferred asset that is allocable to the transferor for the year of the transfer, are included in the newly established general asset account. Consequently, this general asset account in the year of the transfer will have a beginning balance for both the unadjusted depreciable basis and the depreciation reserve of the general asset account; and

(*3*) For purposes of section 168 and this section, the transferee treats the portion of its basis in the asset that exceeds the transferor's adjusted depreciable basis of the asset, as determined under paragraph (e)(3)(iv)(C)(*2*) of this section, as a separate asset that the transferee placed in service on the date of the transfer. The transferee accounts for this asset under § 1.168(i)–7 or may make an election under paragraph (l) of this section to include the asset in a general asset account.

(v) *Transactions subject to section 1031 or section 1033*—(A) *Like-kind exchange or involuntary conversion of all assets remaining in a general asset account.* If all the assets, the last asset, or the remaining portion of the last asset in a general asset account are transferred by a taxpayer in a like-kind exchange (as defined under § 1.168–6(b)(11)) or in an involuntary conversion (as defined under § 1.168–6(b)(12)), the taxpayer must apply this paragraph (e)(3)(v)(A) instead of applying paragraph (e)(2), (e)(3)(ii), or (e)(3)(iii) of this section. Under this paragraph (e)(3)(v)(A), the general asset account terminates as of the first day of the year of disposition (as defined in § 1.168(i)–6(b)(5)) and—

(*1*) The amount of gain or loss for the general asset account is determined under section 1001(a) by taking into account the adjusted depreciable basis of the general asset account at the time of disposition (as defined in § 1.168(i)–6(b)(3)). The depreciation allowance for the general asset account in the year of disposition is determined in the same manner as the depreciation allowance for the relinquished MACRS property (as defined in § 1.168(i)–6(b)(2)) in the year of disposition is determined under § 1.168(i)–6. The recognition and character of gain or loss are determined in accordance with paragraph (e)(3)(ii)(A) of this section, notwithstanding that paragraph (e)(3)(ii) of this section is an optional rule; and

(*2*) The adjusted depreciable basis of the general asset account at the time of disposition is treated as the adjusted depreciable basis of the relinquished MACRS property.

(B) *Like-kind exchange or involuntary conversion of less than all assets remaining in a general asset account.* If an asset in a general asset account is transferred by a taxpayer in a like-kind exchange or in an involuntary conversion and if paragraph (e)(3)(v)(A) of this section does not apply to this asset, the taxpayer must apply this paragraph (e)(3)(v)(B) instead of applying paragraph (e)(2), (e)(3)(ii), or (e)(3)(iii) of this section. Under this paragraph (e)(3)(v)(B), general asset account treatment for the asset terminates as of the first day of the year of disposition (as defined in § 1.168(i)–6(b)(5)), and—

(*1*) The amount of gain or loss for the asset is determined by taking into account the asset's adjusted depreciable basis at the time of disposition (as defined in § 1.168(i)–6(b)(3)). The adjusted depreciable basis of the asset at the time of disposition equals the unadjusted depreciable basis of the asset less the depreciation allowed or allowable for the asset, computed by using the depreciation method, recovery period, and convention applicable to the general asset account in which the asset was included and by including the portion of the additional first year depreciation deduction claimed for the general asset account that is attributable to the relinquished asset. The

depreciation allowance for the asset in the year of disposition is determined in the same manner as the depreciation allowance for the relinquished MACRS property (as defined in § 1.168(i)–6(b)(2)) in the year of disposition is determined under § 1.168(i)–6. The recognition and character of the gain or loss are determined in accordance with paragraph (e)(3)(iii)(A) of this section, notwithstanding that paragraph (e)(3)(iii) of this section is an optional rule; and

(*2*) As of the first day of the year of disposition, the taxpayer must remove the relinquished asset from the general asset account and make the adjustments to the general asset account described in paragraphs (e)(3)(iii)(C)(*2*) through (*4*) of this section.

(vi) *Technical termination of a partnership.* In the case of a technical termination of a partnership under section 708(b)(1)(B), the terminated partnership must apply this paragraph (e)(3)(vi) instead of applying paragraph (e)(2), (e)(3)(ii), or (e)(3)(iii) of this section. Under this paragraph (e)(3)(vi), all of the terminated partnership's general asset accounts terminate as of the date of its termination under section 708(b)(1)(B). The terminated partnership computes the allowable depreciation deduction for each of its general asset accounts for the taxable year in which the technical termination occurs by using the depreciation method, recovery period, and convention applicable to the general asset account. The new partnership is not bound by the terminated partnership's election under paragraph (l) of this section.

(vii) *Anti-abuse rule*—(A) *In general.* If an asset in a general asset account is disposed of by a taxpayer in a transaction described in paragraph (e)(3)(vii)(B) of this section, general asset account treatment for the asset terminates as of the first day of the taxable year in which the disposition occurs. Consequently, the taxpayer must determine the amount of gain, loss, or other deduction attributable to the disposition in the manner described in paragraph (e)(3)(iii)(A) of this section, notwithstanding that paragraph (e)(3)(iii)(A) of this section is an optional rule, and must make the adjustments to the general asset account described in paragraphs (e)(3)(iii)(C)(*1*) through (*4*) of this section.

(B) *Abusive transactions.* A transaction is described in this paragraph (e)(3)(vii)(B) if the transaction is not described in paragraph (e)(3)(iv), (e)(3)(v), or (e)(3)(vi) of this section, and if the transaction is entered into, or made, with a principal purpose of achieving a tax benefit or result that would not be available absent an election under this section. Examples of these types of transactions include—

(*1*) A transaction entered into with a principal purpose of shifting income or deductions among taxpayers in a manner that would not be possible absent an election under this section to take advantage of differing effective tax rates among the taxpayers; or

(*2*) An election made under this section with a principal purpose of disposing of an asset from a general asset account to utilize an expiring net operating loss or credit if the transaction is not a bona fide disposition. The fact that a taxpayer with a net operating loss carryover or a credit carryover transfers an asset to a related person or transfers an asset pursuant to an arrangement where the asset continues to be used or is available for use by the taxpayer pursuant to a lease or otherwise indicates, absent strong evidence to the contrary, that the transaction is described in this paragraph (e)(3)(vii)(B).

(f) *Assets generating foreign source income*—(1) *In general.* This paragraph (f) provides the rules for determining the source of any income, gain, or loss recognized, and the appropriate section 904(d) separate limitation category or categories for any foreign source income, gain, or loss recognized on a disposition (within the meaning of paragraph (e)(1) of this section) of an asset in a general asset account that consists of assets generating both United States and foreign source income. These rules apply only to a disposition to which paragraph (e)(2) (general disposition rules), paragraph (e)(3)(ii) (disposition of all assets remaining in a general asset account), paragraph (e)(3)(iii) (disposition of an asset in a qualifying disposition), paragraph (e)(3)(v) (transactions subject to section 1031 or section 1033), or paragraph (e)(3)(vii) (anti-abuse rule) of this section applies. Solely for purposes of applying this paragraph (f), the term *asset* is:

(i) The asset as determined under paragraph (e)(2)(viii) of this section; or

(ii) The portion of such asset that is disposed of in a disposition described in paragraph (e)(1)(ii) of this section.

(2) *Source of ordinary income, gain, or loss*—(i) *Source determined by allocation and apportionment of depreciation allowed.* The amount of any ordinary income, gain, or loss that is recognized on the disposition of an asset in a general asset account must be apportioned between United States and foreign sources based on the allocation and apportionment of the—

(A) Depreciation allowed for the general asset account as of the end of the taxable year in which the disposition occurs if paragraph (e)(2) of this section applies to the disposition;

(B) Depreciation allowed for the general asset account as of the time of disposition if the taxpayer applies paragraph (e)(3)(ii) of this section to the disposition of all assets, the last asset, or the remaining portion of the last asset, in the general asset account, or if all the assets, the last asset, or the remaining portion of the last asset, in the general asset account are disposed of in a transaction described in paragraph (e)(3)(v)(A) of this section; or

(C) Depreciation allowed for the asset disposed of for only the taxable year in which the disposition occurs if the taxpayer applies paragraph (e)(3)(iii) of this section to the disposition of the asset in a qualifying disposition, if the asset is disposed of in a transaction described in paragraph (e)(3)(v)(B) of this section (like-kind exchange or involuntary conversion), or if the asset is disposed of in a transaction described in paragraph (e)(3)(vii) of this section (anti-abuse rule).

(ii) *Formula for determining foreign source income, gain, or loss.* The amount of ordinary income, gain, or loss recognized on the disposition that shall be treated as foreign source income, gain, or loss must be determined under the formula in this paragraph (f)(2)(ii). For purposes of this formula, the allowed depreciation deductions are determined for the applicable time period provided in paragraph (f)(2)(i) of this section. The formula is:

| | | | | |
|---|---|---|---|---|
| Foreign Source Income, Gain, or Loss from The Disposition of an Asset. | = | Total Ordinary Income, Gain, or Loss from the Disposition of an Asset. | X | Allowed Depreciation Deductions Allocated and Apportioned to Foreign Source Income/Total Allowed Depreciation Deductions for the General Asset Account or for the Asset Disposed of (as applicable). |

(3) *Section 904(d) separate categories.* If the assets in the general asset account generate foreign source income in more than one separate category under section 904(d)(1) or another section of the Code (for example, income treated as foreign source income under section 904(g)(10)), or under a United States income tax treaty that requires the foreign tax credit limitation to be determined separately for specified types of income, the amount of foreign source income, gain, or loss from the disposition of an asset, as determined under the formula in paragraph (f)(2)(ii) of this section, must be allocated and apportioned to the applicable separate category or categories under the formula in this paragraph (f)(3). For purposes of this formula, the allowed depreciation deductions are determined for the applicable time period provided in paragraph (f)(2)(i) of this section. The formula is:

| | | | | |
|---|---|---|---|---|
| Foreign Source Income, Gain, or Loss in a Separate Category. | = | Foreign Source Income, Gain, or Loss from The Disposition of an Asset. | X | Allowed Depreciation Deductions Allocated and Apportioned to a Separate Category Total/Allowed Depreciation Deductions and Apportioned to Foreign Source Income. |

(g) *Assets subject to recapture.* If the basis of an asset in a general asset account is increased as a result of the recapture of any allowable credit or deduction (for example, the basis adjustment for the recapture amount under section 30(e)(5), 50(c)(2), 168(l)(6), 168(n)(4), 179(d)(10), 179A(e)(4), or 1400N(d)(5)), general asset account treatment for the asset terminates as of the first day of the taxable year in which the recapture event occurs. Consequently, the taxpayer must remove the asset from the general asset account as of that day and must make the adjustments to the general asset account described in paragraphs (e)(3)(iii)(C)(*2*) through (*4*) of this section.

(h) *Changes in use*—(1) *Conversion to any personal use.* An asset in a general asset account becomes ineligible for general asset account treatment if a taxpayer uses the asset in any personal activity during a taxable year. Upon a conversion to any personal use, the taxpayer must remove the asset from the general asset account as of the first day of the taxable year in which the change in use occurs (the year of change) and must make the adjustments to the general asset account described in paragraphs (e)(3)(iii)(C)(*2*) through (*4*) of this section.

(2) *Change in use results in a different recovery period and/or depreciation method*—(i) *No effect on general asset account election.* A change in the use described in § 1.168(i)–4(d) (change in use results in a different recovery period or depreciation method) of an asset in a general asset account shall not cause or permit the revocation of the election made under this section.

(ii) *Asset is removed from the general asset account.* Upon a change in the use described in § 1.168(i)–4(d), the taxpayer must remove the asset from the general asset account as of the first day of the year of change (as defined in § 1.168(i)–4(a)) and must make the adjustments to the general asset account described in paragraphs (e)(3)(iii)(C)(*2*) through (*4*) of this section. If, however, the result of the change in use is described in § 1.168(i)–4(d)(3) (change in use results in a shorter recovery period or a more accelerated depreciation method) and the taxpayer elects to treat the asset as though the change in use had not occurred pursuant to § 1.168(i)–4(d)(3)(ii), no adjustment is made to the general asset account upon the change in use.

(iii) *New general asset account is established*—(A) *Change in use results in a shorter recovery period or a more accelerated depreciation method.* If the result of the change in use is described in § 1.168(i)–4(d)(3) (change in use results in a shorter recovery period or a more accelerated depreciation method) and adjustments to the general asset account are made pursuant to paragraph (h)(2)(ii) of this section, the taxpayer must establish a new general asset account for the asset in the year of change in accordance with the rules in paragraph (c) of this section, except that the adjusted depreciable basis of the asset as of the first day of the year of change is included in the general asset account. For purposes of paragraph (c)(2) of this section, the applicable depreciation method, recovery period, and convention are determined under § 1.168(i)–4(d)(3)(i).

(B) *Change in use results in a longer recovery period or a slower depreciation method.* If the result of the change in use is described in § 1.168(i)–4(d)(4) (change in use results in a longer recovery period or a slower depreciation method), the taxpayer must establish a separate general asset account for the asset in the year of change in accordance with the rules in paragraph (c) of this section, except that the unadjusted depreciable basis of the asset, and the greater of the depreciation of the asset allowed or allowable in accordance with section 1016(a)(2), as of the first day of the year of change are included in the newly established general asset account. Consequently, this general asset account as of the first day of the year of change will have a beginning balance for both the unadjusted depreciable basis and the depreciation reserve of the general asset account. For purposes of paragraph (c)(2) of this section, the applicable depreciation method, recovery period, and convention are determined under § 1.168(i)–4(d)(4)(ii).

(i) *Redetermination of basis.* If, after the placed-in-service year, the unadjusted depreciable basis of an asset in a general asset account is redetermined due to a transaction other than that described in paragraph (g) of this section (for example, due to contingent purchase price or discharge of indebtedness), the taxpayer's election under paragraph (l) of this section for the asset also applies to the increase or decrease in basis resulting from the redetermination. For the taxable year in which the increase or decrease in basis occurs, the taxpayer must establish a new general asset account for the amount of the increase or decrease in basis in accordance with the rules in paragraph (c) of this section. For purposes of paragraph (c)(2) of this section, the applicable recovery period for the increase or decrease in basis is the recovery period of the asset remaining as of the beginning of the taxable year in which the increase or decrease in basis occurs, the applicable depreciation method and applicable convention for the increase or decrease in basis are the same depreciation method and convention applicable to the asset that applies for the taxable year in which the increase or decrease in basis occurs, and the increase or decrease in basis is deemed to be placed in service in the same taxable year as the asset.

(j) *Identification of disposed or converted asset*—(1) *In general.* The rules of this paragraph (j) apply when an asset in a general asset account is disposed of or converted in a transaction described in paragraph (e)(3)(iii) (disposition of an asset in a qualifying disposition), paragraph (e)(3)(iv)(B) (transactions subject to

section 168(i)(7)), paragraph (e)(3)(v)(B) (transactions subject to section 1031 or section 1033), paragraph (e)(3)(vii) (anti-abuse rule), paragraph (g) (assets subject to recapture), or paragraph (h)(1) (conversion to any personal use) of this section.

(2) *Identifying which asset is disposed of or converted*—(i) *In general.* For purposes of identifying which asset in a general asset account is disposed of or converted, a taxpayer must identify the disposed of or converted asset by using—

(A) The specific identification method of accounting. Under this method of accounting, the taxpayer can determine the particular taxable year in which the disposed of or converted asset was placed in service by the taxpayer;

(B) A first-in, first-out method of accounting if the taxpayer can readily determine from its records the total dispositions of assets with the same recovery period during the taxable year but the taxpayer cannot readily determine from its records the unadjusted depreciable basis of the disposed of or converted asset. Under this method of accounting, the taxpayer identifies the general asset account with the earliest placed-in-service year that has the same recovery period as the disposed of or converted asset and that has assets at the beginning of the taxable year of the disposition or conversion, and the taxpayer treats the disposed of or converted asset as being from that general asset account. To determine which general asset account has assets at the beginning of the taxable year of the disposition or conversion, the taxpayer reduces the number of assets originally included in the account by the number of assets disposed of or converted in any prior taxable year in a transaction to which this paragraph (j) applies;

(C) A modified first-in, first-out method of accounting if the taxpayer can readily determine from its records the total dispositions of assets with the same recovery period during the taxable year and the unadjusted depreciable basis of the disposed of or converted asset. Under this method of accounting, the taxpayer identifies the general asset account with the earliest placed-in-service year that has the same recovery period as the disposed of or converted asset and that has assets at the beginning of the taxable year of the disposition or conversion with the same unadjusted depreciable basis as the disposed of or converted asset, and the taxpayer treats the disposed of or converted asset as being from that general asset account. To determine which general asset account has assets at the beginning of the taxable year of the disposition or conversion, the taxpayer reduces the number of assets originally included in the account by the number of assets disposed of or converted in any prior taxable year in a transaction to which this paragraph (j) applies;

(D) A mortality dispersion table if the asset is a mass asset accounted for in a separate general asset account in accordance with paragraph (c)(2)(ii)(H) of this section and if the taxpayer can readily determine from its records the total dispositions of assets with the same recovery period during the taxable year. The mortality dispersion table must be based upon an acceptable sampling of the taxpayer's actual disposition and conversion experience for mass assets or other acceptable statistical or engineering techniques. To use a mortality dispersion table, the taxpayer must adopt recordkeeping practices consistent with the taxpayer's prior practices and consonant with good accounting and engineering practices; or

(E) Any other method as the Secretary may designate by publication in the **Federal Register** or in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter) on or after September 19, 2013. See paragraph (j)(2)(iii) of this section regarding the last-in, first-out method of accounting.

(ii) *Disposition of a portion of an asset.* If a taxpayer disposes of a portion of an asset and paragraph (e)(1)(ii) of this section applies to that disposition, the taxpayer may identify the asset by using any applicable method provided in paragraph (j)(2)(i) of this section, after taking into account paragraph (j)(2)(iii) of this section.

(iii) *Last-in, first-out method of accounting.* For purposes of paragraph (j)(2) of this section, a last-in, first-out method of accounting may not be used. Examples of a last-in, first-out method of accounting include the taxpayer identifying the general asset account with the most recent placed-in-service year that has the same recovery period as the disposed of or converted asset and that has assets at the beginning of the taxable year of the disposition or conversion, and the taxpayer treating the disposed of or converted asset as being from that general asset account, or the taxpayer treating the disposed portion of an asset as being from the general asset account with the most recent placed-in-service year that has assets that are the same as the asset of which the disposed portion is a part.

(3) *Basis of disposed of or converted asset.* (i) Solely for purposes of this paragraph (j)(3), the term *asset* is the asset as determined under paragraph (e)(2)(viii) of this section or the portion of such asset that is disposed of in a disposition described in paragraph (e)(1)(ii) of this section. After identifying which asset in a general asset account is disposed of or converted, the taxpayer must determine the unadjusted depreciable basis of, and the depreciation allowed or allowable for, the disposed of or converted asset. If it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis of the disposed of or converted asset, the taxpayer may use any reasonable method that is consistently applied to all assets in the same general asset account for purposes of determining the unadjusted depreciable basis of the disposed of or converted asset in that general asset account. Examples of a reasonable method include, but are not limited to, the following:

(A) If the replacement asset is a restoration (as defined in § 1.263(a)–3(k)), and is not a betterment (as defined in § 1.263(a)–3(j)) or an adaptation to a new or different use (as defined in § 1.263(a)–3(l)), discounting the cost of the replacement asset to its placed-in-service year cost using the Producer Price Index for Finished Goods or its successor, the Producer Price Index for Final Demand, or any other index designated by guidance in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter) for purposes of this paragraph (j)(3);

(B) A pro rata allocation of the unadjusted depreciable basis of the general asset account based on the replacement cost of the disposed asset and the replacement cost of all of the assets in the general asset account; and

(C) A study allocating the cost of the asset to its individual components.

(ii) The depreciation allowed or allowable for the disposed of or converted asset is computed by using the depreciation method, recovery period, and convention applicable to the general asset account in which the disposed of or converted asset was included and by including the additional first year depreciation deduction claimed for the disposed of or converted asset.

(k) *Effect of adjustments on prior dispositions.* The adjustments to a general asset account under paragraph (e)(3)(iii), (e)(3)(iv), (e)(3)(v), (e)(3)(vii), (g), or (h) of this section have no effect on the recognition and character of prior dispositions subject to paragraph (e)(2) of this section.

(l) *Election*—(1) *Irrevocable election.* If a taxpayer makes an election under this paragraph (l), the taxpayer consents to, and agrees to apply, all of the

provisions of this section to the assets included in a general asset account. Except as provided in paragraph (c)(1)(ii)(A), (e)(3), (g), or (h) of this section or except as otherwise expressly provided by other guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter), an election made under this section is irrevocable and will be binding on the taxpayer for computing taxable income for the taxable year for which the election is made and for all subsequent taxable years. An election under this paragraph (l) is made separately by each person owning an asset to which this section applies (for example, by each member of a consolidated group, at the partnership level and not by the partner separately, or at the S corporation level and not by the shareholder separately).

* * * * *

(m) *Effective/applicability dates*—(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014. Except as provided in paragraphs (m)(2), (m)(3), and (m)(4) of this section, § 1.168(i)–1 as contained in 26 CFR part 1 edition revised as of April 1, 2011, applies to taxable years beginning before January 1, 2014.

(2) *Early application of this section.* A taxpayer may choose to apply the provisions of this section to taxable years beginning on or after January 1, 2012.

(3) *Early application of regulation project REG–110732–13.* A taxpayer may rely on the provisions of this section in regulation project REG–110732–13 (2013–43 IRB 404) (see § 601.601(d)(2) of this chapter) for taxable years beginning on or after January 1, 2012. However, a taxpayer may not rely on the provisions of this section in regulation project REG–110732–13 for taxable years beginning on or after January 1, 2014.

(4) *Optional application of TD 9564.* A taxpayer may choose to apply § 1.168(i)–1T as contained in TD 9564 (76 FR 81060) December 27, 2011, to taxable years beginning on or after January 1, 2012. However, a taxpayer may not apply § 1.168(i)–1T as contained in TD 9564 (76 FR 81060) December 27, 2011, to taxable years beginning on or after January 1, 2014.

(5) *Change in method of accounting.* A change to comply with this section for depreciable assets placed in service in a taxable year ending on or after December 30, 2003, is a change in method of accounting to which the provisions of section 446(e) and the regulations under section 446(e) apply. A taxpayer also may treat a change to comply with this section for depreciable assets placed in service in a taxable year ending before December 30, 2003, as a change in method of accounting to which the provisions of section 446(e) and the regulations under section 446(e) apply. This paragraph (m)(5) does not apply to a change to comply with paragraph (e)(3)(ii), (e)(3)(iii), or (l) of this section, except as otherwise expressly provided by other guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter).

**§ 1.168(i)–1T [Removed]**

■ **Par. 6.** Section 1.168(i)–1T is removed.

■ **Par. 7.** Section 1.168(i)–7 is amended by revising the last sentence in paragraph (a) and revising paragraphs (b), (c)(2)(ii)(H), and (e) to read as follows:

**§ 1.168(i)–7 Accounting for MACRS property.**

(a) * * * For rules applicable to general asset accounts, see § 1.168(i)–1.

(b) *Required use of single asset accounts.* A taxpayer must account for an asset in a single asset account if the taxpayer uses the asset both in a trade or business or for the production of income and in a personal activity, or if the taxpayer places in service and disposes of the asset during the same taxable year. Also, if general asset account treatment for an asset terminates under § 1.168(i)–1(c)(1)(ii)(A), (e)(3)(iii), (e)(3)(v), (e)(3)(vii), (g), or (h)(1), as applicable, the taxpayer must account for the asset in a single asset account beginning in the taxable year in which the general asset account treatment for the asset terminates. If a taxpayer accounts for an asset in a multiple asset account or a pool and the taxpayer disposes of the asset, the taxpayer must account for the asset in a single asset account beginning in the taxable year in which the disposition occurs. See § 1.168(i)–8(h)(2)(i). If a taxpayer disposes of a portion of an asset and § 1.168(i)–8(d)(1) applies to that disposition, the taxpayer must account for the disposed portion in a single asset account beginning in the taxable year in which the disposition occurs. See § 1.168(i)–8(h)(3)(i).

(c) * * *

(2) * * *

(ii) * * *

(H) Mass assets (as defined in § 1.168(i)–8(b)(3)) that are or will be subject to § 1.168(i)–8(g)(2)(iii) (disposed of or converted mass asset is identified by a mortality dispersion table) must be grouped into a separate multiple asset account or pool.

* * * * *

(e) *Effective/applicability dates*—(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014.

(2) *Early application of this section.* A taxpayer may choose to apply the provisions of this section to taxable years beginning on or after January 1, 2012.

(3) *Early application of regulation project REG–110732–13.* A taxpayer may rely on the provisions of this section in regulation project REG–110732–13 (2013–43 IRB 404) (see § 601.601(d)(2) of this chapter) for taxable years beginning on or after January 1, 2012. However, a taxpayer may not rely on the provisions of this section in regulation project REG–110732–13 for taxable years beginning on or after January 1, 2014.

(4) *Optional application of TD 9564.* A taxpayer may choose to apply § 1.168(i)–7T as contained in TD 9564 (76 FR 81060) December 27, 2011, to taxable years beginning on or after January 1, 2012. However, a taxpayer may not apply § 1.168(i)–7T as contained in TD 9564 (76 FR 81060) December 27, 2011, to taxable years beginning on or after January 1, 2014.

(5) *Change in method of accounting.* A change to comply with this section for depreciable assets placed in service in a taxable year ending on or after December 30, 2003, is a change in method of accounting to which the provisions of section 446(e) and the regulations under section 446(e) apply. A taxpayer also may treat a change to comply with this section for depreciable assets placed in service in a taxable year ending before December 30, 2003, as a change in method of accounting to which the provisions of section 446(e) and the regulations under section 446(e) apply.

■ **Par. 8.** Section 1.168(i)–8 is added to read as follows:

**§ 1.168(i)–8 Dispositions of MACRS property.**

(a) *Scope.* This section provides rules applicable to dispositions of MACRS property (as defined in § 1.168(b)–1(a)(2)) or to depreciable property (as defined in § 1.168(b)–1(a)(1)) that would be MACRS property but for an election made by the taxpayer either to expense all or some of the property's cost under section 179, section 179A, section 179B, section 179C, section 179D, or section 1400I(a)(1), or any similar provision, or to amortize all or some of the property's cost under section 1400I(a)(2) or any similar provision. This section also

applies to dispositions described in paragraph (d)(1) of this section of a portion of such property. Except as provided in § 1.168(i)–1(e)(3), this section does not apply to dispositions of assets included in a general asset account. For rules applicable to dispositions of assets included in a general asset account, see § 1.168(i)–1(e).

(b) *Definitions.* For purposes of this section—

(1) *Building* has the same meaning as that term is defined in § 1.48–1(e)(1).

(2) *Disposition* occurs when ownership of the asset is transferred or when the asset is permanently withdrawn from use either in the taxpayer's trade or business or in the production of income. A disposition includes the sale, exchange, retirement, physical abandonment, or destruction of an asset. A disposition also occurs when an asset is transferred to a supplies, scrap, or similar account, or when a portion of an asset is disposed of as described in paragraph (d)(1) of this section. If a structural component, or a portion thereof, of a building is disposed of in a disposition described in paragraph (d)(1) of this section, a disposition also includes the disposition of such structural component or such portion thereof.

(3) *Mass assets* is a mass or group of individual items of depreciable assets—

(i) That are not necessarily homogenous;

(ii) Each of which is minor in value relative to the total value of the mass or group;

(iii) Numerous in quantity;

(iv) Usually accounted for only on a total dollar or quantity basis;

(v) With respect to which separate identification is impracticable; and

(vi) Placed in service in the same taxable year.

(4) *Portion of an asset* is any part of an asset that is less than the entire asset as determined under paragraph (c)(4) of this section.

(5) *Structural component* has the same meaning as that term is defined in § 1.48–1(e)(2).

(6) *Unadjusted depreciable basis of the multiple asset account or pool* is the sum of the unadjusted depreciable bases (as defined in § 1.168(b)–1(a)(3)) of all assets included in the multiple asset account or pool.

(c) *Special rules*—(1) *Manner of disposition.* The manner of disposition (for example, normal retirement, abnormal retirement, ordinary retirement, or extraordinary retirement) is not taken into account in determining whether a disposition occurs or gain or loss is recognized.

(2) *Disposition by transfer to a supplies account.* If a taxpayer made an election under § 1.162–3(d) to treat the cost of any rotable spare part, temporary spare part, or standby emergency spare part (as defined in § 1.162–3(c)) as a capital expenditure subject to the allowance for depreciation, the taxpayer can dispose of the rotable, temporary, or standby emergency spare part by transferring it to a supplies account only if the taxpayer has obtained the consent of the Commissioner to revoke the § 1.162–3(d) election. If a taxpayer made an election under § 1.162–3T(d) to treat the cost of any material and supply (as defined in § 1.162–3T(c)(1)) as a capital expenditure subject to the allowance for depreciation, the taxpayer can dispose of the material and supply by transferring it to a supplies account only if the taxpayer has obtained the consent of the Commissioner to revoke the § 1.162–3T(d) election. See § 1.162–3(d)(3) for the procedures for revoking a § 1.162–3(d) or a § 1.162–3T(d) election.

(3) *Leasehold improvements.* This section also applies to—

(i) A lessor of leased property that made an improvement to that property for the lessee of the property, has a depreciable basis in the improvement, and disposes of the improvement, or disposes of a portion of the improvement under paragraph (d)(1) of this section, before or upon the termination of the lease with the lessee. See section 168(i)(8)(B); and

(ii) A lessee of leased property that made an improvement to that property, has a depreciable basis in the improvement, and disposes of the improvement, or disposes of a portion of the improvement under paragraph (d)(1) of this section, before or upon the termination of the lease.

(4) *Determination of asset disposed of*—(i) *General rules.* For purposes of applying this section, the facts and circumstances of each disposition are considered in determining what is the appropriate asset disposed of. The asset for disposition purposes may not consist of items placed in service by the taxpayer on different dates, without taking into account the applicable convention. For purposes of determining what is the appropriate asset disposed of, the unit of property determination under § 1.263(a)–3(e) or in published guidance in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter) under section 263(a) does not apply.

(ii) *Special rules.* In addition to the general rules in paragraph (c)(4)(i) of this section, the following rules apply for purposes of applying this section:

(A) Each building, including its structural components, is the asset, except as provided in § 1.1250–1(a)(2)(ii) or in paragraph (c)(4)(ii)(B) or (D) of this section.

(B) If a building has two or more condominium or cooperative units, each condominium or cooperative unit, including its structural components, is the asset, except as provided in § 1.1250–1(a)(2)(ii) or in paragraph (c)(4)(ii)(D) of this section.

(C) If a taxpayer properly includes an item in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87–56 (1987–2 CB 674) (see § 601.601(d)(2) of this chapter) or properly classifies an item in one of the categories under section 168(e)(3), except for a category that includes buildings or structural components (for example, retail motor fuels outlet, qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property), each item is the asset provided paragraph (c)(4)(ii)(D) of this section does not apply to the item. For example, each desk is the asset, each computer is the asset, and each qualified smart electric meter is the asset.

(D) If the taxpayer places in service an improvement or addition to an asset after the taxpayer placed the asset in service, the improvement or addition and, if applicable, its structural components are a separate asset.

(d) *Disposition of a portion of an asset*—(1) *In general.* For purposes of applying this section, a disposition includes a disposition of a portion of an asset as a result of a casualty event described in section 165, a disposition of a portion of an asset for which gain, determined without regard to section 1245 or section 1250, is not recognized in whole or in part under section 1031 or section 1033, a transfer of a portion of an asset in a transaction described in section 168(i)(7)(B), or a sale of a portion of an asset, even if the taxpayer does not make the election under paragraph (d)(2)(i) of this section for that disposed portion. For other transactions, a disposition includes a disposition of a portion of an asset only if the taxpayer makes the election under paragraph (d)(2)(i) of this section for that disposed portion.

(2) *Partial disposition election*—(i) *In general.* A taxpayer may make an election under this paragraph (d)(2) to apply this section to a disposition of a portion of an asset. If the asset is properly included in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87–56, a taxpayer may make an election under this paragraph (d)(2) to apply this section to a disposition of a portion of

such asset only if the taxpayer classifies the replacement portion of the asset under the same asset class as the disposed portion of the asset.

(ii) *Time and manner for making election*—(A) *Time for making election.* Except as provided in paragraph (d)(2)(iii) or (iv) of this section, a taxpayer must make the election specified in paragraph (d)(2)(i) of this section by the due date, including extensions, of the original Federal tax return for the taxable year in which the portion of an asset is disposed of by the taxpayer.

(B) *Manner of making election.* Except as provided in paragraph (d)(2)(iii) or (iv) of this section, a taxpayer must make the election specified in paragraph (d)(2)(i) of this section by applying the provisions of this section for the taxable year in which the portion of an asset is disposed of by the taxpayer, by reporting the gain, loss, or other deduction on the taxpayer's timely filed, including extensions, original Federal tax return for that taxable year, and, if the asset is properly included in one of the asset classes 00.11 through 00.4 of Rev. Proc. 87–56, by classifying the replacement portion of such asset under the same asset class as the disposed portion of the asset in the taxable year in which the replacement portion is placed in service by the taxpayer. Except as provided in paragraph (d)(2)(iii) or (iv)(B) of this section or except as otherwise expressly provided by other guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter), the election specified in paragraph (d)(2)(i) of this section may not be made through the filing of an application for change in accounting method.

(iii) *Special rule for subsequent Internal Revenue Service adjustment.* This paragraph (d)(2)(iii) applies when a taxpayer deducted the amount paid or incurred for the replacement of a portion of an asset as a repair under § 1.162–4, the taxpayer did not make the election specified in paragraph (d)(2)(i) of this section for the disposed portion of that asset within the time and in the manner under paragraph (d)(2)(ii) or (iv) of this section, and as a result of an examination of the taxpayer's Federal tax return, the Internal Revenue Service disallows the taxpayer's repair deduction for the amount paid or incurred for the replacement of the portion of that asset and instead capitalizes such amount under § 1.263(a)–2 or § 1.263(a)–3. If this paragraph (d)(2)(iii) applies, the taxpayer may make the election specified in paragraph (d)(2)(i) of this section for the disposition of the portion of the asset to which the Internal Revenue Service's adjustment pertains by filing an application for change in accounting method, provided the asset of which the disposed portion was a part is owned by the taxpayer at the beginning of the year of change (as defined for purposes of section 446(e)).

(iv) *Special rules for 2012 or 2013 returns.* If, under paragraph (j)(2) of this section, a taxpayer chooses to apply the provisions of this section to a taxable year beginning on or after January 1, 2012, and ending on or before September 19, 2013 (applicable taxable year), and the taxpayer did not make the election specified in paragraph (d)(2)(i) of this section on its timely filed original Federal tax return for the applicable taxable year, including extensions, the taxpayer must make the election specified in paragraph (d)(2)(i) of this section for the applicable taxable year by filing either—

(A) An amended Federal tax return for the applicable taxable year on or before 180 days from the due date including extensions of the taxpayer's Federal tax return for the applicable taxable year, notwithstanding that the taxpayer may not have extended the due date; or

(B) An application for change in accounting method with the taxpayer's timely filed original Federal tax return for the first or second taxable year succeeding the applicable taxable year.

(v) *Revocation.* A taxpayer may revoke the election specified in paragraph (d)(2)(i) of this section only by filing a request for a private letter ruling and obtaining the Commissioner's consent to revoke the election. The Commissioner may grant a request to revoke this election if the taxpayer acted reasonably and in good faith, and the revocation will not prejudice the interests of the Government. See generally § 301.9100–3 of this chapter. The election specified in paragraph (d)(2)(i) of this section may not be revoked through the filing of an application for change in accounting method.

(e) *Gain or loss on dispositions.* Solely for purposes of this paragraph (e), the term *asset* is an asset within the scope of this section or the portion of such asset that is disposed of in a disposition described in paragraph (d)(1) of this section. Except as provided by section 280B and § 1.280B–1, the following rules apply when an asset is disposed of during a taxable year:

(1) If an asset is disposed of by sale, exchange, or involuntary conversion, gain or loss must be recognized under the applicable provisions of the Internal Revenue Code.

(2) If an asset is disposed of by physical abandonment, loss must be recognized in the amount of the adjusted depreciable basis (as defined in § 1.168(b)–1(a)(4)) of the asset at the time of the abandonment, taking into account the applicable convention. However, if the abandoned asset is subject to nonrecourse indebtedness, paragraph (e)(1) of this section applies to the asset instead of this paragraph (e)(2). For a loss from physical abandonment to qualify for recognition under this paragraph (e)(2), the taxpayer must intend to discard the asset irrevocably so that the taxpayer will neither use the asset again nor retrieve it for sale, exchange, or other disposition.

(3) If an asset is disposed of other than by sale, exchange, involuntary conversion, physical abandonment, or conversion to personal use (as, for example, when the asset is transferred to a supplies or scrap account), gain is not recognized. Loss must be recognized in the amount of the excess of the adjusted depreciable basis of the asset at the time of the disposition, taking into account the applicable convention, over the asset's fair market value at the time of the disposition, taking into account the applicable convention.

(f) *Basis of asset disposed of*—(1) *In general.* The adjusted basis of an asset disposed of for computing gain or loss is its adjusted depreciable basis at the time of the asset's disposition, as determined under the applicable convention for the asset.

(2) *Assets disposed of are in multiple asset accounts.* (i) If the taxpayer accounts for the asset disposed of in a multiple asset account or pool and it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis (as defined in § 1.168(b)–1(a)(3)) of the asset disposed of, the taxpayer may use any reasonable method that is consistently applied to all assets in the same multiple asset account or pool for purposes of determining the unadjusted depreciable basis of assets disposed of. Examples of a reasonable method include, but are not limited to, the following:

(A) If the replacement asset is a restoration (as defined in § 1.263(a)–3(k)), and is not a betterment (as defined in § 1.263(a)–3(j)) or an adaptation to a new or different use (as defined in § 1.263(a)–3(l)), discounting the cost of the replacement asset to its placed-in-service year cost using the Producer Price Index for Finished Goods or its successor, the Producer Price Index for Final Demand, or any other index designated by guidance in the Internal Revenue Bulletin (see § 601.601(d)(2) of

this chapter) for purposes of this paragraph (f)(2);

(B) A pro rata allocation of the unadjusted depreciable basis of the multiple asset account or pool based on the replacement cost of the disposed asset and the replacement cost of all of the assets in the multiple asset account or pool; and

(C) A study allocating the cost of the asset to its individual components.

(ii) To determine the adjusted depreciable basis of an asset disposed of in a multiple asset account or pool, the depreciation allowed or allowable for the asset disposed of is computed by using the depreciation method, recovery period, and convention applicable to the multiple asset account or pool in which the asset disposed of was included and by including the additional first year depreciation deduction claimed for the asset disposed of.

(3) *Disposition of a portion of an asset.* (i) This paragraph (f)(3) applies only when a taxpayer disposes of a portion of an asset and paragraph (d)(1) of this section applies to that disposition. For computing gain or loss, the adjusted basis of the disposed portion of the asset is the adjusted depreciable basis of that disposed portion at the time of its disposition, as determined under the applicable convention for the asset. If it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis (as defined in § 1.168(b)–1(a)(3)) of the disposed portion of the asset, the taxpayer may use any reasonable method for purposes of determining the unadjusted depreciable basis (as defined in § 1.168(b)–1(a)(3)) of the disposed portion of the asset. If a taxpayer disposes of more than one portion of the same asset and it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis (as defined in § 1.168(b)–1(a)(3)) of the first disposed portion of the asset, the reasonable method used by the taxpayer must be consistently applied to all portions of the same asset for purposes of determining the unadjusted depreciable basis of each disposed portion of the asset. If the asset, a portion of which is disposed of, is in a multiple asset account or pool and it is impracticable from the taxpayer's records to determine the unadjusted depreciable basis (as defined in § 1.168(b)–1(a)(3)) of the disposed portion of the asset, the reasonable method used by the taxpayer must be consistently applied to all assets in the same multiple asset account or pool for purposes of determining the unadjusted depreciable basis of assets disposed of or any disposed portion of the assets. Examples of a reasonable method include, but are not limited to, the following:

(A) If the replacement portion is a restoration (as defined in § 1.263(a)–3(k)), and is not a betterment (as defined in § 1.263(a)–3(j)) or an adaptation to a new or different use (as defined in § 1.263(a)–3(l)), discounting the cost of the replacement portion of the asset to its placed-in-service year cost using the Producer Price Index for Finished Goods or its successor, the Producer Price Index for Final Demand, or any other index designated by guidance in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter) for purposes of this paragraph (f)(3);

(B) A pro rata allocation of the unadjusted depreciable basis of the asset based on the replacement cost of the disposed portion of the asset and the replacement cost of the asset; and

(C) A study allocating the cost of the asset to its individual components.

(ii) To determine the adjusted depreciable basis of the disposed portion of the asset, the depreciation allowed or allowable for the disposed portion is computed by using the depreciation method, recovery period, and convention applicable to the asset in which the disposed portion was included and by including the portion of the additional first year depreciation deduction claimed for the asset that is attributable to the disposed portion.

(g) *Identification of asset disposed of*—(1) *In general.* Except as provided in paragraph (g)(2) or (3) of this section, a taxpayer must use the specific identification method of accounting to identify which asset is disposed of by the taxpayer. Under this method of accounting, the taxpayer can determine the particular taxable year in which the asset disposed of was placed in service by the taxpayer.

(2) *Asset disposed of is in a multiple asset account.* If a taxpayer accounts for the asset disposed of in a multiple asset account or pool and the total dispositions of assets with the same recovery period during the taxable year are readily determined from the taxpayer's records, but it is impracticable from the taxpayer's records to determine the particular taxable year in which the asset disposed of was placed in service by the taxpayer, the taxpayer must identify the asset disposed of by using—

(i) A first-in, first-out method of accounting if the unadjusted depreciable basis of the asset disposed of cannot be readily determined from the taxpayer's records. Under this method of accounting, the taxpayer identifies the multiple asset account or pool with the earliest placed-in-service year that has the same recovery period as the asset disposed of and that has assets at the beginning of the taxable year of the disposition, and the taxpayer treats the asset disposed of as being from that multiple asset account or pool;

(ii) A modified first-in, first-out method of accounting if the unadjusted depreciable basis of the asset disposed of can be readily determined from the taxpayer's records. Under this method of accounting, the taxpayer identifies the multiple asset account or pool with the earliest placed-in-service year that has the same recovery period as the asset disposed of and that has assets at the beginning of the taxable year of the disposition with the same unadjusted depreciable basis as the asset disposed of, and the taxpayer treats the asset disposed of as being from that multiple asset account or pool;

(iii) A mortality dispersion table if the asset disposed of is a mass asset. The mortality dispersion table must be based upon an acceptable sampling of the taxpayer's actual disposition experience for mass assets or other acceptable statistical or engineering techniques. To use a mortality dispersion table, the taxpayer must adopt recordkeeping practices consistent with the taxpayer's prior practices and consonant with good accounting and engineering practices; or

(iv) Any other method as the Secretary may designate by publication in the **Federal Register** or in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter) on or after September 19, 2013. See paragraph (g)(4) of this section regarding the last-in, first-out method of accounting.

(3) *Disposition of a portion of an asset.* If a taxpayer disposes of a portion of an asset and paragraph (d)(1) of this section applies to that disposition, but it is impracticable from the taxpayer's records to determine the particular taxable year in which the asset was placed in service, the taxpayer must identify the asset by using any applicable method provided in paragraph (g)(2) of this section, after taking into account paragraph (g)(4) of this section.

(4) *Last-in, first-out method of accounting.* For purposes of this paragraph (g), a last-in, first-out method of accounting may not be used. Examples of a last-in, first-out method of accounting include the taxpayer identifying the multiple asset account or pool with the most recent placed-in-service year that has the same recovery period as the asset disposed of and that has assets at the beginning of the taxable year of the disposition, and the taxpayer

treating the asset disposed of as being from that multiple asset account or pool, or the taxpayer treating the disposed portion of an asset as being from an asset with the most recent placed-in-service year that is the same as the asset of which the disposed portion is a part.

(h) *Accounting for asset disposed of*—(1) *Depreciation ends.* Depreciation ends for an asset at the time of the asset's disposition, as determined under the applicable convention for the asset. See § 1.167(a)–10(b). If the asset disposed of is in a single asset account initially or as a result of § 1.168(i)–8(h)(2)(i), § 1.168(i)–8(h)(3)(i), or general asset account treatment for the asset terminated under § 1.168(i)–1(c)(1)(ii)(A), (e)(3)(iii), (e)(3)(v), (e)(3)(vii), (g), or (h)(1), as applicable, the single asset account terminates at the time of the asset's disposition, as determined under the applicable convention for the asset. If a taxpayer disposes of a portion of an asset and paragraph (d)(1) of this section applies to that disposition, depreciation ends for that disposed portion of the asset at the time of the disposition of the disposed portion, as determined under the applicable convention for the asset.

(2) *Asset disposed of in a multiple asset account or pool.* If the taxpayer accounts for the asset disposed of in a multiple asset account or pool, then—

(i) As of the first day of the taxable year in which the disposition occurs, the asset disposed of is removed from the multiple asset account or pool and is placed into a single asset account. See § 1.168(i)–7(b);

(ii) The unadjusted depreciable basis of the multiple asset account or pool must be reduced by the unadjusted depreciable basis of the asset disposed of as of the first day of the taxable year in which the disposition occurs. See paragraph (f)(2)(i) of this section for determining the unadjusted depreciable basis of the asset disposed of;

(iii) The depreciation reserve of the multiple asset account or pool must be reduced by the depreciation allowed or allowable for the asset disposed of as of the end of the taxable year immediately preceding the year of disposition, computed by using the depreciation method, recovery period, and convention applicable to the multiple asset account or pool in which the asset disposed of was included and by including the additional first year depreciation deduction claimed for the asset disposed of; and

(iv) In determining the adjusted depreciable basis of the asset disposed of at the time of disposition, taking into account the applicable convention, the depreciation allowed or allowable for the asset disposed of is computed by using the depreciation method, recovery period, and convention applicable to the multiple asset account or pool in which the asset disposed of was included and by including the additional first year depreciation deduction claimed for the asset disposed of.

(3) *Disposition of a portion of an asset.* This paragraph (h)(3) applies only when a taxpayer disposes of a portion of an asset and paragraph (d)(1) of this section applies to that disposition. In this case—

(i) As of the first day of the taxable year in which the disposition occurs, the disposed portion is placed into a single asset account. See § 1.168(i)–7(b);

(ii) The unadjusted depreciable basis of the asset must be reduced by the unadjusted depreciable basis of the disposed portion as of the first day of the taxable year in which the disposition occurs. See paragraph (f)(3)(i) of this section for determining the unadjusted depreciable basis of the disposed portion;

(iii) The depreciation reserve of the asset must be reduced by the depreciation allowed or allowable for the disposed portion as of the end of the taxable year immediately preceding the year of disposition, computed by using the depreciation method, recovery period, and convention applicable to the asset in which the disposed portion was included and by including the portion of the additional first year depreciation deduction claimed for the asset that is attributable to the disposed portion; and

(iv) In determining the adjusted depreciable basis of the disposed portion at the time of disposition, taking into account the applicable convention, the depreciation allowed or allowable for the disposed portion is computed by using the depreciation method, recovery period, and convention applicable to the asset in which the disposed portion was included and by including the portion of the additional first year depreciation deduction claimed for the asset that is attributable to the disposed portion.

(i) *Examples.* The application of this section is illustrated by the following examples:

*Example 1.* A owns an office building with four elevators. A replaces one of the elevators. The elevator is a structural component of the office building. In accordance with paragraph (c)(4)(ii)(A) of this section, the office building, including its structural components, is the asset for disposition purposes. A does not make the partial disposition election provided under paragraph (d)(2) of this section for the elevator. Thus, the retirement of the replaced elevator is not a disposition. As a result, depreciation continues for the cost of the building, including the cost of the retired elevator and the building's other structural components, and A does not recognize a loss for this retired elevator. If A must capitalize the amount paid for the replacement elevator pursuant to § 1.263(a)–3, the replacement elevator is a separate asset for disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 2.* The facts are the same as in *Example 1,* except A accounts for each structural component of the office building as a separate asset in its fixed asset system. Although A treats each structural component as a separate asset in its records, the office building, including its structural components, is the asset for disposition purposes in accordance with paragraph (c)(4)(ii)(A) of this section. Accordingly, the result is the same as in *Example 1.*

*Example 3.* The facts are the same as in *Example 1,* except A makes the partial disposition election provided under paragraph (d)(2) of this section for the elevator. Although the office building, including its structural components, is the asset for disposition purposes, the result of A making the partial disposition election for the elevator is that the retirement of the replaced elevator is a disposition. Thus, depreciation for the retired elevator ceases at the time of its retirement, taking into account the applicable convention, and A recognizes a loss upon this retirement. Further, A must capitalize the amount paid for the replacement elevator pursuant to § 1.263(a)–3(k)(1)(i), and the replacement elevator is a separate asset for disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 4.* B, a calendar-year commercial airline company, owns several aircraft that are used in the commercial carrying of passengers and described in asset class 45.0 of Rev. Proc. 87–56. B replaces the existing engines on one of the aircraft with new engines. Assume each aircraft is a unit of property as determined under § 1.263(a)–3(e)(3) and each engine of an aircraft is a major component or substantial structural part of the aircraft as determined under § 1.263(a)–3(k)(6). Assume also that B treats each aircraft as the asset for disposition purposes in accordance with paragraph (c)(4) of this section. B makes the partial disposition election provided under paragraph (d)(2) of this section for the engines in the aircraft. Although the aircraft is the asset for disposition purposes, the result of B making the partial disposition election for the engines is that the retirement of the replaced engines is a disposition. Thus, depreciation for the retired engines ceases at the time of their retirement, taking into account the applicable convention, and B recognizes a loss upon this retirement. Further, B must capitalize the amount paid for the replacement engines pursuant to § 1.263(a)–3(k)(1)(i), and the replacement engines are a separate asset for disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 5.* The facts are the same as in *Example 4,* except B does not make the

partial disposition election provided under paragraph (d)(2) of this section for the engines. Thus, the retirement of the replaced engines on one of the aircraft is not a disposition. As a result, depreciation continues for the cost of the aircraft, including the cost of the retired engines, and B does not recognize a loss for these retired engines. If B must capitalize the amount paid for the replacement engines pursuant to § 1.263(a)–3, the replacement engines are a separate asset for disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 6.* C, a corporation, owns several trucks that are used in its trade or business and described in asset class 00.241 of Rev. Proc. 87–56. C replaces the engine on one of the trucks with a new engine. Assume each truck is a unit of property as determined under § 1.263(a)–3(e)(3) and each engine is a major component or substantial structural part of the truck as determined under § 1.263(a)–3(k)(6). Because the trucks are described in asset class 00.241 of Rev. Proc. 87–56, C must treat each truck as the asset for disposition purposes. C does not make the partial disposition election provided under paragraph (d)(2) of this section for the engine. Thus, the retirement of the replaced engine on the truck is not a disposition. As a result, depreciation continues for the cost of the truck, including the cost of the retired engine, and C does not recognize a loss for this retired engine. If C must capitalize the amount paid for the replacement engine pursuant to § 1.263(a)–3, the replacement engine is a separate asset for disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 7.* D owns a retail building. D replaces 60% of the roof of this building. In accordance with paragraph (c)(4)(ii)(A) of this section, the retail building, including its structural components, is the asset for disposition purposes. Assume D must capitalize the costs incurred for replacing 60% of the roof pursuant to § 1.263(a)–3(k)(1)(vi). D makes the partial disposition election provided under paragraph (d)(2) of this section for the 60% of the replaced roof. Thus, the retirement of 60% of the roof is a disposition. As a result, depreciation for 60% of the roof ceases at the time of its retirement, taking into account the applicable convention, and D recognizes a loss upon this retirement. Further, D must capitalize the amount paid for the 60% of the roof pursuant to § 1.263(a)–3(k)(1)(i) and (vi) and the replacement 60% of the roof is a separate asset for disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 8.* (i) The facts are the same as in *Example 7.* Ten years after replacing 60% of the roof, D replaces 55% of the roof of the building. In accordance with paragraph (c)(4)(ii)(A) and (D) of this section, for disposition purposes, the retail building, including its structural components, except the replacement 60% of the roof, is an asset and the replacement 60% of the roof is a separate asset. Assume D must capitalize the costs incurred for replacing 55% of the roof pursuant to § 1.263(a)–3(k)(1)(vi). D makes the partial disposition election provided under paragraph (d)(2) of this section for the 55% of the replaced roof. Thus, the retirement of 55% of the roof is a disposition.

(ii) However, D cannot determine from its records whether the replaced 55% is part of the 60% of the roof replaced ten years ago or whether the replaced 55% includes part or all of the remaining 40% of the original roof. Pursuant to paragraph (g)(3) of this section, D identifies which asset it disposed of by using the first-in, first-out method of accounting. As a result, D disposed of the remaining 40% of the original roof and 25% of the 60% of the roof replaced ten years ago.

(iii) Thus, depreciation for the remaining 40% of the original roof ceases at the time of its retirement, taking into account the applicable convention, and D recognizes a loss upon this retirement. Further, depreciation for 25% of the 60% of the roof replaced ten years ago ceases at the time of its retirement, taking into account the applicable convention, and D recognizes a loss upon this retirement. Also, D must capitalize the amount paid for the 55% of the roof pursuant to § 1.263(a)–3(k)(1)(i) and (vi), and the replacement 55% of the roof is a separate asset for disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 9.* (i) On July 1, 2011, E, a calendar-year taxpayer, purchased and placed in service an existing multi-story office building that costs $20,000,000. The cost of each structural component of the building was not separately stated. E accounts for the building and its structural components in its tax and financial accounting records as a single asset with a cost of $20,000,000. E depreciates the building as nonresidential real property and uses the optional depreciation table that corresponds with the general depreciation system, the straight-line method, a 39-year recovery period, and the mid-month convention. As of January 1, 2014, the depreciation reserve for the building is $1,261,000.

(ii) On June 30, 2014, E replaces one of the two elevators in the office building. E did not dispose of any other structural components of this building in 2014 and prior years. E makes the partial disposition election provided under paragraph (d)(2) of this section for this elevator. Although the office building, including its structural components, is the asset for disposition purposes, the result of E making the partial disposition election for the elevator is that the retirement of the replaced elevator is a disposition. Assume the replacement elevator is a restoration under § 1.263(a)–3(k), and not a betterment under § 1.263(a)–3(j) or an adaptation to a new or different use under § 1.263(a)–3(l). Because E cannot identify the cost of the elevator from its records and the replacement elevator is a restoration under § 1.263(a)–3(k), E determines the cost of the disposed elevator by discounting the cost of the replacement elevator to its placed-in-service year cost using the Producer Price Index for Final Demand. Using this reasonable method, E determines the cost of the retired elevator by discounting the cost of the replacement elevator to its cost in 2011 (the placed-in-service year) using the Producer Price Index for Final Demand, resulting in $150,000 of the $20,000,000 purchase price for the building to be the cost of the retired elevator. Using the optional depreciation table that corresponds with the general depreciation system, the straight-line method, a 39-year recovery period, and the mid-month convention, the depreciation allowed or allowable for the retired elevator as of December 31, 2013, is $9,458.

(iii) For E's 2014 Federal tax return, the loss for the retired elevator is determined as follows. The depreciation allowed or allowable for 2014 for the retired elevator is $1,763 ((unadjusted depreciable basis of $150,000 × depreciation rate of 2.564% for 2014) × 5.5/12 months). Thus, the adjusted depreciable basis of the retired elevator is $138,779 (the adjusted depreciable basis of $140,542 removed from the building cost less the depreciation allowed or allowable of $1,763 for 2014). As a result, E recognizes a loss of $138,779 for the retired elevator in 2014.

(iv) For E's 2014 Federal tax return, the depreciation allowance for the building is computed as follows. As of January 1, 2014, the unadjusted depreciable basis of the building is reduced from $20,000,000 to $19,850,000 ($20,000,000 less the unadjusted depreciable basis of $150,000 for the retired elevator), and the depreciation reserve of the building is reduced from $1,261,000 to $1,251,542 ($1,261,000 less the depreciation allowed or allowable of $9,458 for the retired elevator as of December 31, 2013). Consequently, the depreciation allowance for the building for 2014 is $508,954 ($19,850,000 × depreciation rate of 2.564% for 2014).

(v) E also must capitalize the amount paid for the replacement elevator pursuant to § 1.263(a)–3(k)(1). The replacement elevator is a separate asset for disposition purposes pursuant to paragraph (c)(4)(ii)(D) of this section and for depreciation purposes pursuant to section 168(i)(6).

*Example 10.* (i) Since 2005, F, a calendar year taxpayer, has accounted for items of MACRS property that are mass assets in pools. Each pool includes only the mass assets that have the same depreciation method, recovery period, and convention, and are placed in service by F in the same taxable year. None of the pools are general asset accounts under section 168(i)(4) and the regulations under section 168(i)(4). F identifies any dispositions of these mass assets by specific identification.

(ii) During 2014, F sells 10 items of mass assets with a 5-year recovery period each for $100. Under the specific identification method, F identifies these mass assets as being from the pool established by F in 2012 for mass assets with a 5-year recovery period. Assume F depreciates this pool using the optional depreciation table that corresponds with the general depreciation system, the 200-percent declining balance method, a 5-year recovery period, and the half-year convention. F elected not to deduct the additional first year depreciation provided by

section 168(k) for 5-year property placed in service during 2012. As of January 1, 2014, this pool contains 100 similar items of mass assets with a total cost of $25,000 and a total depreciation reserve of $13,000. Because all the items of mass assets in the pool are similar, F allocates the cost and depreciation allowed or allowable for the pool ratably among each item in the pool. This allocation is a reasonable method because all the items of mass assets in the pool are similar. Using this reasonable method, F allocates a cost of $250 ($25,000 × (1/100)) to each disposed of mass asset and depreciation allowed or allowable of $130 ($13,000 × (1/100)) to each disposed of mass asset. The depreciation allowed or allowable in 2014 for each disposed of mass asset is $24 (($250 × 19.2%)/2). As a result, the adjusted depreciable basis of each disposed of mass asset under section 1011 is $96 ($250 − $130 − $24). Thus, F recognizes a gain of $4 for each disposed of mass asset in 2014, which is subject to section 1245.

(iii) Further, as of January 1, 2014, the unadjusted depreciable basis of the 2012 pool of mass assets with a 5-year recovery period is reduced from $25,000 to $22,500 ($25,000 less the unadjusted depreciable basis of $2,500 for the 10 disposed of items), and the depreciation reserve of this 2012 pool is reduced from $13,000 to $11,700 ($13,000 less the depreciation allowed or allowable of $1,300 for the 10 disposed of items as of December 31, 2013). Consequently, as of January 1, 2014, the 2012 pool of mass assets with a 5-year recovery period has 90 items with a total cost of $22,500 and a depreciation reserve of $11,700. Thus, the depreciation allowance for this pool for 2014 is $4,320 ($22,500 × 19.2%).

*Example 11.* (i) The facts are the same as in *Example 10.* Because of changes in F's recordkeeping in 2015, it is impracticable for F to continue to identify disposed of mass assets using specific identification and to determine the unadjusted depreciable basis of the disposed of mass assets. As a result, F files a Form 3115, Application for Change in Accounting Method, to change to a first-in, first-out method beginning with the taxable year beginning on January 1, 2015, on a modified cut-off basis. See § 1.446–1(e)(2)(ii)(*d*)(*2*)(*vii*). Under the first-in, first-out method, the mass assets disposed of in a taxable year are deemed to be from the pool with the earliest placed-in-service year that has assets as of the beginning of the taxable year of the disposition with the same recovery period as the asset disposed of. The Commissioner of Internal Revenue consents to this change in method of accounting.

(ii) During 2015, F sells 20 items of mass assets with a 5-year recovery period each for $50. As of January 1, 2015, the 2008 pool is the pool with the earliest placed-in-service year for mass assets with a 5-year recovery period, and this pool contains 25 items of mass assets with a total cost of $10,000 and a total depreciation reserve of $10,000. Thus, F allocates a cost of $400 ($10,000 × (1/25)) to each disposed of mass asset and depreciation allowed or allowable of $400 to each disposed of mass asset. As a result, the adjusted depreciable basis of each disposed of mass asset is $0. Thus, F recognizes a gain of $50 for each disposed of mass asset in 2015, which is subject to section 1245.

(iii) Further, as of January 1, 2015, the unadjusted depreciable basis of the 2008 pool of mass assets with a 5-year recovery period is reduced from $10,000 to $2,000 ($10,000 less the unadjusted depreciable basis of $8,000 for the 20 disposed of items ($400 × 20)), and the depreciation reserve of this 2008 pool is reduced from $10,000 to $2,000 ($10,000 less the depreciation allowed or allowable of $8,000 for the 20 disposed of items as of December 31, 2014). Consequently, as of January 1, 2015, the 2008 pool of mass assets with a 5-year recovery period has 5 items with a total cost of $2,000 and a depreciation reserve of $2,000.

(j) *Effective/applicability dates*—(1) *In general.* This section applies to taxable years beginning on or after January 1, 2014.

(2) *Early application of this section.* A taxpayer may choose to apply the provisions of this section to taxable years beginning on or after January 1, 2012.

(3) *Early application of regulation project REG–110732–13.* A taxpayer may rely on the provisions of this section in regulation project REG–110732–13 (2013–43 IRB 404) (see § 601.601(d)(2) of this chapter) for taxable years beginning on or after January 1, 2012. However, a taxpayer may not rely on the provisions of this section in regulation project REG–110732–13 for taxable years beginning on or after January 1, 2014.

(4) *Optional application of TD 9564.* A taxpayer may choose to apply § 1.168(i)–8T as contained in 26 CFR part 1 edition revised as of April 1, 2014, to taxable years beginning on or after January 1, 2012. However, a taxpayer may not apply § 1.168(i)–8T as contained in 26 CFR part 1 edition revised as of April 1, 2014, to taxable years beginning on or after January 1, 2014.

(5) *Change in method of accounting.* A change to comply with this section for depreciable assets placed in service in a taxable year ending on or after December 30, 2003, is a change in method of accounting to which the provisions of section 446(e) and the regulations under section 446(e) apply. A taxpayer also may treat a change to comply with this section for depreciable assets placed in service in a taxable year ending before December 30, 2003, as a change in method of accounting to which the provisions of section 446(e) and the regulations under section 446(e) apply. This paragraph (j)(5) does not apply to a change to comply with paragraph (d)(2) of this section, except as provided in paragraph (d)(2)(iii) or (iv)(B) of this section or otherwise provided by other guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter).

**§ 1.168(i)–8T [Removed]**

■ **Par. 9.** Section 1.168(i)–8T is removed.

**§ 1.263(a)–3 [Amended]**

■ **Par. 10.** Section 1.263(a)–3 is amended by:

■ a. In paragraphs (g)(2)(i), (g)(2)(ii) *Example 2,* and (g)(2)(ii) *Example 4,* removing the language ''Prop. Reg. § 1.168(i)–8(d) (September 19, 2013)'' and adding the language ''§ 1.168(i)–8(d)'' in its place.

■ b. In paragraph (g)(2)(i), removing the language ''§ 1.168(i)–1T(e)(3) nor Prop. Reg. § 1.168(i)–1(e)(3) (September 19, 2013)'' and adding the language ''§ 1.168(i)–1(e)(3)'' in its place, and removing the language ''Prop. Reg. § 1.168(i)–1(e)(2)(ix) (September 19, 2013)'' and adding the language ''§ 1.168(i)–1(e)(1)(ii)'' in its place.

■ c. In paragraphs (g)(2)(ii) and (g)(2)(ii) *Example 1,* removing the language ''Prop. Reg. § 1.168(i)–1(e) (September 19, 2013), or Prop. Reg. § 1.168(i)–8 (September 19, 2013)'' and adding the language ''§ 1.168(i)–1(e) or § 1.168(i)–8'' in its place.

■ d. In paragraph (k)(7) *Example 30,* removing the language ''Prop. Reg. § 1.168(i)–8'' and adding the language ''§ 1.168(i)–8'' in its place, and removing the language ''Prop. Reg. § 1.168(i)–8(c)(4)(ii)(A) (September 19, 2013)'' and adding the language ''§ 1.168(i)–8(c)(4)(ii)(A)'' in its place.

■ e. In paragraph (k)(7) *Example 30* and *Example 31,* removing the language ''Prop. Reg. § 1.168(i)–8(d)(2) (September 19, 2013),'' and adding the language ''§ 1.168(i)–8(d)(2)'' in its place.

■ f. In paragraph (k)(7) *Example 31,* removing the language ''Prop. Reg. § 1.68(i)–8(c)(4)(ii)(D) (September 19, 2013)'' and adding the language ''§ 1.168(i)–8(c)(4)(ii)(D)'' in its place.

■ **Par. 11.** Section 1.1016–3 is amended by revising the fourth sentence in paragraph (a)(1)(ii) to read as follows:

**§ 1.1016–3 Exhaustion, wear and tear, obsolescence, amortization, and depletion for periods since February 13, 1913.**

(a) * * *

(1) * * *

(ii) * * * For rules governing losses on retirement or disposition of depreciable property, including rules for determining basis, see § 1.167(a)–8,

1.168(i)–1(e), or 1.168(i)–8, as applicable. * * *

* * * * *

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

Approved: July 11, 2014.

**Mark J. Mazur,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2014–19403 Filed 8–14–14; 11:15 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2014–0329]**

**RIN 1625–AA00**

## Safety Zones; Marine Events in Captain of the Port Long Island Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing three temporary safety zones for two fireworks events and one swim event within the Captain of the Port Long Island Sound Zone. This action is necessary to provide for the safety of life on navigable waters during these events. Entering into, transiting through, remaining, anchoring or mooring within these regulated areas would be prohibited unless authorized by the Captain of the Port Sector Long Island Sound.

**DATES:** This rule is effective without actual notice from August 18, 2014 until August 30, 2014. For the purposes of enforcement, actual notice will be used from the date the rule was signed, July 31, 2014, until August 18, 2014.

**ADDRESSES:** Documents mentioned in this preamble are part of docket [USCG–2014–0329]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Scott Baumgartner, Prevention Department, Coast Guard Sector Long Island Sound, (203) 468–4559, *Scott.A.Baumgartner@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

### Table of Acronyms

COTP Captain of the Port
DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

### A. Regulatory History and Information

There are three separate marine events addressed by this temporary regulation. On May 29, 2014 the Coast Guard published a NPRM entitled ''Safety Zones; Marine Events in Captain of the Port Long Island Zone'' in the **Federal Register** (79 FR 30783). No public comments were received on the proposed rule. No public meeting was requested and none was held.

The Village of Saltaire fireworks display and the Riverhead Rocks Triathlon were both held the previous year and had separate safety zones established by a temporary final rule entitled ''Special Local Regulations and Safety Zones; Marine Events in Captain of the Port Long Island Sound Zone.'' This rulemaking was published on July 10, 2013 in the **Federal Register** (78 FR 41300). The Baker Family Celebration fireworks display is a first time event with no other regulatory history.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The comment period for the NPRM associated with the Freeport Chamber of Commerce Fireworks Display expired on June 30, 2014. The first event covered by this regulation occurred on August 2, 2014. Thus, there was insufficient time for a 30 day effective period before the need to enforce the earliest of three safety zones established by this rule on August 2, 2014.

Delaying the enforcement of this rule to allow a 30 day effective period will be impractical and contrary to the public interest because it would inhibit the Coast Guard's ability to fulfill its mission to keep the ports and waterways safe.

### B. Basis and Purpose

The legal basis for this temporary rule is 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory safety zones.

This temporary rule is necessary to promote the safety of life on navigable waterways within the COTP Long Island Sound Zone during these events.

### C. Discussion of Comments, Changes and the Final Rule

No comments were received and there has been one change made to the final rule as a result of the sponsor for the Brookhaven Memorial Hospital Fireworks cancelling their event. The proposed safety zone associated with their event is no longer necessary and has been removed from the final rule.

The Coast Guard is establishing three safety zones for two fireworks displays and one swim event to provide for the safety of life on navigable waters during these events. This rule will be effective from 8:30 p.m. on August 2, 2014 to 10:30 p.m. on August 30, 2014.

The events covered by this regulation will be enforced on the respective dates, times, and locations listed in the table below. If any of the events are cancelled due to inclement weather, then this regulation will be enforced on rain dates listed in the table below.

**Fireworks Displays**

| | |
|---|---|
| 1 Village of Saltaire Fireworks | • Date: August 2, 2014.<br>• Rain Date: August 30, 2014.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: All waters of Saltaire Bay near Saltaire, NY within 600 feet of the fireworks barge located in approximate position 40°38′37.72″ N, 073°11′58.52″ W (NAD 83). |
| 2 Baker Family Celebration Fireworks | • Date: August 16, 2014.<br>• Rain Date: August 17, 2014.<br>• Time: 8:30 p.m. to 10:30 p.m. |

| | |
|---|---|
| | • Location: All waters of Flanders Bay near Jamesport, NY within 600 feet of the fireworks barge located in approximate position 40°55′51.84″ N, 072°35′07.92″ W (NAD 83). |
| **Swim Event** | |
| 3 Riverhead Rocks Triathlon | • Date: August 3, 2014<br>• Time: 6:20 a.m. to 8:30 p.m.<br>• Location: All waters of the Peconic River, Riverhead, NY within the area bounded to the west by a line connecting points at 40°54′58.09″ N, 072°39′37.56″ W on the northern bank and 40°54′56.74″ N, 072°39′37.56″ W on the southern bank and bounded to the east by a line connecting points at 40°55′01.92″ N, 072°38′51.08″ W on the northern bank and 40°54′59.15″ N, 072°38′51.08″ W on the southern bank (NAD 83). All positions are approximate. |

This rule prevents vessels from entering, transiting, mooring or anchoring within areas specifically designated as regulated areas during the periods of enforcement unless authorized by the COTP or designated representative.

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

**D. Regulatory Analyses**

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

*1. Regulatory Planning and Review*

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

The Coast Guard determined that this rule is not a significant regulatory action because the regulated areas will be of limited duration and cover only a small portion of the navigable waterways. Furthermore, vessels may transit the navigable waterways outside of the regulated areas. Vessels requiring entry into the regulated areas may be authorized to do so by the COTP or designated representative.

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

*2. Impact on Small Entities*

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

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit, anchor or moor within the regulated areas during the periods of enforcement from August 2, 2014, to August 30, 2014.

This temporary rule will not have a significant economic impact on a substantial number of small entities for the following reasons: The regulated areas are of short duration, vessels that can safely do so may navigate in all other portions of the waterways except for the areas designated as regulated areas, and vessels requiring entry into the regulated areas may be authorized to do so by the COTP Sector Long Island Sound or designated representative. Additionally, before the effective period, public notifications will be made to local mariners through appropriate means, which may include but are not limited to the Local Notice to Mariners as well as Broadcast Notice to Mariners.

*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 From Environmental Health Risks*

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

*11. Indian Tribal Governments*

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

*12. Energy Effects*

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

*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 the establishment of three safety zones. This rule may be 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, and 160.5; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–03291 to read as follows:

### § 165.T01–03291 Safety Zones; Marine Events in Captain of the Port Long Island Sound Zone.

(a) *Regulations.* The general regulations contained in § 165.23 as well as the following regulations apply to the events listed in the TABLE 1 of this section. These regulations will be enforced for the duration of each event.

(b) *Enforcement period.* This rule will be enforced on the dates and times listed for each event in TABLE 1 of this section. If the event is delayed by inclement weather, the regulations will be enforced on the rain date indicated in TABLE 1 of this section.

(c) *Definitions.* The following definitions apply to this section:

(1) *Designated representative.* A ''designated representative'' is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port (COTP), Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) *Official patrol vessels.* Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(3) *Spectators.* All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(d) *Spectators.* Spectators desiring to enter or operate within the regulated areas should contact the COTP or the designated representative via VHF channel 16 or by telephone at (203) 468–4401 to obtain permission to do so. Spectators given permission to enter or operate in the regulated area must comply with all directions given to them by the COTP Sector Long Island Sound or the designated on-scene representative.

(e) *Enforcement.* Upon being hailed by an official patrol vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(f) *Locations.* The regulated area for all fireworks displays listed in the TABLE 1 of this section is that area of navigable waters within a 600 foot radius of the launch platform for each fireworks display. Fireworks barges used in these locations will also have a sign on their port and starboard side labeled ''FIREWORKS—STAY AWAY.'' This sign will consist of 10 inch high by 1.5 inch wide red lettering on a white background.

(g) *Separation.* For the swim event listed in TABLE 1 of this section, vessels not associated with the event shall maintain a separation of at least 100 yards from the participants.

TABLE 1 TO § 165.T01–0329

| | |
|---|---|
| **Fireworks Displays** | |
| 1 Village of Saltaire Fireworks | • Date: August 2, 2014.<br>• Rain Date: August 30, 2014.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: All waters of Saltaire Bay near Saltaire, NY within 600 feet of the fireworks barge located in approximate position 40° 38′37.72″ N, 073°11′58.52″ W (NAD 83). |
| 2 Baker Family Celebration Fireworks | • Date: August 16, 2014.<br>• Rain Date: August 17, 2014.<br>• Time: 8:30 p.m. to 10:30 p.m.<br>• Location: All waters of Flanders Bay near Jamesport, NY within 600 feet of the fireworks barge located in approximate position 40°55′51.84″ N, 072°35′07.92″ W (NAD 83). |
| **Swim Event** | |
| 3 Riverhead Rocks Triathlon | • Date: August 3, 2014<br>• Time: 6:20 a.m. to 8:30 a.m.<br>• Location: All waters of the Peconic River, Riverhead, NY within the area bounded to the west by a line connecting points at 40°54′58.09″ N 072°39′37.56″ W on the northern bank and 40°54′56.74″ N 072°39′37.56″ W on the southern bank and bounded to the east by a line connecting points at 40°55′01.92″ N 072°38′51.08″ W on the northern bank and 40°54′59.15″ N 072°38′51.08″ W on the southern bank (NAD 83). All positions are approximate. |

Dated: July 31, 2014.

**E.J. Cubanski, III**

*Captain, U. S. Coast Guard, Captain of the Port Sector Long Island Sound.*

[FR Doc. 2014–19404 Filed 8–15–14; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2014–0696]**

**RIN 1625–AA00**

## Safety Zone, Labor Day Long Neck Style Fireworks, Indian River Bay; Long Neck, DE

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of Indian River Bay in Long Neck, DE. The safety zone will restrict vessel traffic on a portion of Indian River Bay from operating while a fireworks event is taking place. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with a fireworks display.

**DATES:** This rule is effective August 18, 2014 until 9:30 p.m. on August 31, 2014, and will be enforced from 8 p.m. to 9:30 p.m. on August 31, 2014.

**ADDRESSES:** Documents mentioned in this preamble are part of docket [USCG–2014–0696]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email If you have questions on this temporary 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 Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B) and (d)(3), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule, and for giving it effect upon publication, as publishing an NPRM is impracticable given that the final details for this event were not received by the Coast Guard until July 23, 2014, and this event is scheduled for August 31, 2014. Further, allowing this event to go forward without a safety zone in place would expose mariners and the public to unnecessary dangers associated with fireworks displays contrary to the public interest.

### B. Basis and Purpose

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

On the evening of August 31, 2014, fireworks will be launched from a barge with a fall out zone that covers part of Indian River Bay. The Captain of the Port, Sector Delaware Bay, has

determined that the Labor Day Long Neck Style Fireworks Display will pose significant risks to the public. The purpose of the rule is to promote public and maritime safety during a fireworks display, and to protect mariners transiting the area from the potential hazards associated with a fireworks display, such as accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris.

**C. Discussion of the Final Rule**

To mitigate the risks associated with the Labor Day Long Neck Style Fireworks Display, the Captain of the Port, Sector Delaware Bay will enforce a temporary safety zone in the vicinity of the launch site. The safety zone will encompass all waters of Indian River Bay within a 300 Yard radius of the fireworks launch platform in approximate position 38°36′35.8″ N, 075°09′04.4″ W in Long Neck, DE. The safety zone will be enforced from 8 p.m. until 9:30 p.m. on August 31, 2014. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Sector Delaware Bay, or her on-scene representative. The Captain of the Port, Sector Delaware Bay, or her on-scene representative may be contacted via VHF channel 16.

**D. Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 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 Indian River Bay in Long Neck, DE from 8 p.m. until 9:30 p.m. on August 31, 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 the zone is limited in size and duration. Sector Delaware Bay will issue maritime advisories widely available to users of the Indian River Bay.

*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 Indian River Bay along the shoreline of Long Neck, Delaware, 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.T05–0696 to read as follows:

**§ 165.T05–0696 Safety Zone, Labor Day Long Neck Style Fireworks, Indian River Bay; Long Neck, DE.**

(a) *Regulated area.* The following area is a safety zone: All waters of Indian River Bay within a 300 yard radius of the fireworks launch platform in approximate position 38°36′35.8″ N, 075°09′04.4″ W in Long Neck, DE.

(b) *Enforcement period.* This rule will be enforced from 8 p.m. to 9:30 p.m. on August 31, 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 § 165.23.

(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.

Dated: August 1, 2014.

**B.A. Cooper,**

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

[FR Doc. 2014–19394 Filed 8–15–14; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

### 33 CFR Part 334

### Buzzards Bay and Adjacent Waters, Mass.; Danger Zones for Naval Operations; Corrections

**AGENCY:** U. S. Army Corps of Engineers, DoD.

**ACTION:** Correcting amendments.

**SUMMARY:** The U.S. Army Corps of Engineers published a document in the **Federal Register** on April 10, 1997 (62 FR 17550) amending its regulations to modify an existing danger zone in the waters of Buzzards Bay, Massachusetts. That document inadvertently did not include the proposed rule text that would prohibit entry into a portion of the danger zone. This document corrects the final rule by incorporating the intended prohibition of entry by persons or vessels into the designated area of the danger zone into § 334.70(a)(2).

**DATES:** *Effective date:* August 18, 2014.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202–761–4922 or by email at *david.b.olson@usace.army.mil.*

**SUPPLEMENTARY INFORMATION:** The U.S. Army Corps of Engineers published a final rule in the **Federal Register** on April 10, 1997 (62 FR 17550), and later determined that correcting amendments need to be made to address the intended prohibited entry by vessels or persons into a portion of an established danger

zone. The proposed rule was published in the **Federal Register** on December 20, 1996 (61 FR 67265) and it prohibited entry of vessels or persons into a portion of the danger zone to help ensure public safety during naval operations in this area.

**List of Subjects in 33 CFR Part 334**

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons stated in the preamble, 33 CFR Part 334 is corrected by making the following correcting amendments:

## PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for 33 CFR part 334 continues to read as follows:

**Authority:** 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. In § 334.70, revise paragraph (a)(2) to read as follows:

**§ 334.70 Buzzards Bay, and adjacent waters, Mass.; danger zones for naval operations.**

(a) * * *

(2) *The regulations.* No vessel or person shall at any time enter or remain within a rectangular portion of the area bounded on the north by latitude 41°16′00″, on the east by longitude 70°47′30″, on the south by latitude 41°12′30″, and on the west by longitude 70°50′30″, or within the remainder of the area between November 1, and April 30, inclusive, except by permission of the enforcing agency.

* * * * *

Dated: August 11, 2014.

**James R. Hannon,**

*Chief, Operations and Regulatory Directorate of Civil Works.*

[FR Doc. 2014–19383 Filed 8–15–14; 8:45 am]

BILLING CODE 3720–58–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2 and 5

**[ET Docket No. 10–236 and 06–155; FCC 13–15]**

### Radio Experimentation and Market Trials-Streamlining Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Correcting amendment.

**SUMMARY:** On April 29, 2013, the Commission released a Report and Order, ''Radio Experimentation and Market Trials-Streamlining Rules.'' This document contains corrections to the final regulations that appeared in the **Federal Register** on April 29, 2013 (78 FR 25138).

**DATES:** Effective August 18, 2014.

**FOR FURTHER INFORMATION CONTACT:** Rodney Small, Office of Engineering and Technology, (202) 418–2452 or email *Rodney.Small@fcc.gov.*

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations that are the subject of this correction relates to ''Radio Experimentation and Market Trials-Streamlining Rules'' under §§ 2.803, 2.805(a)(3), 5.302 and 5.303 of the rules.

**Need for Correction**

As published, the amendatory instructions in the final regulations contain errors, which may prove to be misleading and need immediate correction.

**List of Subjects in 47 CFR Parts 2 and 5**

Communications equipment, Radio, Reporting and recordkeeping requirements.

Accordingly, 47 CFR parts 2 and 5 is corrected by making the following correcting amendments:

## PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. Section 2.803 is amended by revising the section heading to read as follows:

**§ 2.803 Marketing of radio frequency devices prior to equipment authorization.**

■ 3. Section 2.805 is amended by revising the section heading to read as follows:

**§ 2.805 Operation of radio frequency devices prior to equipment authorization.**

## PART 5—EXPERIMENTAL RADIO SERVICE

■ 4. The authority citation for part 5 continues to read as follows:

**Authority:** Secs. 4, 302, 303, 307, 336, 48 Stat. 1066, 1082, as amended; 47 U.S.C., 154, 302, 303, 307, 336. Interpret or apply sec. 301, 48 Stat. 1081, as amended; 47 U.S.C. 301.

**§ 5.3012 [AMENDED]**

■ 5. Section 5.302 is amended by replacing the word ''their'' with the word ''its'' at the end of the first sentence in the introductory text to read as ''its end product''.

■ 6. Section 5.303 is revised to read as follows:

**§ 5.303 Frequencies.**

Licensees may operate in any frequency band, except for the following:

(a) Frequency bands at or below 38.6 GHz that are designated as restricted in § 15.205(a) of this chapter; and

(b) Frequency bands above 38.6 GHz that are listed in footnote US246 of the Table of Frequency Allocations in § 2.106 of this chapter.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2014–19293 Filed 8–15–14; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**[Docket No. 131021878–4158–02]**

**RIN 0648–XD439**

### Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian district (CAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access fishery. This action is necessary to prevent exceeding the 2014 total allowable catch (TAC) of Atka mackerel in this area allocated to vessels participating in the BSAI trawl limited access fishery.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), August 13, 2014, through 2400 hrs, A.l.t., December 31, 2014.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, 907–586–7269.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific

Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2014 TAC of Atka mackerel, in the CAI, allocated to vessels participating in the BSAI trawl limited access fishery was established as a directed fishing allowance of 856 metric tons by the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the CAI by vessels participating in the BSAI trawl limited access fishery.

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

## Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the Atka mackerel directed fishery in the CAI for vessels participating in the BSAI trawl limited access fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 12, 2014. The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

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

Dated: August 13, 2014.

**James P. Burgess,**

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

[FR Doc. 2014–19529 Filed 8–13–14; 4:15 pm]

BILLING CODE 3510–22–P

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 131021878–4158–02]**

**RIN 0648–XD440**

## Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian district (CAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access fishery. This action is necessary to prevent exceeding the 2014 total allowable catch (TAC) of Pacific ocean perch in the CAI allocated to vessels participating in the BSAI trawl limited access fishery.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), August 13, 2014, through 2400 hrs, A.l.t., December 31, 2014.

**FOR FURTHER INFORMATION CONTACT:** Steve Whitney, 907–586–7269.

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

The 2014 TAC of Pacific ocean perch, in the CAI, allocated to vessels participating in the BSAI trawl limited access fishery was established as a directed fishing allowance of 581 metric tons by the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the CAI by vessels participating in the BSAI trawl limited access fishery.

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

## Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the Pacific ocean perch directed fishery in the CAI for vessels participating in the BSAI trawl limited access fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 12, 2014. The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

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

Dated: August 13, 2014.

**James P. Burgess,**

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

[FR Doc. 2014–19532 Filed 8–13–14; 4:15 pm]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 79, No. 159
Monday, August 18, 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 HOMELAND SECURITY

### Office of the Secretary

### 6 CFR Part 27

**[Docket No. DHS–2014–0016]**

**RIN 1601–AA69**

## Chemical Facility Anti-Terrorism Standards

**AGENCY:** National Protection and Programs Directorate, DHS.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** Section 550 of the Department of Homeland Security Appropriations Act of 2007 provides the Department of Homeland Security (DHS or Department) with the authority to regulate the security of high risk chemical facilities. To implement this authority, DHS issued the Chemical Facility Anti-Terrorism Standards (CFATS) regulation in 2007. DHS is initiating this rulemaking process as a step towards maturing the CFATS program and to identify ways to make the program more effective in achieving its regulatory objectives. This Advance Notice of Proposed Rulemaking (ANPRM) provides an opportunity for the Department to hear and consider, during the development of an updated CFATS regulation, the views of regulated industry and other interested members of the public on their recommendations for program modifications.

**DATES:** Written comments must be submitted on or before October 17, 2014.

**ADDRESSES:** You may submit comments, identified by docket number DHS–2014–0016, by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* U.S. Department of Homeland Security, National Protection and Programs Directorate, Office of Infrastructure Protection, Infrastructure Security Compliance Division, 245 Murray Lane, Mail Stop 0610, Arlington, VA 20528–0610.

**FOR FURTHER INFORMATION CONTACT:** Jon MacLaren, Rulemaking Section Chief, Office of Infrastructure Protection, Infrastructure Security Compliance Division, 245 Murray Lane SW., Mail Stop 0610, Washington, DC 20528; telephone 703–235–5263.

**SUPPLEMENTARY INFORMATION:**

### Abbreviations and Terms Used in This Document

ANPRM—Advance Notice of Proposed Rulemaking
ASP—Alternative Security Program
CFATS—Chemical Facility Anti-Terrorism Standards
CFR—Code of Federal Regulations
COI—Chemicals of Interest
CSAT—Chemical Security Assessment Tool
CVI—Chemical-terrorism Vulnerability Information
DHS or Department—Department of Homeland Security
E.O.—Executive Order
FR—**Federal Register**
Pub. L.—Public Law
RBPS—Risk Based Performance Standards
SSP—Site Security Plan
STQ—Screening Threshold Quantity
SVA—Security Vulnerability Assessment

### I. Background

Section 550 of the Department of Homeland Security Appropriations Act of 2007 [1] (Pub. L. 109–295) authorized the Department to regulate the security of chemical facilities that, in the discretion of the Secretary, present high levels of security risk. Under the Section 550 authority, on April 9, 2007, DHS issued the CFATS interim final rule, codified at 6 CFR part 27. *See* 72 FR 17688.[2] Additionally, in November 2007, the Department adopted as Appendix A to CFATS a final list of over 300 Chemicals of Interest (COI) that pose significant risks to human life or health if released, stolen or diverted, or sabotaged. DHS also adopted some additional provisions that clarify how Appendix A is to be applied under CFATS. *See* 72 FR 65396.[3] Publication of the Appendix A regulations brought the CFATS interim final rule into full effect.

Under CFATS, any chemical facility (other than certain facilities expressly exempted by Section 550) [4] that possesses any COI at or above the applicable Screening Threshold Quantity (STQ) specified in Appendix A for that COI must complete and submit to DHS through the Chemical Security Assessment Tool (CSAT) [5] certain consequence-based information (the ''Top-Screen''). Any facility initially determined to be high-risk after DHS's review of the facility's Top-Screen and/or other relevant information that comes to the Department's attention, is assigned a preliminary risk-based tier (Tiers 1–4) [6] and must then submit to DHS a Security Vulnerability Assessment (SVA) per section 27.215 (Tier 4 facilities may submit an Alternate Security Program (ASP) in lieu of an SVA). DHS evaluates the SVA and other relevant information to make a final determination as to whether the facility is high-risk and, if so, which tier it should be assigned to. Any facility that is finally determined to be high-risk must submit, obtain DHS approval of, and then implement a Site Security Plan (SSP), or ASP in lieu of an SSP, that describes the security measures the facility utilizes to meet the appropriate

[1] The CFATS authorizing statue can be found online at: *http://www.dhs.gov/xlibrary/assets/chemsec_cfats_lawsregsec_authorizing_statute.pdf.*

[2] The CFATS interim final rule can be found online at: *http://www.gpo.gov/fdsys/pkg/FR-2007-04-09/pdf/E7-6363.pdf.*

[3] Appendix A can be found online at: *http://www.gpo.gov/fdsys/pkg/FR-2007-11-20/pdf/07-5585.pdf.*

[4] Exempted facilities include facilities regulated pursuant to the Maritime Transportation Security Act of 2002, Public Law 107–295, as amended; public water systems, as defined by Section 1401 of the Safe Drinking Water Act, Public Law 93–523, as amended; treatment works, as defined in Section 212 of the Federal Water Pollution Control Act, Public Law 92–500, as amended; any facility owned or operated by the Department of Defense or the Department of Energy, or any facility subject to regulation by the Nuclear Regulatory Commission.

[5] The CSAT is an information technology system primarily designed to collect facility information through specific applications for submitting Top-Screens, SVAs, SSPs, and ASPs. *See* 6 CFR 27.105.

[6] CFATS places covered, high-risk chemical facilities into one of four tiers, with Tier 1 facilities being the highest risk and Tier 4 facilities being the least high-risk. Facilities that do not present a high-risk do not receive a Tier level and are not subject to additional CFATS requirements. When determining if a facility is high-risk, the Department is primarily focused on the potential consequences associated with a successful terrorist attack on the facility (including the use of stolen or diverted materials in a separate attack offsite). A threat factor also is incorporated into the risk assessment for facilities with release hazards.

level of performance under 18 applicable Risk Based Performance Standards (RBPS).

During the review process, DHS compares specific security measures reported in the SSP against the RBPS to determine whether the SSP adequately addresses the applicable RBPS in a manner commensurate with the facility's risk-based tier and other circumstances as outlined in section 27.230. Once DHS has determined that the SSP appears to be adequate, DHS will authorize the SSP or ASP, and notify the facility as such via a Letter of Authorization. DHS Chemical Inspectors must then conduct an on-site authorization inspection in accordance with sections 27.245(a)(ii) and 27.250. The results of the authorization inspection help to inform DHS's decision on whether the SSP or ASP should be approved. Upon approval, the Department issues the facility a Letter of Approval, after which the facility is subject to compliance inspections to verify that the facility is carrying out its approved SSP or ASP. *See* 6 CFR 27.245(a)(iii). The regulations also establish procedures for DHS to notify a facility that the SSP or ASP is deficient, require consultations between DHS and the facility to try to resolve specific deficiencies, and authorize DHS to issue a Letter of Disapproval if the deficiencies are not addressed by the facility in a timely manner. *See* 6 CFR 27.245(b).

Since the publication of the CFATS interim final rule, the Department has met several significant milestones. As of June 17, 2014, DHS has received more than 48,500 Top-Screens submitted by chemical facilities. As of June 17, 2014, DHS has notified more than 8,895 facilities that it has initially designated them as high-risk and thus, they are required to submit SVAs. DHS has completed its review of approximately 8,830 submitted SVAs. As of June 17, 2014, CFATS covers 4,019 high-risk facilities nationwide; of these 4,019 facilities, 3,261 are currently subject to final high-risk determinations and submission of an SSP or ASP; and 758 are currently pending a final tier. As of June 17, 2014, the Department has authorized SSPs/ASPs for 1,648 facilities, conducted authorization inspections at 1,204 facilities, and approved SSPs/ASPs for 859 facilities.[7]

The CFATS program is an important part of our Nation's counterterrorism efforts. DHS works with our industry stakeholders to keep dangerous chemicals out of the hands of those who wish to do us harm. Since the CFATS program was created, DHS has engaged with industry to identify high-risk chemical facilities to ensure they have security measures in place to reduce the risks associated with the possession of chemicals of interest. The progress made in the CFATS program over the last several years has significantly enhanced the security of the Nation's chemical infrastructure; however, to more fully mature the program, DHS is initiating this rulemaking process to help it identify how to make the CFATS program more effective in achieving its regulatory objectives. In particular, DHS is interested in comments on the topics described in Part IV of the ANPRM to include the general regulatory approach, treatment of non-traditional chemical facilities, clarification of terminology, Risk Based Performance Standards, Appendix A, considerations for small businesses, and alignment with other regulatory programs.

Further, on August 1, 2013, the President issued Executive Order (E.O.) 13650—*Improving Chemical Facility Safety and Security,* to enhance the safety and security of chemical facilities and reduce the risks associated with hazardous chemicals to owners, operators, workers, and communities. The E.O. directs the Federal Government to: improve operational coordination with State, local, and tribal partners; enhance Federal agency coordination and information; modernize policies, regulations, and standards; and work with stakeholders to identify best practices.[8] As detailed in the May 2014 E.O. Final Report, DHS is taking a number actions to build a stronger CFATS program, one of which is the issuance of this ANPRM as an initial step in seeking input on improving the CFATS regulations themselves.[9]

## II. Written Comments

### *A. In General*

This ANPRM will provide an opportunity for the Department to hear and consider the views of regulated industry and other interested members of the public on their recommendations for CFATS program modifications and improvements.

DHS invites interested persons to submit written comments, data, or views on how the current CFATS regulations, 6 CFR part 27, might be improved. Comments that would be most helpful to DHS include the questions and issues identified in Part IV of this document. Please explain the reason for any comments with available data, and include other information or authority that supports such comments. The Department encourages interested parties to provide specific data that documents the potential costs of modifying the existing regulatory requirements pursuant to the commenter's suggestions; the potential quantifiable benefits including security and societal benefits of modifying the existing regulatory requirements; and the potential impacts on small businesses of modifying the existing regulatory requirements.

DHS requests that commenters discuss potential economic impacts, whenever possible, in terms of quantitative benefits (*e.g.,* reductions in injuries, fatalities, and property damage), costs (*e.g.,* compliance costs or decreases in production), and offsets to costs (*e.g.,* less need for maintenance and repairs) when providing feedback on this ANPRM. DHS also requests that commenters provide data and information on economic effects that suggestions may have on market conditions or services (*e.g.,* market structure and concentration), and in particular, any special circumstances related to small entities, such as potential market-structure disruptions or uniquely high costs that small entities may bear.

DHS requests that commenters discuss economic impacts in as specific terms as possible. For example, if a regulatory or policy change would necessitate additional employee training, then helpful information would include the following: The training courses necessary; the types of employees or contractors who would receive the training; topics covered; any retraining necessary; and the training costs if conducted by a third-party vendor or in-house trainer. The Department invites comment on the time and level of expertise required to implement commenter suggestions,

[7] Under 6 CFR 27.245(a)(2), DHS ''may disapprove a Site Security Plan that fails to satisfy the risk-based performance standards established in 27.230.'' If DHS were to disapprove an SSP or ASP, DHS would also simultaneously issue, pursuant to 6 CFR 27.300(a), an Order directing the facility to re-submit its SSP/ASP to include security measures that satisfy applicable RBPS. If the facility fails to do so, DHS could then assess civil penalties and/or direct the facility to cease some or all operations, pursuant to 6 CFR 27.300(b). Under 6 CFR 27.310, however, the facility has the option of contesting any disapproval/order through an administrative adjudication. To date, DHS has not disapproved any SSPs/ASPs.

[8] The E.O. established a Chemical Facility Safety and Security Working Group to oversee the effort, which is tri-chaired by the Department of Labor, the Department of Homeland Security, and the Environmental Protection Agency, and includes leadership and subject matter experts from the Department of Justice, the Department of Agriculture, and the Department of Transportation.

[9] For more information on E.O. 13650 and the May 2014 Final Report, visit: *https://www.osha.gov/chemicalexecutiveorder/index.html.*

even if dollar-cost estimates are not available.

Feedback that simply states a stakeholder feels strongly that DHS should modify CFATS, without including actionable data, including how the proposed change would impact the costs and benefits of CFATS, is much less useful to DHS. To help DHS organize and review all comments, please identify the relevant provision of 6 CFR part 27 that relates to the specific comment provided (*e.g.,* 6 CFR 27.100). If the commenter's suggestion is on a topic that is not covered by the current regulation, please note that in the submission.

Written comments may be submitted electronically or by mail, as explained previously in the **ADDRESSES** section of this ANPRM. To avoid duplication, please use only one of these methods to submit written comments.

Except as provided below, all comments received, as well as pertinent background documents, will be posted without change to *http://www.regulations.gov,* including any personal information provided.

*B. Handling of Proprietary, Sensitive and Chemical-Terrorism Vulnerability Information*

Interested parties are encouraged to submit comments in a manner that does not include any discussion of trade secrets, proprietary commercial or financial information, Chemical-terrorism Vulnerability Information (CVI), or any other category of sensitive information [10] that should not be disclosed to the general public. If it is not possible to avoid such discussion, however, please specifically identify any proprietary or sensitive information contained in the comments with appropriate warning language (*e.g.,* any CVI must be marked and handled in accordance with the requirements of 6 CFR 27.400(f)), and submit them by mail to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section.

DHS will not place any proprietary or sensitive comments in the public docket; rather, DHS will handle them in accordance with applicable safeguards and restrictions on access. *See e.g.,* 6 CFR 27.400. *See also* the DHS CVI Procedural Manual, ''Safeguarding Information Designated as CVI,'' September 2008, located on the DHS Web site at: *www.dhs.gov/critical-infrastructure-chemical-security.* DHS will hold any such comments in a separate file to which the public does not have access, and place a note in the public docket that DHS has received such materials from the commenter. DHS will provide appropriate access to such comments upon request to individuals who meet the applicable legal requirements for access to such information.

[10] For example, information covered under Sensitive Security Information (SSI).

## III. Listening Sessions

*A. Purpose*

The Department plans to hold multiple public listening sessions to solicit the public's views on the ANPRM and how the current CFATS regulation might be improved. DHS plans to announce dates, times and locations of these public listening sessions on the Department's Chemical Security Web site at *www.dhs.gov/critical-infrastructure-chemical-security.*

*B. Procedures and Participation for the Listening Sessions*

Each meeting will be open to the public. DHS will use sign-in sheets to voluntarily collect contact information from the attending public and to properly log oral comments received during the sessions. Providing contact information will be voluntary, and members of the public may also make oral comments without providing their names. Seating may be limited, but session organizers will make every effort to accommodate all participants. A listening session may adjourn early if all commenters present have had the opportunity to speak prior to the scheduled conclusion of the session. For information on facilities or services for individuals with disabilities or to request special assistance at the public listening sessions, contact Mr. Jon MacLaren at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this ANPRM.

For members of the public who cannot attend a scheduled listening session, a copy of any presentation provided by the Department at the sessions will be made available via the Department's Chemical Security Web site at *www.dhs.gov/critical-infrastructure-chemical-security.* In addition, DHS will place a transcript of each of these public listening sessions in the docket for this rulemaking.

## IV. Questions for Commenters

To help DHS identify ways, if any, to improve the manner in which it administers CFATS, DHS seeks public comments on any and all aspects of 6 CFR part 27, including both the CFATS Interim Final Rule and Appendix A. Areas that DHS is most interested in receiving comments on include, but are not limited to, the following:

a. *General Regulatory Approach*—Comments on how the Department could continue to improve its current approach toward identifying CFATS covered facilities and ensuring their compliance with CFATS requirements, such as:

(1) the information submission processes (*i.e.,* the Top-Screen, SVA, and SSP submissions) and associated schedules; [11]

(2) the means and methods by which facilities claim a statutorily exempt status and whether or not commenters think that deletions, additions or modification to the list of exempt facilities should be considered;

(3) the use of ASPs in lieu of SVAs and, in particular, the current limitation on the use of ASPs in lieu of SVAs to Tier 4 facilities;

(4) the, scope, tier applicability and processes for submitting and reviewing SSPs and ASPs;

(5) the processes for submitting and evaluating requests for redetermination by chemical facilities previously determined by DHS to be high-risk; and

(6) the issuance of orders and the regulatory enforcement process.

DHS also requests that the commenter provide, in as much detail as possible, an explanation why the regulatory approach should be modified, streamlined, expanded, or removed, as well as specific suggestions of the ways DHS can better achieve its regulatory objectives.

b. *Treatment of Non-Traditional Chemical Facilities*—DHS recognizes that a one-size-fits-all approach may not be optimal for such a diverse regulated community, and requests comments regarding the applicability of existing CFATS requirements and processes (*e.g.,* Top-Screen/SVA/SSP formats and submission schedules; risk-based performance standards; holding times for COI) to non-traditional chemical facilities covered under CFATS.[12] DHS also is particularly interested in comments on maintaining, lifting, or partially lifting the indefinite extension from the Top-Screen submission

[11] Submission schedules are detailed in 6 CFR 27.210.

[12] The expansive and dynamic nature of the community that uses potentially hazardous chemicals and that have facilities that are covered by CFATS include, but are not limited to many types of facilities that are not traditionally considered ''chemical facilities,'' such as agricultural product manufacturers; microchip manufacturers; paint and coatings manufacturers; mines; hospitals; racecar tracks; and colleges and universities. With the exception of agricultural production facilities, the CFATS processes and requirements are the same for all covered facilities.

deadline for agricultural production facilities issued in December 2007.[13]

c. *Clarification of Terminology*—Comments regarding the utility, clarity and accuracy of definitions currently found in 6 CFR 27.105, such as, but not limited to, the definitions of ''A Commercial Grade'' and ''A Placarded Amount.'' DHS also seeks comments on the utility of including definitions, and what those definitions should be, for the terms ''material modifications,'' ''critical asset,'' and ''site asset;'' and ''inspection.'' DHS invites comments on recommendations for additional terms used in the current CFATS regulations that may warrant further clarification.

d. *Risk Based Performance Standards*[14]—Comments on whether and how DHS should clarify or modify the 18 RBPS in 6 CFR 27.230, whether DHS should combine and/or eliminate any of the existing RBPS, and whether DHS should adopt any additional RBPS.

e. *Appendix A*—Comments on all aspects of CFATS Appendix A, including:

(1) Comments on the possible addition of chemicals to, and/or the deletion or modification of certain COI currently listed in Appendix A;

(2) any term utilized in 6 CFR 27.203, and the applicability and/or modification of STQs as the bases for listing COI (*e.g.,* by security issue(s)); and

(3) the concentration and mixtures rules associated with Appendix A, which are described in 6 CFR 27.204.

f. *Small Business Considerations*—Comments regarding considerations specific to small businesses.

g. *Alignment with Other Regulatory Programs*—Comments regarding how the Department may be able to better align CFATS and other existing chemical facility regulations, including comments on any duplication or overlap that may exist between CFATS and another regulatory program.[15] When providing comments on this topic, DHS encourages commenters to provide the specific citations to the regulatory regimes that may duplicate or overlap with the requirements under CFATS as well as a specific description of the duplicative or overlapping requirements.

In addressing these topics, DHS encourages interested parties to provide specific data that documents the potential costs of modifying the existing regulatory requirements pursuant to the commenter's suggestions; the potential quantifiable benefits including security and societal benefits of modifying the existing regulatory requirements; and the potential impacts on small businesses of modifying the existing regulatory requirements. Commenters might also address how DHS can best obtain and consider accurate, objective information and data about the costs, burdens, and benefits of the CFATS Interim Final Rule and Appendix A, and whether there are lower cost alternatives that would allow the Department to continue to achieve its security goals consistent with the law.

**Jeh Charles Johnson,**

*Secretary.*

[FR Doc. 2014–19356 Filed 8–15–14; 8:45 am]

**BILLING CODE 9110–9P–P**

[13] In December 2007, DHS exercised its discretion under the CFATS regulation by granting an indefinite extension from the Top-Screen submission deadline for agricultural production facilities that use chemicals of interest (COI) and COI-containing products for agricultural production purposes (*see* 73 FR 1640). Examples of agricultural production facilities include: farms, ranches and range land, livestock facilities, turf grass growers, golf courses, nurseries and floricultural operations, and public and private parks.

[14] CFATS establishes eighteen Risk-Based Performance Standards (RBPSs) that identify the areas for which a facility's security posture will be examined, such as perimeter security, access control, personnel surety, and cyber security. To meet the RBPSs, covered facilities are free to choose whatever security programs or processes they deem appropriate, so long as they achieve the requisite level of performance in each applicable area. The programs and processes that a high-risk facility ultimately chooses to implement to meet these standards must be described in the Site Security Plan (SSP) that every high-risk chemical facility must develop pursuant to the regulations. The RBPS guidance document is available online at: *http://www.dhs.gov/xlibrary/assets/chemsec_cfats_riskbased_performance_standards.pdf.*

[15] Information on other chemical safety and security programs that may impact CFATS-regulated facilities is provided in the preamble to the CFATS Final Rule (*see* 72 FR 17689), as well as the E.O. 13650 May 2014 Final Report.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2014–0578; Directorate Identifier 2013–SW–048–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters Deutschland GmbH (Previously Eurocopter Deutschland GmbH) (Airbus Helicopters) Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for Airbus Helicopters Model MBB–BK 117 C–2 helicopters with certain duplex trim actuators installed. This proposed AD would require repetitively inspecting the lateral and longitudinal trim actuator output levers for correct torque of the nuts. This proposed AD is prompted by a design review that the attachment screws can become lost under certain circumstances. The proposed actions are intended to prevent the loss of an attachment screw, which could result in movement of the output lever in an axial direction, contact of a bolt connecting the control rod to an output lever with the actuator housing, and subsequent loss of helicopter control.

**DATES:** We must receive comments on this proposed AD by October 17, 2014.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

### Examining the AD Docket

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

For service information identified in this proposed AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

**FOR FURTHER INFORMATION CONTACT:** Matt Wilbanks, Aviation Safety Engineer,

Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *matt.wilbanks@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

## Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2013–0182, dated August 12, 2013, to correct an unsafe condition for Airbus Helicopters Model MBB–BK 117 C–2 helicopters with a lateral duplex trim actuator, part number (P/N) 418–00878–050 or P/N 418–00878–051, or with a longitudinal duplex trim actuator, P/N 418–00878–000 or P/N 418–00878–001. EASA advises that recent analysis has shown that under unfavorable circumstances, a total loss of the trim actuator output lever attachment screw could lead to a restriction of the lateral and longitudinal control range. According to EASA, without the attachment screw, the output lever can move in the axial direction. This condition, if not detected, could cause the bolt that connects the control rod to the output lever to make contact with actuator housing, possibly resulting in reduced control of the helicopter. To prevent this condition, EASA requires an initial torque check of the lateral and longitudinal trim actuator output level attachment screws, the application of a torque marking, and repetitive inspections for correct torque thereafter. The AD's requirements are considered an interim solution, pending a terminating modification.

Since the issuance of EASA AD No. 2013–0182, Eurocopter Deutschland GmbH has changed its name to Airbus Helicopters Deutschland GmbH.

## FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

## Related Service Information

We reviewed Eurocopter (now Airbus Helicopters) Alert Service Bulletin MBB–BK117 C–2–67A–020, Revision 0, dated June 18, 2013 (ASB), which advises of a design review that showed that a loss of the attachment screw of the trim actuator output lever could restrict the lateral and longitudinal control range. The ASB consequently calls for an initial torque check and application of torque markings of the self-locking nuts, and subsequent repetitive inspections to maintain the proper torque.

## Proposed AD Requirements

This proposed AD would require, within 300 hours time-in-service (TIS) and thereafter at intervals not exceeding 400 hours TIS, inspecting the lateral and longitudinal trim actuator output lever self-locking nuts for correct torque and applying torque marking. For each inspection where the nuts are not torqued to the correct value and must be adjusted, the torque marking would be removed and reapplied.

## Interim Action

We consider this AD to be an interim action because Airbus Helicopters is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved and available, we might consider additional rulemaking.

## Costs of Compliance

We estimate that this proposed AD would affect 100 helicopters of U.S. Registry and that labor costs average $85 per work-hour. Based on these estimates, we expect the following costs:

Applying torque and torque marking to the lateral and longitudinal trim actuator output levers would require 1 work-hour for a labor cost of $85. No parts would be needed, so the cost for the U.S. fleet would total $8,500.

Visually inspecting for correct torque would require 0.5 work-hour for a labor cost of about $43. No parts would be needed, so the total cost for the U.S. fleet would be $4,300 per inspection cycle.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

We prepared an economic evaluation of the estimated costs to comply with

this proposed AD and placed it in the AD docket.

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Airbus Helicopters Deutschland GmbH (Previously Eurocopter Deutschland GmbH) (Airbus Helicopters) Helicopters:** Docket No. FAA–2014–0578; Directorate Identifier 2013–SW–048–AD.

**(a) Applicability**

This AD applies to Airbus Helicopters Model MBB–BK 117 C–2 helicopters with a lateral duplex trim actuator, part number (P/N) 418–00878–050 or P/N 418–00878–051, or a longitudinal duplex trim actuator, P/N 418–00878–000 or P/N 418–00878–001, installed, certificated in any category.

**(b) Unsafe Condition**

This AD defines the unsafe condition as loss of a trim actuator output lever attachment screw. This condition could result in movement of the output lever in an axial direction, contact of a bolt connecting the control rod to an output lever with the actuator housing, and subsequent loss of control of the helicopter.

**(c) Comments Due Date**

We must receive comments by October 17, 2014.

**(d) Compliance**

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

**(e) Required Actions**

(1) Within 300 hours time-in-service (TIS), apply a torque of 31.0 inch-pounds (3.5 Nm) to the self-locking nut (nut) on each lateral and longitudinal trim actuator output lever and apply a torque marking between the nut and the screw.

(2) Thereafter at intervals not to exceed 400 hours TIS, visually inspect each nut on each lateral and longitudinal trim actuator output lever to determine whether the torque is at 31.0 inch-pounds (3.5 Nm). If the torque is not at 31.0 inch-pounds, apply a torque of 31.0 inch-pounds (3.5 Nm), remove the previous torque marking, and apply a new torque marking between the nut and the screw.

(3) Do not install a lateral duplex trim actuator, part number (P/N) 418–00878–050 or P/N 418–00878–051, or a longitudinal duplex trim actuator, P/N 418–00878–000 or P/N 418–00878–001, on any helicopter unless each nut has been inspected for proper torque in accordance with the requirements of this AD.

**(f) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Wilbanks, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *matt.wilbanks@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

**(g) Additional Information**

(1) Eurocopter Alert Service Bulletin MBB–BK117 C–2–67A–020, Revision 0, dated June 18, 2013, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in the European Aviation Agency (EASA) AD No. 2013–0182, dated August 12, 2013. You may view the EASA AD on the Internet at *http://www.regulations.gov* in the AD Docket.

**(h) Subject**

Joint Aircraft Service Component (JASC) Code: Rotorcraft Flight Control, 6700.

Issued in Fort Worth, Texas, on August 8, 2014.

**Lance T. Gant,**

*Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2014–19506 Filed 8–15–14; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2014–0579; Directorate Identifier 2014–SW–020–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Agusta S.p.A. Helicopters (Type Certificate Currently Held By AgustaWestland S.P.A) (AgustaWestland)

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to supersede airworthiness directive (AD) 2014–04–14 for AgustaWestland Model A109S, AW109SP, A119, and AW119 MKII helicopters. AD 2014–04–14 currently requires removing certain rod end assemblies from service because of reports of fractures. Since we issued AD 2014–04–14, additional fractured rod end assemblies have been reported. This proposed AD would retain the requirements of AD 2014–04–14 but expand the scope of applicable rod end assemblies. These proposed actions are intended to prevent failure of a rod end assembly, which could result in damage to the main rotor assembly and loss of control of the helicopter.

**DATES:** We must receive comments on this proposed AD by October 17, 2014.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received and other

information. The street address for the Docket Operations Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed AD, contact AgustaWestland, Product Support Engineering, Via del Gregge, 100, 21015 Lonate Pozzolo (VA) Italy, ATTN: Maurizio D'Angelo; telephone 39–0331–664757; fax 39–0331–664680; or at *http://www.agustawestland.com/technical-bulletins.* You may review service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

**FOR FURTHER INFORMATION CONTACT:** Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *robert.grant@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

## Discussion

On March 3, 2014, we published AD 2014–04–14, Amendment 39–17773 (79 FR 11699) for AgustaWestland Model A109S, AW109SP, A119, and AW119 MKII helicopters with a main rotor lag damper assembly (lag damper), part number (P/N) 109–0112–39–103, 109–0112–39–105, 109–0112–05–105, or 109–0112–05–107, installed with a rod end assembly, P/N M004–01H007–041 or P/N M004–01H007–045, with a serial number from 84 through 132 or from 4964 through 5011. AD 2014–04–14 requires removing the applicable rod end assemblies from service. AD 2014–04–14 was prompted by AD No. 2012–0208, dated October 5, 2012, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for AgustaWestland Model A109LUH, A109S, AW109SP, A119, and AW119 MKII helicopters. EASA advises that cases of in-flight fractures of rod end assembly, P/N M004–01H007–045, installed on main rotor lag dampers have been reported on Model A109LUH and AW109SP helicopters. An investigation revealed that two batches of rod end assemblies, P/N M004–01H007–041 and M004–01H007–045, could have cracks, according to EASA. EASA states that this condition, if not corrected, could lead to main rotor damage, possibly resulting in loss of control of the helicopter. The actions of AD 2014–04–14 were intended to prevent such damage and loss of control of the helicopter.

## Actions Since AD 2014–04–14 Was Issued

Between the time we published the NPRM for AD 2014–04–14 (78 FR 44042, July 23, 2013) and the Final Rule for AD 2014–04–14 (79 FR 11699, March 3, 2014), EASA issued AD No. 2013–0290, dated December 9, 2013. EASA advises in AD No. 2013–0290 that a new case of a fractured rod end assembly has been reported. According to EASA, an investigation concluded that additional batches of rod end assembly P/N M004–01H007–041 and P/N M004–01H007–045, as well as batches of P/N 109–0112–11–101 and P/N 109–0112–22–105, could be affected by cracks. EASA consequently expanded the applicability of its AD to include the additional rod end assemblies.

This proposed AD would retain the requirements of AD 2014–04–14 but expand the scope of applicable rod end assemblies. We also propose to add a provision in the Required Actions section to clarify that the AD must be complied with if the rod end assembly is removed during maintenance before 25 hours time-in-service (TIS).

## FAA's Determination

These helicopters have been approved by the aviation authority of Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with Italy, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

## Related Service Information

We reviewed AgustaWestland's Bollettino Tecnico (BT) No. 109S–49 for Model A109S helicopters, BT No. 109SP–052 for Model AW109SP helicopters, and BT No. 119–50 for Model A119 and AW119 MKII helicopters. All of the BTs are revision A, and dated December 3, 2013. The BTs specify a one-time inspection of each rod end assembly to determine its serial number. The BTs then require removal from service of certain serial-numbered rod end assemblies because fractures had been reported on rod ends in these batches. According to the BTs, no one was injured in the helicopters, and no helicopters were damaged because of these fractures.

## Proposed AD Requirements

This proposed AD would require removing the applicable rod end assemblies from service within 25 hours TIS or the next time maintenance of the helicopter involves removing the rod end assembly, whichever occurs first. The proposed AD would also prohibit installing the applicable rod end assemblies on any helicopter.

## Differences Between This Proposed AD and the EASA AD

The EASA AD calls for replacing certain rod end assemblies with airworthy rod end assemblies within 25 hours TIS, 2 months, or the next time maintenance of the applicable helicopters involves removing the rod end assembly. This proposed AD would not have a calendar time requirement. The EASA AD applies to AgustaWestland Model A109LUH helicopters. This proposed AD would not apply to Model A109LUH helicopters because that model does not have a U.S. type certificate.

## Costs of Compliance

We estimate that this proposed AD would affect 91 helicopters of U.S. Registry and that labor costs average $85 a work-hour. Based on these estimates, we expect the following costs:

- Replacing a rod end assembly would require 1.5 work-hours for a labor cost of $128. Parts cost $3,918 for a total cost of $4,046 per helicopter, $368,186 for the U.S. fleet.

According to the manufacturer's service information, costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage by manufacturers. Accordingly, we have included all costs in our cost estimate.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

We prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

## List of Subjects in 14 CFR Part 39

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

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2014–04–14, Amendment 39–17773 (79 FR 11699, March 3, 2014), and adding the following new AD:

**Agusta S.p.A. Helicopters (Type Certificate Currently Held By AgustaWestland S.p.A) (AgustaWestland):** Docket No. FAA–2014–0579; Directorate Identifier 2014–SW–020–AD.

**(a) Applicability**

This AD applies to the following helicopters, certificated in any category:

(1) AgustaWestland Model A109S and AW109SP helicopters, with a main rotor lag damper assembly (lag damper), part number (P/N) 109–0112–39–103 or 109–0112–39–105, installed on rod end assembly, P/N M004–01H007–041 with a serial number (S/N) 1 through 202; or rod end assembly, P/N M004–01H007–045 with a S/N 1RW through 202RW or 4964 through 5011.

(2) AgustaWestland Model A119 and AW119 MKII helicopters, with a lag damper, P/N 109–0112–05–105 or 109–0112–05–107, installed on rod end assembly, P/N 109–0112–11–101 with a S/N 1 through 78; or rod end assembly, P/N 109–0112–11–105 with a S/N 1RW through 78RW; or rod end assembly, P/N M004–01H007–045 with a S/N 1RW through 202RW or 4964 through 5011.

**(b) Unsafe Condition**

This AD defines the unsafe condition as a crack in a rod end assembly, which could result in fracture of the rod end assembly, damage to the main rotor, and subsequent loss of control of the helicopter.

**(c) Affected ADs**

This AD supersedes AD 2014–04–14, amendment 39–17773 (79 FR 11699, March 3, 2014).

**(d) Comments Due Date**

We must receive comments by October 17, 2014.

**(e) Compliance**

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

**(f) Required Actions**

(1) Within 25 hours time-in-service or the next time maintenance of the helicopter involves removing the rod end assembly, whichever occurs first, remove the rod end assembly from service.

(2) Do not install a rod end assembly, P/N M004–01H007–041 with a S/N 1 through 202; P/N M004–01H007–045 with a S/N 1RW through 202RW or 4964 through 5011; P/N 109–0112–11–101 with a S/N 1 through 78; or P/N 109–0112–11–105 with a S/N 1RW through 78RW, on any helicopter.

**(g) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *robert.grant@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

**(h) Additional Information**

(1) AgustaWestland's Bollettino Tecnico (BT) No. 109S–49, BT No. 109SP–052, and BT No. 119–50, all Revision A, and all dated December 3, 2013, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact AgustaWestland, Product Support Engineering, Via del Gregge, 100, 21015 Lonate Pozzolo (VA) Italy, ATTN: Maurizio D'Angelo; telephone 39–0331–664757; fax 39–0331–664680; or at *http://www.agustawestland.com/technical-bulletins.* You may review a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2013–0290, dated December 9, 2013. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2014–0579.

**(i) Subject**

Joint Aircraft Service Component (JASC) Code: 6200, Main Rotor System.

Issued in Fort Worth, Texas, on August 8, 2014.

**Lance T. Gant,**

*Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2014–19495 Filed 8–15–14; 8:45 am]

BILLING CODE 4910–13–P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA–2014–0594; Directorate Identifier 2014–CE–022–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Pilatus Aircraft LTD. Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for all PILATUS AIRCRAFT LTD. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes that would supersede AD 2012–26–16. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a need to incorporate new revisions into the Limitations section, Chapter 4, of the FAA-approved maintenance program (e.g., maintenance manual). We are issuing this proposed AD to require actions to address the unsafe condition on these products.

**DATES:** We must receive comments on this proposed AD by October 2, 2014.

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

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

For service information identified in this proposed AD, contact Pilatus Aircraft LTD., Customer Service Manager, CH–6371 STANS, Switzerland; telephone: +41 (0) 41 619 33 33; fax: +41 (0) 41 619 73 11; Internet: *http://www.pilatus-aircraft.com* or email: *SupportPC12@pilatus-aircraft.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

### Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0594; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0594; Directorate Identifier 2014–CE–022–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

### Discussion

On February 8, 2013, we issued AD 2012–26–16, Amendment 39–17311 (78 FR 11572, February 19, 2013). That AD required actions intended to address an unsafe condition on all Pilatus Aircraft LTD. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country.

Since we issued AD 2012–26–16, Amendment 39–17311 (78 FR 11572, February 19, 2013), Pilatus Aircraft LTD. has issued revisions to the Limitations section of the airplane maintenance manual to include repetitive inspections of the inboard flap drive arms for cracks.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2014–0170, dated July 17, 2014 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> The maintenance instructions and airworthiness limitations applicable to the Structure and Components of PC–12 aeroplanes are specified in the Aircraft Maintenance Manual (AMM) under Chapter 4, Airworthiness Limitation Section (ALS).
>
> The instructions contained in the ALS document have been identified as mandatory actions for continued airworthiness and failure to comply with these instructions and limitations could potentially lead to an unsafe condition.
>
> Pilatus Aircraft Ltd. recently issued Pilatus PC–12 AMM report 02049 issue 28 for PC–12, PC–12/45 and PC–12/47 aeroplanes and PC–12 AMM report 02300 issue 11 for PC–12/47E aeroplanes to incorporate new repetitive inspection intervals of the inboard flap drive arms because of the detection of cracked parts.
>
> For the reason described above, this AD retains the requirements of EASA AD 2013–0031, which is superseded, and requires implementation of the new maintenance requirements and/or airworthiness limitations.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0594.

### Relevant Service Information

Pilatus Aircraft LTD. has issued Structural, Component and Miscellaneous—Airworthiness Limitations, document 12–A–04–00–00–00A–000A–A, dated March 13, 2014, and Structural and Component Limitations—Airworthiness Limitations, document 12–B–04–00–00–00A–000A–A, dated March 13, 2014. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

### FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all

information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

**Costs of Compliance**

We estimate that this AD will affect 770 products of U.S. registry. We also estimate that it would take about 16.5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $300 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $1,310,925, or $1,702.50 per product. This breaks down as follows:

- New inspections, etc. through incorporating maintenance manual limitations: 3.5 work-hours with parts about $300 for a fleet cost of $460,075, or $597.50 per product.
- Wing main spar fastener holes inspection: 12 work-hours with no parts cost for fleet cost of $785,400 or $1,020 per product.
- Inboard flap drive arm inspection: 1 work-hour with no parts cost for fleet cost of $65,450 or $85 per product.

In addition, we estimate that any necessary corrective actions (on-condition costs) that must be taken based on the above inspections, etc. would take about 16 work-hours and require parts costing approximately $10,000 for a cost of $11,360 per product. We have no way of determining the number of products that may need these necessary corrective actions. This breaks down as follows:

- Replacements based on damaged parts or reduced life limits as a result of the new maintenance manual limitations: 6 work-hours with parts about $4,000 for a cost of $4,510 per product.
- Repairs to the wing spar as a result of the wing main spar fastener holes inspection: 7 work-hours with parts about $5,000 for a cost of $5,595 per product.
- Replacement of the inboard flap drive arm as a result of the inboard flap drive arm inspection: 3 work-hours with parts about $1,000 for a cost of $1,255.

The only costs that would be imposed by this proposed AD over that already required by AD 2012–26–16 is the inboard flap arm inspection and replacement as necessary and the addition of 92 airplanes from 678 airplanes to 770 airplanes.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

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

(3) Will not affect intrastate aviation in Alaska, and

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

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by removing Amendment 39–17311 (78 FR 11572, February 19, 2013), and adding the following new AD:

**Pilatus Aircraft LTD.:** Docket No. FAA–2014–0594; Directorate Identifier 2014–CE–022–AD.

**(a) Comments Due Date**

We must receive comments by October 2, 2014.

**(b) Affected ADs**

This AD supersedes AD 2012–26–16, Amendment 39–17311 (78 FR 11572, February 19, 2013).

**(c) Applicability**

This AD applies to PILATUS AIRCRAFT LTD. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes, all manufacturer serial numbers (MSNs), certificated in any category.

**(d) Subject**

Air Transport Association of America (ATA) Code 5: Time Limits.

**(e) Reason**

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a need to incorporate new revisions into the Limitations section, Chapter 4, of the FAA-approved maintenance program (e.g., maintenance manual). The limitations were revised to include repetitive inspections of the inboard flap drive arms for crack(s). These actions are required to ensure the continued operational safety of the affected airplanes.

**(f) Actions and Compliance**

Unless already done, do the following actions in paragraphs (f)(1) through (f)(7) of this AD:

(1) *Actions retained from AD 2012–26–16, Amendment 39–17311 (78 FR 11572, February 19, 2013) for Models PC–12 and PC–12/45 airplanes, MSNs 101 through 299:* Within the next 100 hours time-in-service (TIS) after August 19, 2009 (the effective date retained from AD 2009–14–13, Amendment 39–15963 (74 FR 34213, July 15, 2009)) or 1 year after August 19, 2009 (the effective date retained from AD 2009–14–13), whichever occurs first, replace the torque tube part number (P/N) 532.50.12.047 with torque tube P/N 532.50.12.064 following Pilatus Aircraft LTD. Service Bulletin No: 32–021, dated November 21, 2008.

(2) *Actions retained from AD 2012–26–16, Amendment 39–17311 (78 FR 11572, February 19. 2013) for all airplanes:* As of March 26, 2013 (the effective date retained from AD 2012–26–16), do not install torque tube P/N 532.50.12.047.

(3) *Actions new to this AD for all airplanes:* Before further flight after September 22, 2014 (the effective date of this AD), insert Data module code 12–A–04–00–00–00A–000A–A, ''Structural, Component and Miscellaneous—Airworthiness Limitations,'' dated March 13, 2014, of the Pilatus Model Identification: 12 Aircraft Maintenance Manual, PC12, PC12/

45, PC 12/47 AMM Document No. 02049, 12–A–AM–00–00–00–I, revision 28, dated May 31, 2014, for Models PC–12, PC–12/45, PC–12/47, and Data module code 12–B–04–00–00–00A–000A–A, ''Structural and Component Limitations—Airworthiness Limitations,'' dated March 13, 2014, of the Pilatus Model Identification: 12 Aircraft Maintenance Manual, PC 12/47E AMM Document No. 02300, 12–B–AM–00–00–00–I, revision 11, dated May 31, 2014, for Model PC–12/47E, into the Limitations section of the FAA-approved maintenance program (e.g., maintenance manual). These limitations section revisions do the following:

(i) Establish an inspection of the inboard flap drive arms,

(ii) Specify replacement of components before or upon reaching the applicable life limit, and

(iii) Specify accomplishment of all applicable maintenance tasks within certain thresholds and intervals.

(4) *Actions retained from AD 2012–26–16, Amendment 39–17311 (78 FR 11572, February 19. 2013) for all airplanes:* Only authorized Pilatus Service Centers can do the Supplemental Structural Inspection Document (SSID) as required by the documents in paragraph (f)(3) of this AD because deviations from the type design in critical locations could make the airplane ineligible for this life extension.

(5) *Actions new to this AD for all airplanes:* If no compliance time is specified in the documents listed in paragraph (f)(3) of this AD when doing any corrective actions where discrepancies are found as required in paragraph (f)(3)(iii) of this AD, do these corrective actions before further flight after doing the applicable maintenance task.

(6) *Actions new to this AD for all airplanes:* During the accomplishment of the actions required in paragraphs (f)(3)(i), (f)(3)(ii), and (f)(3)(iii) of this AD, if a discrepancy is found that is not identified in the documents listed in paragraph (f)(3) of this AD, before further flight after finding the discrepancy, contact Pilatus Aircraft LTD, at the address specified in paragraph (i) of this AD for a repair scheme and incorporate that repair scheme.

(7) *Actions new to this AD for all airplanes:* Within the next 3 months after the effective date of this AD or within the next 150 hours TIS after the effective date of this AD, whichever occurs first, inspect the inboard flap drive arms for cracks and take all necessary corrective actions.

**(g) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

(i) Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(ii) AMOCs approved for AD 2012–26–16, Amendment 39–17311 (77 FR 11572, February 19, 2013) are not approved as AMOCs for this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

**(h) Special Flight Permit**

Special flight permits are prohibited.

**(i) Related Information**

Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2014–0170, dated July 17, 2014, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0594. For service information related to this AD, contact Pilatus Aircraft LTD., Customer Service Manager, CH–6371 STANS, Switzerland; telephone: +41 (0) 41 619 33 33; fax: +41 (0) 41 619 73 11; Internet: *http://www.pilatus-aircraft.com* or email: *SupportPC12@pilatus-aircraft.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on August 12, 2014.

**Monica L. Nemecek,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2014–19490 Filed 8–15–14; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2014–0570; Directorate Identifier 2013–NM–094–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc. Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes. This proposed AD was prompted by fuel system reviews conducted by the manufacturer. This proposed AD would require revising the maintenance or inspection program to incorporate new limitations for fuel tank systems. We are proposing this AD to prevent potential ignition sources within the fuel system, which could result in a fuel tank explosion.

**DATES:** We must receive comments on this proposed AD by October 2, 2014.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

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

For service information identified in this proposed AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

**Examining the AD Docket**

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0570; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Morton Lee, Propulsion Engineer, Propulsion & Services Branch, ANE–173; FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7355; fax 516–794–5531.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0570; Directorate Identifier 2013–NM–094–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

## Discussion

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, combination of failures, and unacceptable (failure) experience. For all three failure criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this proposed AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2007–32R2, dated June 27, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes. The MCAI states:

> Bombardier Aerospace has completed a system safety review of the aeroplanes fuel system against fuel tank safety standards * * *. The identified non-compliances were then assessed * * *, to determine if mandatory corrective action is required.
>
> The assessment showed that supplemental maintenance tasks are required to prevent potential ignition sources within the fuel system, which could result in a fuel tank explosion. Revisions have been made to Part 2 ''Airworthiness Limitations List'' of the DHC–8 Maintenance Program Manuals to introduce the required maintenance tasks.
>
> Revision 1 of this [Canadian] AD was issued to clarify the phase-in schedule for tasks FSL–02 and FSL–17.
>
> Revision 2 of this [Canadian] AD is issued to correct the effective date of AD CF–2013–07 [*http://www.casa.gov.au/scripts/nc.dll?WCMS:OLDASSET::svPath=/ADFiles/over/dhc-8/,svFileName=CF-2013-07.pdf*] referenced in Part III of the Corrective Actions and to clarify the revised phase-in schedules in Part II and Part III of the Corrective Actions.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0570.

## Relevant Service Information

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

- Bombardier Temporary Revision AWL–110, dated August 31, 2007, to Part 2, ''Airworthiness Limitations,'' of Bombardier Dash 8 Series 100 Maintenance Program Manual (MPM), Product Support Manual (PSM) 1–8–7.
- Bombardier Temporary Revision AWL 2–43, dated August 31, 2007, to Part 2, ''Airworthiness Limitations,'' of Bombardier Dash 8 Series 200 MPM, PSM 1–82–7.
- Bombardier Temporary Revision AWL 3–109, dated August 31, 2007, to Part 2, ''Airworthiness Limitations,'' of Bombardier Dash 8 Series 300 MPM, PSM 1–83–7.

## FAA's Determination and Requirements of This Proposed AD

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

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

## ''Contacting the Manufacturer'' Paragraph in This Proposed AD

Since late 2006, we have included a standard paragraph titled ''Airworthy Product'' in all MCAI ADs in which the FAA develops an AD based on a foreign authority's AD.

The MCAI or referenced service information in an FAA AD often directs the owner/operator to contact the manufacturer for corrective actions,

such as a repair. Briefly, the Airworthy Product paragraph allowed owners/operators to use corrective actions provided by the manufacturer if those actions were FAA-approved. In addition, the paragraph stated that any actions approved by the State of Design Authority (or its delegated agent) are considered to be FAA-approved.

In an NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013), we proposed to prevent the use of repairs that were not specifically developed to correct the unsafe condition, by requiring that the repair approval provided by the State of Design Authority or its delegated agent specifically refer to the FAA AD. This change was intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we proposed to change the phrase ''its delegated agent'' to include a design approval holder (DAH) with State of Design Authority design organization approval (DOA), as applicable, to refer to a DAH authorized to approve required repairs for the proposed AD.

One commenter to the NPRM having Directorate Identifier 2012–NM–101–AD (78 FR 78285, December 26, 2013) stated the following: ''The proposed wording, being specific to repairs, eliminates the interpretation that Airbus messages are acceptable for approving minor deviations (corrective actions) needed during accomplishment of an AD mandated Airbus service bulletin.''

This comment has made the FAA aware that some operators have misunderstood or misinterpreted the Airworthy Product paragraph to allow the owner/operator to use messages provided by the manufacturer as approval of deviations during the accomplishment of an AD-mandated action. The Airworthy Product paragraph does not approve messages or other information provided by the manufacturer for deviations to the requirements of the AD-mandated actions. The Airworthy Product paragraph only addresses the requirement to contact the manufacturer for corrective actions for the identified unsafe condition and does not cover deviations from other AD requirements. However, deviations to AD-required actions are addressed in 14 CFR 39.17, and anyone may request the approval for an alternative method of compliance to the AD-required actions using the procedures found in 14 CFR 39.19.

To address this misunderstanding and misinterpretation of the Airworthy Product paragraph, we have changed the paragraph and retitled it ''Contacting the Manufacturer.'' This paragraph now clarifies that for any requirement in this proposed AD to obtain corrective actions from a manufacturer, the actions must be accomplished using a method approved by the FAA, or Transport Canada Civil Aviation (TCCA), or Bombardier, Inc.'s TCCA Design Approval Organization (DAO).

The Contacting the Manufacturer paragraph also clarifies that, if approved by the DAO, the approval must include the DAO-authorized signature. The DAO signature indicates that the data and information contained in the document are TCCA-approved, which is also FAA-approved. Messages and other information provided by the manufacturer that do not contain the DAO-authorized signature approval are not TCCA-approved, unless TCCA directly approves the manufacturer's message or other information.

This clarification does not remove flexibility previously afforded by the Airworthy Product paragraph. Consistent with long-standing FAA policy, such flexibility was never intended for required actions. This is also consistent with the recommendation of the Airworthiness Directive Implementation Aviation Rulemaking Committee to increase flexibility in complying with ADs by identifying those actions in manufacturers' service instructions that are ''Required for Compliance'' with ADs. We continue to work with manufacturers to implement this recommendation. But once we determine that an action is required, any deviation from the requirement must be approved as an alternative method of compliance.

## Costs of Compliance

We estimate that this proposed AD affects 122 airplanes of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $10,370, or $85 per product.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

## List of Subjects in 14 CFR Part 39

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

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Bombardier, Inc.:** Docket No. FAA–2014–0570; Directorate Identifier 2013–NM–094–AD.

**(a) Comments Due Date**

We must receive comments by October 2, 2014.

**(b) Affected ADs**

This AD affects AD 2008–13–09, Amendment 39–15572 (73 FR 47029, August 13, 2008).

**(c) Applicability**

This AD applies to Bombardier, Inc. Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes, certificated in any category, serial numbers (S/N) 003 through 624 inclusive, and 626.

**(d) Subject**

Air Transport Association (ATA) of America Code 28, Fuel.

**(e) Reason**

This AD was prompted by fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent potential ignition sources within the fuel system, which could result in a fuel tank explosion.

**(f) Compliance**

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

**(g) Maintenance or Inspection Program Revision**

Within 30 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to include fuel system limitation (FSL) Task Numbers FSL–02 and FSL–17, as specified in the applicable temporary revision (TR) identified in paragraph (g)(1), (g)(2), or (g)(3) of this AD. The initial compliance times for accomplishing the tasks are specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD. Doing this revision terminates the requirements of paragraph (f) of AD 2008–13–09, Amendment 39–15572 (73 FR 47029, August 13, 2008), for Task Numbers FSL–02 and FSL–17 only.

(1) Bombardier TR AWL–110, dated August 31, 2007, to Part 2, ''Airworthiness Limitations,'' of Bombardier Dash 8 Series 100 Maintenance Program Manual (MPM), Product Support Manual (PSM) 1–8–7.

(2) Bombardier TR AWL 2–43, dated August 31, 2007, to Part 2, ''Airworthiness Limitations,'' of Bombardier Dash 8 Series 200 MPM, PSM 1–82–7.

(3) Bombardier TR AWL 3–109, dated August 31, 2007, to Part 2, ''Airworthiness Limitations,'' of Bombardier Dash 8 Series 300 MPM, PSM 1–83–7.

**(h) Phase-in Compliance Times**

For airplanes having S/Ns 003 through 624, and S/N 626, the initial compliance times are specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD, as applicable.

(1) For airplanes having S/Ns 003 through 624 on which the applicable modification summaries (ModSums) specified in paragraphs (h)(1)(i), (h)(1)(ii), and (h)(1)(iii) of this AD have been incorporated before the effective date of this AD: The compliance time for the initial inspection in FSL Task Number FSL–02 and the initial functional check in FSL Task Number FSL–17 is within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first. Airplane configurations can be a combination of the configurations specified in paragraphs (h)(1)(i), (h)(1)(ii), and (h)(1)(iii) of this AD.

(i) For airplanes having S/Ns 003 through 624: Bombardier ModSum Package 8Q101512, Revision G, dated June 10, 2009; and Bombardier ModSum Package 8Q101865, Revision B, dated May 26, 2008.

(ii) For airplanes having S/Ns 003 through 624 with auxiliary power unit (APU) option: Bombardier ModSum Package 8Q902144, Revision E, dated June 17, 2009.

(iii) For airplanes having S/Ns 003 through 624 with a long-range fuel system installed: Bombardier ModSum Package 8Q902091, Revision C, dated December 22, 2006.

(2) For airplanes having S/Ns 003 through 624 on which the applicable ModSum packages specified in paragraphs (h)(1)(i), (h)(1)(ii), and (h)(1)(iii) of this AD have not been incorporated before the effective date of this AD: The compliance time for the initial inspection in FSL Task Number FSL–02 and the initial functional check in FSL Task Number FSL–17 is before further flight after incorporation of all applicable ModSum packages specified in paragraphs (h)(1)(i), (h)(1)(ii), and (h)(1)(iii) of this AD. Airplane configurations can be a combination of the configurations specified in paragraphs (h)(1)(i), (h)(1)(ii), and (h)(1)(iii) of this AD.

(3) For the airplane having serial number 626: The initial compliance time is at the applicable time specified in paragraph (h)(3)(i) or (h)(3)(ii) of this AD.

(i) If Bombardier ModSum Package 8Q902091, Revision C, dated December 22, 2006, has been incorporated before the effective date of this AD: The compliance time for doing the initial inspection specified in FSL Task Number FSL–02 and the initial functional check specified in FSL Task Number FSL–17 is within 6,000 flight hours or within 36 months after the effective date of this AD, whichever occurs first.

(ii) If Bombardier ModSum Package 8Q902091 Revision C, dated December 22, 2006, has not been incorporated before the effective date of this AD: The compliance time for doing the initial inspection in FSL Task Number FSL–02 and the initial functional check in FSL Task Number FSL–17 is before further flight after incorporation of Bombardier ModSum Package 8Q901091.

**(i) No Alternative Actions, Intervals, and/or Critical Design Configuration Control Limitations (CDCCLs)**

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (e.g., inspections), intervals, and/or CDCCLs may be used unless the actions, intervals, and/or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

**(j) Other FAA AD Provisions**

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or Transport Canada Civil Aviation (TCCA), or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(k) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2007–32R2, dated June 27, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0570.

(2) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com*. You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 7, 2014.

**Victor Wicklund,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2014–19552 Filed 8–15–14; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA–2014–0577; Directorate Identifier 2013–SW–042–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters Deutschland GmbH (Previously Eurocopter Deutschland GmbH) (Airbus Helicopters) Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to adopt a new airworthiness directive (AD) for Airbus Helicopters Model EC135P1, EC135T1, EC135P2, EC135T2, EC135P2+, EC135T2+, and MBB–BK 117 C–2 helicopters. This proposed AD would require inspecting certain washers for movement and making appropriate repairs if the washers move. This proposed AD is prompted by play found between the Smart Electro Mechanical Actuator (SEMA) and the control rod during installation work on a helicopter. The proposed actions are intended to prevent loss of concerned control axis and subsequent loss of control of the helicopter.

**DATES:** We must receive comments on this proposed AD by October 17, 2014.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

### Examining the AD Docket

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

For service information identified in this proposed AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

**FOR FURTHER INFORMATION CONTACT:** Matt Wilbanks, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *matt.wilbanks@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

### Discussion

EASA, which is the Technical Agent for the Member States of the European Union, issued EASA AD No. 2013–0176, dated August 7, 2013, to correct an unsafe condition for Eurocopter Deutschland GmbH Model EC 135 P1 (CDS), EC 135 P1 (CPDS), EC 135 P2+, EC 135 P2 (CPDS), EC 135 T1 (CDS), EC 135 T1 (CPDS), EC 135 T2+, EC 135 T2 (CPDS), EC 635 P2+, EC 635 T1 (CPDS), EC 635 T2+, and MBB–BK 117 C–2 helicopters. EASA advises that during installation work on a helicopter, it was discovered that it was not possible to install attachment hardware on a threaded blind borehole between the SEMA and the control rod without play. According to EASA, the loose attachment hardware was caused by an ''unfavourable adding of the tolerances'' of the individual attachment hardware elements. EASA states that as a result, the screw pushed against the bottom of the threaded blind borehole on the SEMA, and no clamping force could be achieved on the screw head. EASA advises that this condition, if not detected and corrected, could lead to loss of the concerned control axis, possibly resulting in loss of helicopter control. For these reasons, EASA AD No. 2013–0176 requires a one-time inspection of the affected SEMA attachment hardware to detect improper connection and play and, depending on the findings, replacement of the affected hardware.

Since the issuance of EASA AD No. 2013–0176, Eurocopter Deutschland GmbH has changed its name to Airbus Helicopters Deutschland GmbH.

### FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

### Related Service Information

Eurocopter reported in Alert Service Bulletins (ASBs) EC135–22A–015, Revision 1, dated January 28, 2013, and MBB BK117 C–2–22A–009, Revision 1, dated August 3, 2009, that it was discovered during the installation work on a helicopter that it was not possible to establish attachment hardware on a threaded blind borehole between the SEMA and the control rod without play. The ASBs state that ''unfavourable adding of the tolerances'' of the individual attachment hardware elements caused the screw to push against the bottom of the threaded blind borehole on the SEMA, preventing any clamping force on the screw head. The ASBs call for inspecting the SEMA attachment hardware connected to their

respective control rods for play and making the proper adjustments to eliminate any play.

**Proposed AD Requirements**

This proposed AD would require, within 50 hours time-in-service, inspecting whether the washers can be moved in the attachment hardware that connects the SEMA and the control rod of the longitudinal, lateral, and yaw actuators. For Model MBB BK117 C–2 helicopters, this inspection is only for the hardware connecting the Yaw-SEMA and the Yaw-SEMA control rod. If none of the washers can be moved, then no further action is needed. If a washer can be moved, then this proposed AD would require replacing the four screws, installing two additional washers, and torque-tightening the screws to 5–6 Nm.

**Differences Between This Proposed AD and the EASA AD**

The EASA AD applies to Eurocopter Model EC635P2+, EC635T1 and EC635T2+ helicopters. The proposed AD does not apply to these model helicopters because they have no FAA type certificate.

**Costs of Compliance**

We estimate that this proposed AD would affect 385 helicopters of U.S. Registry and that labor costs average $85 per work-hour. Based on these estimates, we expect the following costs:

- Inspecting for movement of the washers would require 1.5 work hours for a labor cost of $128 per helicopter and $49,280 for the U.S. fleet.
- Replacing the screws and related work would require an additional 0.5 work-hours for a labor cost of $43. Screws would cost $4 each while washers would cost $10 each. We estimate the cost would be $79 per repair.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

For the reasons discussed, I certify this proposed regulation:

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

We prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Airbus Helicopters Deutschland GmbH (Previously Eurocopter Deutschland GmbH) (Airbus Helicopters) Helicopters:** Docket No. FAA–2014–0577; Directorate Identifier 2013–SW–042–AD.

**(a) Applicability**

This AD applies to Airbus Helicopters Model EC135P1, EC135T1, EC135P2, EC135T2, EC135P2+, EC135T2+, and MBB–BK 117 C–2 helicopters, certificated in any category.

**(b) Unsafe Condition**

This AD defines the unsafe condition as loose attachment hardware between the Smart Electro Mechanical Actuator (SEMA) and a control rod. This condition could result in loss of the control axis and subsequent loss of control of the helicopter.

**(c) Comments Due Date**

We must receive comments by October 17, 2014.

**(d) Compliance**

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

**(e) Required Actions**

(1) Within 50 hours time in service (TIS), for Model EC135P1, EC135T1, EC135P2, EC135T2, EC135P2+, and EC135T2+ helicopters, do the following:

(i) Using Figure 1 and Figure 2 of Eurocopter Alert Service Bulletin EC135–22A–015, Revision 1, dated January 28, 2013 (ASB EC135–22A–015) as reference, inspect the attachment hardware between the SEMA and the longitudinal actuator control rod to determine whether any of the washers can be moved.

(A) If no washer can be moved, no further action is needed.

(B) If a washer can be moved, replace the four screws and install two additional washers, part number (P/N) EN2139–05016, to connect the SEMA with the control rod. Torque-tighten each screw to 5–6 Nm.

(ii) Using Figure 1 and Figure 2 of ASB EC135–22A–015 as reference, inspect the attachment hardware between the SEMA and the lateral actuator control rod to determine whether any of the washers can be moved.

(A) If no washer can be moved, no further action is needed.

(B) If a washer can be moved, replace the four screws and install two additional washers, P/N EN2139–05016, to connect the SEMA with the control rod. Torque-tighten each screw to 5–6 Nm.

(iii) Using Figure 1, Figure 3, and Figure 4 of ASB EC135–22A–015 as reference, inspect the attachment hardware between the SEMA and the yaw actuator control rod to determine whether any of the washers can be moved.

(A) If no washer can be moved, no further action is needed.

(B) If a washer can be moved, replace the four screws and install two additional washers, P/N EN2139–05016, to connect the SEMA with the control rod. Torque-tighten each screw to 5–6 Nm.

(2) Within 50 hours TIS, for Model MBB BK117 C–2 helicopters, using Figure 1 of Eurocopter Alert Service Bulletin MBB BK117 C–2–22A–009, Revision 1, dated August 3, 2009, as reference, inspect the attachment hardware between the Yaw-SEMA and the Yaw-SEMA control rod to determine whether any of the washers can be moved.

(i) If no washer can be moved, no further action is needed.

(ii) If a washer can be moved, replace the four screws and install two additional

washers, P/N EN2139–05016, to connect the SEMA with the control rod. Torque-tighten each screw to 5–6 Nm and apply polyurethane lacquer onto the attachment hardware.

**(f) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Wilbanks, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *matt.wilbanks@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

**(g) Additional Information**

The subject of this AD is addressed in the European Aviation Safety Agency (EASA) AD No. 2013–0176, dated August 7, 2013. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2014–0577.

**(i) Subject**

Joint Aircraft Service Component (JASC) Code: 2213, Flight Controller.

Issued in Fort Worth, Texas, on August 8, 2014.

**Lance T. Gant,**

*Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2014–19524 Filed 8–15–14; 8:45 am]

BILLING CODE 4910–13–P

## SECURITIES AND EXCHANGE COMMISSION

## 17 CFR Part 275

**[Release No. IA–3893; File No. S7–23–07]**

**RIN 3235–AL56**

## Temporary Rule Regarding Principal Trades With Certain Advisory Clients

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Securities and Exchange Commission is proposing to amend rule 206(3)–3T under the Investment Advisers Act of 1940, a temporary rule that establishes an alternative means for investment advisers that are registered with the Commission as broker-dealers to meet the requirements of section 206(3) of the Investment Advisers Act when they act in a principal capacity in transactions with certain of their advisory clients. The amendment would extend the date on which rule 206(3)–3T will sunset from December 31, 2014 to December 31, 2016.

**DATES:** Comments must be received on or before September 17, 2014.

**ADDRESSES:** Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–23–07 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

*Paper Comments*

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number S7–23–07. This file number should be included on the subject line if email is used. To help us 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/proposed.shtml*). Comments are also 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. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:** Melissa S. Gainor, Senior Counsel, Sarah A. Buescher, Branch Chief, or Daniel S. Kahl, Assistant Director, at (202) 551–6787 or *IArules@sec.gov,* Investment Adviser Regulation Office, Division of Investment Management, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–8549.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission is proposing an amendment to temporary rule 206(3)–3T [17 CFR 275.206(3)–3T] under the Investment Advisers Act of 1940 [15 U.S.C. 80b] that would extend the date on which the rule will sunset from December 31, 2014 to December 31, 2016.

### I. Background

On September 24, 2007, we adopted, on an interim final basis, rule 206(3)–3T, a temporary rule under the Investment Advisers Act of 1940 (the ''Advisers Act'') that provides an alternative means for investment advisers that are registered with us as broker-dealers to meet the requirements of section 206(3) of the Advisers Act when they act in a principal capacity in transactions with certain of their advisory clients.[1] The purpose of the rule was to permit broker-dealers to sell to their advisory clients, in the wake of *Financial Planning Association* v. *SEC* (the ''FPA Decision''),[2] certain securities held in the proprietary accounts of their firms that might not be available on an agency basis—or might be available on an agency basis only on less attractive terms [3]—while protecting clients from conflicts of interest as a result of such transactions.[4]

As initially adopted on an interim final basis, rule 206(3)–3T was set to sunset on December 31, 2009. In December 2009, however, we adopted rule 206(3)–3T as a final rule in the same form in which it was adopted on an interim final basis in 2007, except that we extended the rule's sunset date by one year to December 31, 2010.[5] We

[1] Rule 206(3)–3T [17 CFR 275.206(3)–3T]. All references to rule 206(3)–3T and the various sections thereof in this release are to 17 CFR 275.206(3)–3T and its corresponding sections. *See also Temporary Rule Regarding Principal Trades with Certain Advisory Clients,* Investment Advisers Act Release No. 2653 (Sep. 24, 2007) [72 FR 55022 (Sep. 28, 2007)] (''2007 Principal Trade Rule Release'').

[2] 482 F.3d 481 (D.C. Cir. 2007). In the FPA Decision, handed down on March 30, 2007, the Court of Appeals for the DC Circuit vacated (subject to a subsequent stay until October 1, 2007) rule 202(a)(11)–1 under the Advisers Act. Rule 202(a)(11)–1 provided, among other things, that fee-based brokerage accounts were not advisory accounts and were thus not subject to the Advisers Act. For further discussion of fee-based brokerage accounts, *see* 2007 Principal Trade Rule Release, Section I.

[3] *See* 2007 Principal Trade Rule Release at nn.19–20 and Section VI.C.

[4] As a consequence of the FPA Decision, broker-dealers offering fee-based brokerage accounts with an advisory component became subject to the Advisers Act with respect to those accounts, and the client relationship became fully subject to the Advisers Act. These broker-dealers—to the extent they wanted to continue to offer fee-based accounts and met the requirements for registration—had to: Register as investment advisers, if they had not done so already; act as fiduciaries with respect to those clients; disclose all material conflicts of interest; and otherwise fully comply with the Advisers Act, including the restrictions on principal trading contained in section 206(3) of the Act. *See* 2007 Principal Trade Rule Release, Section I.

[5] *See Temporary Rule Regarding Principal Trades with Certain Advisory Clients,* Investment Advisers Act Release No. 2965 (Dec. 23, 2009) [74 FR 69009

Continued

deferred final action on rule 206(3)–3T in December 2009 because we needed additional time to understand how, and in what situations, the rule was being used.[6]

In both December 2010 and December 2012, we further extended the rule's sunset date, in each case for an additional two-year period.[7] We deferred final action on rule 206(3)–3T in 2010 in order to complete a study required by section 913 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act'').[8] In 2012, we deferred final action on rule 206(3)–3T to further consider the findings, conclusions, and recommendations of the 913 Study and the comments we had received from interested parties.[9] In connection with each extension, we noted that our consideration of the regulatory requirements applicable to broker-dealers and investment advisers was ongoing and that an extension would allow the Commission to consider more broadly the regulatory requirements applicable to broker-dealers and investment advisers, including whether rule 206(3)–3T should be substantively modified, supplanted, or permitted to sunset.[10]

We have continued to consider the regulatory requirements applicable to broker-dealers and investment advisers. In 2013, we issued a request for data and other information, including quantitative data and economic analysis, relating to the benefits and costs that could result from alternative approaches regarding the standards of conduct and other obligations of broker-dealers and investment advisers.[11] The staff has received over 200 comment letters in response to the Request, several of which discussed rule 206(3)–3T, and Commissioners and the staff have held numerous meetings with interested parties.[12] None of the comment letters provided quantitative or qualitative information regarding the effects of the temporary rule.

## II. Discussion

We are proposing to amend rule 206(3)–3T to extend the rule's sunset date by two additional years.[13] Absent further action by the Commission, the rule will sunset on December 31, 2014. We are proposing this extension because we continue to believe that the issues raised by principal trading, including the restrictions in section 206(3) of the Advisers Act and our experiences with, and observations regarding, the operation of rule 206(3)–3T, should be considered as part of our broader consideration of the regulatory requirements applicable to broker-dealers and investment advisers in connection with the Dodd-Frank Act.[14]

As noted above, section 913 of the Dodd-Frank Act authorizes us to promulgate rules concerning, among other things, the legal or regulatory standards of conduct for broker-dealers, investment advisers, and persons associated with these intermediaries when providing personalized investment advice about securities to

(Dec. 30, 2009)] (''2009 Extension Release''); *Temporary Rule Regarding Principal Trades with Certain Advisory Clients,* Investment Advisers Act Release No. 2965A (Dec. 31, 2009) [75 FR 742 (Jan. 6, 2010)] (making a technical correction to the 2009 Extension Release).

[6] *See* 2009 Extension Release, Section II.c.

[7] *See Temporary Rule Regarding Principal Trades with Certain Advisory Clients,* Investment Advisers Act Release No. 3118 (Dec. 1, 2010) [75 FR 75650 (Dec. 6, 2010)] (proposing a two-year extension of rule 206(3)–3T's sunset provision) (''2010 Extension Proposing Release''); *Temporary Rule Regarding Principal Trades with Certain Advisory Clients,* Investment Advisers Act Release No. 3128 (Dec. 28, 2010) [75 FR 82236 (Dec. 30, 2010)] (extending rule 206(3)–3T's sunset provision from December 31, 2010 to December 31, 2012) (''2010 Extension Release''); Temporary Rule Regarding Principal Trades with Certain Advisory Clients, Investment Advisers Act Release No. 3483 (Oct. 9, 2012) [77 FR 62185 (Oct. 12, 2012)] (proposing a two-year extension of rule 206(3)–3T's sunset provision); Temporary Rule Regarding Principal Trades with Certain Advisory Clients, Investment Advisers Act Release No. 3522 (Dec. 20, 2012) [77 FR 76854 (Dec. 31, 2012)] (extending rule 206(3)–3T's sunset provision from December 31, 2012 to December 31, 2014) (''2012 Extension Release'').

[8] Public Law 111–203, 124 Stat. 1376 (2010). Under section 913 of the Dodd-Frank Act, we were required to conduct a study and provide a report to Congress concerning the obligations of broker-dealers and investment advisers, including standards of care applicable to those intermediaries and their associated persons. Section 913 also authorizes us to promulgate rules concerning the legal or regulatory standards of care for broker-dealers, investment advisers, and persons associated with these intermediaries for providing personalized investment advice about securities to retail customers, taking into account the findings, conclusions, and recommendations of the study.

The study mandated by section 913 of the Dodd-Frank Act was prepared by the staff and delivered to Congress on January 21, 2011. *See Study on Investment Advisers and Broker-Dealers* (''913 Study'') (Jan. 21, 2011), available at *http://www.sec.gov/news/studies/2011/913studyfinal.pdf.* For a discussion regarding principal trading, *see* section IV.C.1.(b) of the 913 Study. *See also* Commissioners Kathleen L. Casey and Troy A. Paredes, *Statement by SEC Commissioners: Statement Regarding Study on Investment Advisers and Broker-Dealers* (Jan. 21, 2011), available at *http://www.sec.gov/news/speech/2011/spch012211klctap.htm* (opposing the release of the 913 Study to Congress and stating that more rigorous analysis is required before the Commission engages in any follow-on rulemaking).

[9] *See* 2012 Extension Release, Section II.

[10] *See id.;* 2010 Extension Release, Section II.

[11] *Duties of Brokers, Dealers, and Investment Advisers,* Investment Advisers Act Release No. 3558 (Mar. 1, 2013) [78 FR 14848 (Mar. 7, 2013)] (the ''Request'').

[12] *See Comments on Study Regarding Obligations of Brokers, Dealers, and Investment Advisers,* File No. 4–606, available at *http://sec.gov/comments/4-606/4-606.shtml. See e.g.,* Comment Letter of Consumer Federation of America (Jul. 5, 2013) (''[B]y considering revisions to the principal trading rules as part of the fiduciary rulemaking, the Commission could arrive at a workable approach that is consistent for brokers and investment advisers and provides improved protections for investors.''); Comment Letter of North American Securities Administrators Association, Inc. (Jul. 5, 2013) (''[T]he Commission should consider SEC Rule 206(3)–3T as part of future fiduciary standard rulemaking.''); Comment Letter of Securities Industry and Financial Markets Association (''SIFMA'') (Jul. 5, 2013) (''SIFMA 2013 Letter'') (including survey results regarding the dollar amount of principal transactions engaged in with retail clients during 2012).

[13] The rule includes a reference to an ''investment grade debt security,'' which is defined as ''a non-convertible debt security that, at the time of sale, is rated in one of the four highest rating categories of at least two nationally recognized statistical rating organizations (as defined in section 3(a)(62) of the Exchange Act).'' Rule 206(3)–3T(a)(2) and (c). Section 939A of the Dodd-Frank Act requires that we ''review any regulation issued by [us] that requires the use of an assessment of the credit-worthiness of a security or money market instrument; and any references to or requirements in such regulations regarding credit ratings.'' Once we have completed that review, the statute provides that we modify any regulations identified in our review to ''remove any reference to or requirement of reliance on credit ratings and to substitute in such regulations such standard of credit-worthiness'' as we determine to be appropriate. We believe that the credit rating requirement in the temporary rule would be better addressed after the Commission completes its review of the regulatory standards of conduct that apply to broker-dealers and investment advisers. Therefore, we are not proposing any substantive amendments to the rule at this time. *See generally Report on Review of Reliance on Credit Ratings* (July 21, 2011), available at *http://www.sec.gov/news/studies/2011/939astudy.pdf* (staff study reviewing the use of credit ratings in Commission regulations).

[14] The 913 Study is one of several studies relevant to the regulation of broker-dealers and investment advisers mandated by the Dodd-Frank Act. *See, e.g., Study on Enhancing Investment Adviser Examinations* (Jan. 19, 2011), available at *http://sec.gov/news/studies/2011/914studyfinal.pdf* (staff study required by section 914 of the Dodd-Frank Act, which directed the Commission to review and analyze the need for enhanced examination and enforcement resources for investment advisers); Commissioner Elisse B. Walter, *Statement on Study Enhancing Investment Adviser Examinations (Required by Section 914 of Title IV of the Dodd-Frank Wall Street Reform and Consumer Protection Act)* (Jan. 19, 2011), available at *http://sec.gov/news/speech/2011/spch011911ebw.pdf. See also Study and Recommendations on Improved Investor Access to Registration Information About Investment Advisers and Broker-Dealers* (Jan. 26, 2011), available at *http://sec.gov/news/studies/2011/919bstudy.pdf* (staff study required by section 919B of the Dodd-Frank Act, that directed the Commission to complete a study, including recommendations (some of which have been implemented) of ways to improve investor access to registration information about investment advisers and broker dealers, and their associated persons); *United States Government Accountability Office Report to Congressional Committees on Private Fund Advisers* (July 11, 2011), available at *http://www.gao.gov/new.items/d11623.pdf* (study required by section 416 of the Dodd-Frank Act, which directed the Comptroller General of the United States to study the feasibility of forming an self-regulatory organization to oversee private funds).

retail customers. Since the completion of the 913 Study in 2011, we have been considering the findings, conclusions, and recommendations of the study and the comments we have received from interested parties.[15] The Commission and its staff have continued to focus on evaluating options regarding regulatory requirements applicable to broker-dealers and investment advisers, taking into account the 913 Study's recommendations, the views of investors and other interested market participants, potential economic and market impacts, and the information we received in response to the Request in 2013. Staff has also been engaged in examinations of dual registrants and is assessing the impact to investors of the different supervisory structures and legal standards of conduct that govern the provision of brokerage and investment advisory services, which may help inform our considerations.[16] At this time, our consideration of the regulatory requirements applicable to broker-dealers and investment advisers is ongoing. We do not expect to complete our consideration of these issues before December 31, 2014, the current sunset date for rule 206(3)–3T.

If we permit rule 206(3)–3T to sunset on December 31, 2014, after that date investment advisers registered with us as broker-dealers that currently rely on rule 206(3)–3T would be required to comply with section 206(3)'s transaction-by-transaction written disclosure and consent requirements without the benefit of the alternative means of complying with these requirements currently provided by rule 206(3)–3T. This could limit the access of non-discretionary advisory clients of advisory firms that are registered with us as broker-dealers to certain securities.[17] In addition, firms may be required to make substantial changes to their disclosure documents, client agreements, procedures, and systems.

We believe that the requirements of rule 206(3)–3T, coupled with regulatory oversight, will adequately protect advisory clients for an additional limited period of time while we consider more broadly the regulatory requirements applicable to broker-dealers and investment advisers.[18] Since its adoption and throughout the period of the proposed extension, the staff has examined and would continue to examine firms that engage in principal transactions and will take appropriate action to help ensure that firms are complying with section 206(3) or rule 206(3)–3T (as applicable), including possible enforcement action.[19] Since the last extension, examination staff also requested and received materials from a sample of dual registrants in 2014 to observe the use of the rule by these firms.[20] This examination showed that a number of the firms that were contacted by staff relied on the rule and that those firms had adopted written policies and procedures under rule 206(4)–7 that are designed to comply with the requirements of the temporary rule.[21] Based on the review, it appeared to the staff that the firms relying on the rule had processes in place for the purpose of effecting principal transactions in compliance with the requirements of the temporary rule.

In light of these considerations, we believe that it is not appropriate to require firms currently relying on the rule to restructure their operations and client relationships before we complete our consideration of the standards of conduct and regulatory requirements applicable to broker-dealers and investment advisers. To the extent our consideration of these issues leads to new rules concerning principal trading, these firms would be required to restructure their operations and client relationships, potentially at substantial expense.

As part of our broader consideration of the regulatory requirements applicable to broker-dealers and investment advisers, we intend to carefully consider principal trading by advisers, including whether rule 206(3)–3T should be substantively modified, supplanted, or permitted to sunset. In making these determinations, we will consider, among other things: The 913 Study; relevant comments and information received in connection with the 913 Study, the Request, and any rulemaking that may follow; the results of our staff's evaluation of the operation of rule 206(3)–3T; the information received in connection with the review of dual registrants; and comments we receive on rule 206(3)–3T in connection with this proposed extension.

## III. Request for Comment

We request comment on our proposal to extend rule 206(3)–3T's sunset date for two additional years.

- Should we allow the rule to sunset?
- If so, what costs would advisers that currently rely on the rule incur? What would be the impact on their clients?
- If we allow the rule to sunset, should we consider exemptive requests from investment advisers that are registered with us as broker-dealers for exemptive orders providing an alternative means of compliance with section 206(3)?
- Are there any developments since the last extension that would make an extension not appropriate?
- If we extend the rule's sunset date, is two years an appropriate period of time to extend the sunset date? Or should we extend the rule's sunset date for a different period of time? If so, for how long?
- Is it appropriate to extend rule 206(3)–3T's sunset date for a limited period of time in its current form while we complete our broader consideration of the regulatory requirements applicable to broker-dealers and investment advisers?

## IV. Paperwork Reduction Act

Rule 206(3)–3T contains ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995.[22] The Office of Management and Budget (''OMB'') last approved the collection of information with an expiration date of July 31, 2017. An agency may not conduct or sponsor,

[15] Section 913(f) of the Dodd-Frank Act requires us to consider the 913 Study in any rulemaking authorized by that section of the Dodd-Frank Act.

[16] *See* National Exam Program, Office of Compliance Inspections and Examinations, *Examination Priorities for 2014* (Jan. 9, 2014), available at *http://www.sec.gov/about/offices/ocie/national-examination-program-priorities-2014.pdf.*

[17] For a discussion of the costs and benefits underlying rule 206(3)–3T, *see* 2007 Principal Trade Rule Release, Section VI.C.

[18] In addition, rule 206(3)–3T(b) provides that the rule does not relieve an investment adviser from acting in the best interests of its clients, or from any obligation that may be imposed by sections 206(1) or (2) of the Advisers Act or any other applicable provisions of the federal securities laws.

[19] In the 2010 Extension Proposing Release, we discussed certain compliance issues identified by the Office of Compliance, Inspections and Examinations. *See* 2010 Extension Proposing Release, Section II. One matter identified in the staff's review resulted in a settlement of an enforcement proceeding and other matters continue to be reviewed by the staff. *See In the Matter of Feltl & Company, Inc.,* Investment Advisers Act Release No. 3325 (Nov. 28, 2011) (settled order finding, among other things, violations of section 206(3) of the Advisers Act for certain principal transactions and section 206(4) of the Advisers Act and rule 206(4)–7 thereunder for failure to adopt written policies and procedures reasonably designed to prevent violations of the Advisers Act and its rules).

[20] Staff identified a representative sample set of dual registrants based on Form ADV data, including firm disclosures on Form ADV Part 2A, and requested materials from the firms that included compliance policies and procedures, sample disclosures, and data regarding the firm's principal transactions with advisory accounts. *See also* infra note 27.

[21] 17 CFR 275.206(4)–7. *See also* 2007 Principal Trade Rule Release (noting that an adviser relying on rule 206(3)–3T as an alternative means of complying with section 206(3) must have adopted and implemented written policies and procedures reasonably designed to comply with the requirements of the rule).

[22] 44 U.S.C. 3501 *et seq.*

and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The title for the collection of information is: ''Temporary rule for principal trades with certain advisory clients, rule 206(3)–3T'' and the OMB control number for the collection of information is 3235–0630.

The amendment to the rule we are proposing today—to extend rule 206(3)–3T's sunset date for two years—does not affect the current annual aggregate estimated hour burden of 139,358 hours.[23] Therefore, we are not revising the Paperwork Reduction Act burden and cost estimates submitted to OMB as a result of this proposed amendment.

We request comment on whether the estimates continue to be reasonable. Have circumstances changed such that these estimates (or the underlying assumptions embedded in these estimates) should be modified or revised? Persons submitting comments should direct the comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and should send a copy to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090, with reference to File No. S7–23–07.

## V. Economic Analysis

### *A. Introduction*

The Commission is sensitive to the economic effects, including the benefits and costs and the effects on efficiency, competition, and capital formation, that would result from extending rule 206(3)–3T's sunset date for two years.[24] The economic effects considered in proposing this extension are discussed below.

Rule 206(3)–3T provides an alternative means for investment advisers that are registered with the Commission as broker-dealers to meet the requirements of section 206(3) of the Advisers Act when they act in a principal capacity in transactions with their non-discretionary advisory clients. Other than proposing to extend rule 206(3)–3T's sunset date for two years, we are not otherwise proposing to modify the rule from its current form. We are proposing to extend rule 206(3)–3T in its current form to avoid disruption to firms and clients that rely on the rule while the Commission continues its ongoing consideration of the regulatory requirements applicable to broker-dealers and investment advisers and the recommendations from the 913 Study. In particular, an extension of the current rule would permit firms to continue to offer, and clients to have access to, certain securities on a principal basis without being required to restructure their operations and client relationships, adjust to a new set of rules, or abandon the operational systems established to comply with the current rule—potentially only to have to do so again when the rule expires or is modified, and once more if the Commission adopts a new approach to principal trading in connection with the broader consideration of the regulatory requirements applicable to broker-dealers and investment advisers. We previously considered and discussed the economic effects of rule 206(3)–3T in its current form in the 2007 Principal Trade Rule Release, the 2009 Extension Release, the 2010 Extension Release, and the 2012 Extension Release.[25]

At the outset, the Commission notes that, where possible, it has sought to quantify the costs, benefits, and effects on efficiency, competition, and capital formation expected to result from extending rule 206(3)–3T and its reasonable alternatives. In many cases, however, the Commission is unable to quantify the economic effects because it lacks the information necessary to provide a reasonable estimate.[26] The staff has also not found other information, including through examinations and comment letters, which impacts the discussion of economic effects in previous releases. We will continue to assess the rule's operation and impacts along with intervening developments during the period of the proposed extension.

The temporary rule currently in effect serves as the economic baseline against which the costs and benefits, as well as the impact on efficiency, competition, and capital formation, of the amendment are discussed. The proposed amendment, which will extend rule 206(3)–3T's sunset date by an additional two years, will affect investment advisers that are registered with the Commission as broker-dealers and engage in, or may consider engaging in, principal transactions with non-discretionary advisory clients, as well as the non-discretionary advisory clients of these firms that engage in, or may consider engaging in, principal transactions.

Although the extent to which firms currently rely on the rule is unknown, based on IARD data as of June 1, 2014, there are 97 dual registrants that may rely on the rule.[27] Past comment letters also have indicated that since its implementation in 2007, both large and small advisers have relied upon the rule.[28] Additionally, one comment letter to the Request in 2013 provided survey results regarding the dollar amount of principal transactions that a small number of firms engaged in with retail clients in 2012.[29] Because the economic effects of extending the rule and its reasonable alternatives will depend on the extent to which eligible firms rely on the rule to engage in principal transactions with non-discretionary

[23] *See Proposed Collection; Comment Request,* 78 FR 72932 (Dec. 4, 2013); *Submission for OMB Review; Comment Request,* 79 FR 7481 (Feb. 7, 2014).

[24] 15 U.S.C. 80b–2(c). Section 202(c) of the Advisers Act mandates that the Commission, when engaging in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public interest, consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

[25] *See* 2007 Principal Trade Rule Release, Sections VI–VII; 2009 Extension Release, Sections V–VI; 2010 Extension Release, Sections V–VI; 2012 Extension Release, Sections V–VI.

[26] In previous releases, the Commission has requested comment on the economic effects of rule 206(3)–3T, the economic effects of extending the rule, and the economic effects of alternatives. The Commission has not received comments providing quantitative data regarding the economic effects of extensions of rule 206(3)–3T, or to alternatives of the rule.

[27] Based on IARD data as of June 2, 2014, there are 290 SEC-registered advisers that are also registered as broker-dealers that have non-discretionary accounts who could potentially rely on the rule; however, only 97 of these dual registrants indicate they currently engage in principal transactions on Form ADV. The actual number of advisers that engage in principal transactions in reliance on the temporary rule is likely smaller. The staff's recent outreach to observe the use of the rule by firms found that some of the dual registrants in the sample, which was derived based on Form ADV data, did not rely on the rule.

[28] For example, SIFMA's 2012 comment letter included survey results from seven dual-registrant firms that, in the aggregate, manage over $325 billion of assets in over 1.1 million non-discretionary advisory accounts. The firms indicated that 459,507 non-discretionary advisory accounts (with aggregate assets of over $125 billion) were eligible to engage in principal trading in reliance on the rule. These firms also indicated that, during 2010–2012, the firms engaged in principal trades in reliance on Rule 206(3)–3T with respect to 106,682 accounts and executed an average of 12,009 principal trades per month in reliance on the rule. Comment letter of SIFMA (Nov. 13, 2012). See also Comment Letter of Wells Fargo Advisors (Nov. 13, 2012) (noting that the firm managed 232,437 non-discretionary advisory accounts in which hundreds of principal trades are made on a monthly basis for the benefit of investors).

[29] *See* SIFMA 2013 Letter, *supra* note 12. Ten firms responded to SIFMA's survey and reported that they relied on the temporary rule for $8 billion in principal transactions across 163,000 retail non-discretionary advisory accounts. In comparison, the ten firms engaged in $36 billion in principal transaction with 498,000 retail advisory accounts under section 206(3) of the Advisers Act and $809 billion in principal transactions with 2,480,000 retail brokerage accounts.

advisory clients, the economic effects could vary significantly among firms and their clients.

*B. Analysis of the Proposed Extension and Alternatives*

As noted above, the temporary rule currently in effect serves as the economic baseline against which the costs and benefits, as well as the impact on efficiency, competition, and capital formation, of the amendment are discussed. Because the extension of the sunset date in the temporary rule maintains the status quo, we do not expect additional costs or benefits to result from the extension. For the same reason, we also do not expect the extension to have additional effects on efficiency, competition or capital formation. Extending the current rule would provide the Commission with additional time to consider principal trading as part of the broader consideration of the regulatory requirements applicable to broker-dealers and investment advisers.

Two reasonable alternatives to extending the current rule include allowing the rule to expire and adopting the rule on a permanent basis. If the rule is allowed to expire, then an adviser that is registered as a broker-dealer would no longer have a lower cost and more efficient alternative to the requirements under section 206(3) of the Advisers Act like that provided by the temporary rule,[30] and consequently non-discretionary advisory account clients could lose access to the principal accounts of firms that rely on the rule. As noted in the 2012 Extension Release, greater access to a wider range of securities may allow non-discretionary advisory clients to more efficiently allocate capital and, in the long term, the more efficient allocation of capital may lead to an increase in capital formation.[31] If the rule expires, the loss of access by non-discretionary advisory clients to a wider range of securities would reduce the ability of these investors to efficiently allocate capital and therefore could reduce any resulting long-term gains to capital formation. Allowing the rule to expire also would reduce the ability of investors to choose between brokerage accounts and advisory accounts if the investor wishes to maintain access to securities held in firm principal accounts, and may force non-discretionary advisory account clients to bear the costs associated with transferring accounts (or lose access to a firm's principal accounts). Firms may also bear the potentially substantial costs associated with restructuring their operations and client relationships. On the other hand, if the rule is allowed to expire, and firms engage in principal transactions with advisory account clients pursuant to the requirements of section 206(3) of the Act, investors will be able to more fully evaluate the conflicts of the principal transactions prior to the trades.

We continue to believe that non-discretionary advisory client access to a wider range of securities is beneficial.[32] Many clients wish to access securities held in firm inventory of a diversified broker-dealer, and clients may wish to access these securities through their non-discretionary advisory accounts.[33] We believe that it is appropriate to preserve investors' access to the securities available through principal transactions made in reliance on rule 206(3)–3T while consideration of the regulatory requirements applicable to broker-dealers and investment advisers is ongoing.

In connection with the 2010 extension of the rule, a commenter argued that rule 206(3)–3T would impede, rather than promote, capital formation because it would lead to ''more numerous and more severe violations . . . of the trust placed by individual investors in their trusted investment adviser'', but did not provide any specific data, analysis, or other information in support of its comment.[34] While we understand the view that numerous and severe violations of trust could impede capital formation, we have not seen any evidence that rule 206(3)–3T has caused this result. The staff has not identified instances where an adviser has used the temporary rule to ''dump'' unmarketable securities or securities that the adviser believes may decline in value into an advisory account, a harm that section 206(3) and the conditions and limitations of rule 206(3)–3T are designed to redress.[35] In addition, non-discretionary advisory account clients benefit from the protections of sales practice rules under the Exchange Act and of relevant self-regulatory organizations, and the fiduciary duty and other obligations imposed by the Advisers Act.

We also received comments on the 2007 Principal Trade Rule Release from commenters who opposed the limitation of the temporary rule to investment advisers that are registered with us as broker-dealers, as well as to accounts that are subject to both the Advisers Act and Exchange Act as providing a competitive advantage to investment advisers that are registered with us as broker-dealers.[36] Based on our experience with the rule to date, and as we noted in previous releases, we have no reason to believe that broker-dealers (or affiliated but separate investment advisers and broker-dealers) are put at a competitive disadvantage to advisers that are themselves also registered as broker-dealers.[37] We intend to continue to evaluate the effects of the rule on efficiency, competition, and capital formation in connection with our broader consideration of the regulatory requirements applicable to broker-dealers and investment advisers.

If the Commission allowed the rule to expire, firms would no longer incur the costs associated with rule 206(3)–3T, including the operational costs associated with complying with the rule.[38] In the 2007 Principal Trade Rule Release, we presented estimates of the costs of each of the rule's disclosure

[30] Section 206(3) of the Advisers Act requires an investment adviser to provide written conflict-of-interest disclosure describing its role as principal when transacting securities from its own account and obtain client consent prior to transaction completion. Rule 206(3)–3T provides a dual registrant firm the option of providing transaction-by-transaction disclosures verbally instead of in writing when engaging in principal transactions with non-discretionary advisory clients as long as the firm satisfies additional requirements before and after the transactions. Additional requirements of the temporary rule include the provision of a written prospective disclosure to clients describing the conflicts arising from principal transactions, acquisition of written revocable client consent prospectively authorizing such transactions, the provision of transaction-by-transaction confirmations, and the provision of annual reports itemizing the clients' principal transactions thereafter.

[31] 2012 Extension Release, Section V.B.

[32] *But see* Comment Letter of fi360, Inc. (Nov. 13, 2012) (''fi360 Letter'') (questioning the importance of investor choice as the principal benefit of Rule 206(3)–3T); Comment Letter of National Association of Personal Financial Advisors (Dec. 20, 2010) (''NAPFA Letter'') (questioning the benefits of the rule in: (1) Providing protections of the sales practice rules of the Exchange Act and the relevant self-regulatory organizations; (2) allowing non-discretionary advisory clients of advisory firms that are also registered as broker-dealers to have easier access to a wider range of securities which, in turn, should continue to lead to increased liquidity in the markets for these securities; (3) maintaining investor choice; and (4) promoting capital formation).

[33] *See* 2007 Principal Trade Rule Release, Section I.B.

[34] *See* NAPFA Letter.

[35] *See* 2010 Extension Proposing Release, Section II (noting that the staff did not identify instances of ''dumping'' in connection with OCIE's examinations regarding compliance with the temporary rule).

[36] *See* Comment Letter of the Financial Planning Association (Nov. 30, 2007); Comment Letter of the American Bar Association, section of Business Law's Committee on Federal Regulation of Securities (Apr. 18, 2008). *See also* 2009 Extension Release, Section VI.

[37] *See* 2009 Extension Release, Section VI; 2010 Extension Release, Section VI; 2012 Extension Release, Section V.

[38] *See supra* n. 25.

elements, including: Prospective disclosure and consent; transaction-by-transaction disclosure and consent; transaction-by-transaction confirmations; and the annual report of principal transactions. We also provided estimates for the following related costs of compliance with rule 206(3)–3T: (i) The initial distribution of prospective disclosure and collection of consents; (ii) systems programming costs to ensure that trade confirmations contain all of the information required by the rule; and (iii) systems programming costs to aggregate already-collected information to generate compliant principal transactions reports. Although one commenter on the 2012 extension noted that the Commission's cost analysis had remained unchanged since 2007, the commenter did not provide any supporting information discrediting the cost analysis we presented in the 2007 Principal Trade Rule Release.[39] We do not believe the extension we are proposing today would affect the cost estimates associated with the rule.[40] Furthermore, we believe that an eligible adviser that begins to rely on Rule 206(3)–T today would bear the same upfront and ongoing cost estimates set forth in the 2007 Principal Trade Rule Release.[41]

If the rule is adopted on a permanent basis, then there may be additional economic effects. We recognize that a temporary rule, by nature, creates uncertainty, which in turn, may result in a reduced ability of firms to coordinate and plan future business activities. The uncertainty with respect to rule 206(3)–3T would be reduced if either the rule was allowed to expire or the rule was adopted on a permanent basis.[42] Nonetheless, we believe that it would not be appropriate to adopt the rule on a permanent basis (with any necessary substantive amendments) while consideration of the regulatory requirements applicable to broker-dealers and investment advisers is ongoing.

Another reasonable alternative would be to extend the rule for a period other than two years. For example, extending the rule for greater than two years would provide the Commission with additional time to evaluate the impact of any potential rulemaking or other process that may emerge from the broader consideration of fiduciary obligations and other regulatory requirements applicable to broker-dealers and investment advisers. Should our consideration of the fiduciary obligations and other regulatory requirements applicable to broker-dealers and investment advisers extend beyond the proposed sunset date of the temporary rule, such a longer period may be appropriate for the Commission to consider. On balance, however, we believe that the proposed two-year extension of rule 206(3)–3T appropriately addresses the concerns of firms and clients relying on the rule while the Commission continues its ongoing consideration of the standards applicable to investment advisers and broker-dealers.

*C. Request for Comment*

We request comment on all aspects of the economic analysis, including the accuracy of the potential costs and benefits identified and assessed in this release and the prior releases and information on any other costs or benefits that may result from the proposal and from alternatives to the proposal, and whether the proposal, if adopted, would promote efficiency, competition, and capital formation. Commenters are requested to provide quantitative and qualitative data and other information and economic analysis about the costs or benefits to support their views.

## VI. Initial Regulatory Flexibility Act Analysis

The Commission has prepared the following Initial Regulatory Flexibility Analysis (''IRFA'') regarding the proposed amendment to rule 206(3)–3T in accordance with section 3(a) of the Regulatory Flexibility Act.[43]

*A. Reasons for Proposed Action*

We are proposing to extend rule 206(3)–3T's sunset date for two years because we believe that it would not be appropriate to require firms relying on the rule to restructure their operations and client relationships before we complete our broader consideration of the regulatory requirements applicable to broker-dealers and investment advisers.

*B. Objectives and Legal Basis*

The objective of the proposed amendment to rule 206(3)–3T, as discussed above, is to permit firms currently relying on rule 206(3)–3T to limit the need to modify their operations and relationships on multiple occasions, both before and potentially after we complete any regulatory actions regarding the standards of conduct and other obligations applicable to broker-dealers and investment advisers.

We are proposing to amend rule 206(3)–3T pursuant to sections 206A and 211(a) of the Advisers Act [15 U.S.C. 80b–6a and 15 U.S.C. 80b–11(a)].

*C. Small Entities Subject to the Rule*

Rule 206(3)–3T is an alternative method of complying with Advisers Act section 206(3) and is available to all investment advisers that: (i) Are registered as broker-dealers under the Exchange Act; and (ii) effect trades with clients directly or indirectly through a broker-dealer controlling, controlled by or under common control with the investment adviser, including small entities. Under Advisers Act rule 0–7, for purposes of the Regulatory Flexibility Act an investment adviser generally is a small entity if it: (i) Has assets under management of less than $25 million; (ii) did not have total assets of $5 million or more on the last day of its most recent fiscal year; and (iii) does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management of $25 million or more, or any person (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year.[44]

We estimate that as of June 1, 2014, 464 SEC-registered investment advisers were small entities.[45] As discussed in the 2007 Principal Trade Rule Release, we opted not to make the relief provided by rule 206(3)–3T available to all investment advisers, and instead have restricted it to investment advisers that are registered as broker-dealers under the Exchange Act.[46] We therefore estimate for purposes of this IRFA that 12 of these small entities (those that are both investment advisers and registered broker-dealers) could rely on rule 206(3)–3T.[47]

[39] *See* fi360 Letter. *See also* 2012 Extension Release, Section V.B.

[40] In the 2007 Principal Trade Rule Release, we estimated the total overall costs, including estimated costs for all eligible advisers and eligible accounts, relating to compliance with rule 206(3)–3T to be $37,205,569. *See* 2007 Principal Trade Rule Release, Section VI.D.

[41] *See id.*

[42] We received several comments in connection with prior extensions of the rule urging us to make the rule permanent to avoid such uncertainty. *See e.g.,* Comment Letter of Winslow, Evans & Crocker (Dec. 8, 2009); Comment of Bank of America Corporation (Dec. 20, 2010).

[43] 5 U.S.C. 603(a).

[44] *See* 17 CFR 275.0–7.

[45] IARD data as of June 1, 2014.

[46] *See* 2007 Principal Trade Rule Release, Section VIII.B.

[47] IARD data as of June 1, 2014.

*D. Reporting, Recordkeeping, and Other Compliance Requirements*

The provisions of rule 206(3)–3T impose certain reporting or recordkeeping requirements, and our proposal, if adopted, would extend the imposition of these requirements for an additional two years. We do not, however, expect that the proposed two-year extension of the rule's sunset date would alter these requirements.

Rule 206(3)–3T is designed to provide an alternative means of compliance with the requirements of section 206(3) of the Advisers Act. Investment advisers taking advantage of the rule with respect to non-discretionary advisory accounts would be required to make certain disclosures to clients on a prospective, transaction-by-transaction and annual basis.

Specifically, rule 206(3)–3T permits an adviser, with respect to a non-discretionary advisory account, to comply with section 206(3) of the Advisers Act by, among other things: (i) Making certain written disclosures; (ii) obtaining written, revocable consent from the client prospectively authorizing the adviser to enter into principal trades; (iii) making oral or written disclosure and obtaining the client's consent orally or in writing prior to the execution of each principal transaction; (iv) sending to the client a confirmation statement for each principal trade that discloses the capacity in which the adviser has acted and indicating that the client consented to the transaction; and (v) delivering to the client an annual report itemizing the principal transactions. Advisers are already required to communicate the content of many of the disclosures pursuant to their fiduciary obligations to clients. Other disclosures are already required by rules applicable to broker-dealers.

Our proposed amendment, if adopted, only would extend the rule's sunset date for two years. Advisers currently relying on the rule already should be making the disclosures described above.

*E. Duplicative, Overlapping, or Conflicting Federal Rules*

We believe that there are no rules that duplicate or conflict with rule 206(3)–3T, which presents an alternative means of compliance with the procedural requirements of section 206(3) of the Advisers Act that relate to principal transactions.

We note, however, that rule 10b–10 under the Exchange Act is a separate confirmation rule that requires broker-dealers to provide certain information to their customers regarding the transactions they effect, including whether the broker or dealer is acting as an agent or as a principal for its own account in a given transaction. Furthermore, FINRA rule 2232 requires broker-dealers that are members of FINRA to deliver a written notification in conformity with rule 10b–10 under the Exchange Act containing certain information. Rule G–15 of the Municipal Securities Rulemaking Board also contains a separate confirmation rule that governs transactions in municipal securities, and requires brokers, dealers and municipal securities dealers to disclose, among other things, the capacity in which the firm effected a transaction (*i.e.,* as an agent or principal). In addition, investment advisers that are qualified custodians for purposes of rule 206(4)–2 under the Advisers Act and that maintain custody of their advisory clients' assets must send quarterly account statements to their clients pursuant to rule 206(4)–2(a)(3) under the Advisers Act.

These rules overlap with certain elements of rule 206(3)–3T, but we designed the temporary rule to work efficiently together with existing rules by permitting firms to incorporate the required disclosure into one confirmation statement.

*F. Significant Alternatives*

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish our stated objective, while minimizing any significant adverse impact on small entities.[48] Alternatives in this category would include: (i) Establishing different compliance or reporting standards or timetables that take into account the resources available to small entities; (ii) clarifying, consolidating, or simplifying compliance requirements under the rule for small entities; (iii) using performance rather than design standards; and (iv) exempting small entities from coverage of the rule, or any part of the rule.

We believe that special compliance or reporting requirements or timetables for small entities, or an exemption from coverage for small entities, may create the risk that the investors who are advised by and effect securities transactions through such small entities would not receive adequate disclosure. Moreover, different disclosure requirements could create investor confusion if it creates the impression that small investment advisers have different conflicts of interest with their advisory clients in connection with principal trading than larger investment advisers. We believe, therefore, that it is important for the disclosure protections required by the rule to be provided to advisory clients by all advisers, not just those that are not considered small entities. Further consolidation or simplification of the proposals for investment advisers that are small entities would be inconsistent with the Commission's goals of fostering investor protection.

We have endeavored through rule 206(3)–3T to minimize the regulatory burden on all investment advisers eligible to rely on the rule, including small entities, while meeting our regulatory objectives. It was our goal to ensure that eligible small entities may benefit from the Commission's approach to the rule to the same degree as other eligible advisers. The condition that advisers seeking to rely on the rule must also be registered with us as broker-dealers and that each account with respect to which an adviser seeks to rely on the rule must be a brokerage account subject to the Exchange Act, and the rules thereunder, and the rules of the self-regulatory organization(s) of which the broker-dealer is a member, reflect what we believe is an important element of our balancing between easing regulatory burdens (by affording advisers an alternative means of compliance with section 206(3) of the Act) and meeting our investor protection objectives.[49] Finally, we do not consider using performance rather than design standards to be consistent with our statutory mandate of investor protection in the present context.

*G. Solicitation of Comments*

We solicit written comments regarding our analysis. We request comment on whether the rule will have any effects that we have not discussed. We request that commenters describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

Do small investment advisers believe an alternative means of compliance with section 206(3) should be available to them?

## VII. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of

[48] *See* 5 U.S.C. 603(c).

[49] *See* 2007 Principal Trade Rule Release, Section II.B.7 (noting commenters that objected to this condition as disadvantaging small broker-dealers (or affiliated but separate investment advisers and broker-dealers)).

1996, or ''SBREFA,'' [50] we must advise OMB whether a proposed regulation constitutes a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results in or is likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers or individual industries; or (3) significant adverse effects on competition, investment or innovation.

We request comment on the potential impact of the proposed amendment on the economy on an annual basis. Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

**VIII. Statutory Authority**

The Commission is proposing to amend rule 206(3)–3T pursuant to sections 206A and 211(a) of the Advisers Act [15 U.S.C. 80b–6a and 80b–11(a)].

**List of Subjects in 17 CFR Part 275**

Investment advisers, Reporting and recordkeeping requirements.

**Text of Proposed Rule Amendment**

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows.

## PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

■ 1. The authority citation for part 275 continues to read in part as follows:

**Authority:** 15 U.S.C. 80b–2(a)(11)(G), 80b–2(a)(11)(H), 80b–2(a)(17), 80b–3, 80b–4, 80b–4a, 80b–6(4), 80b–6a, and 80b–11, unless otherwise noted.

* * * * *

### § 275.206(3)–3T [Amended]

■ 2. In § 275.206(3)–3T, amend paragraph (d) by removing the words ''December 31, 2014'' and adding in their place ''December 31, 2016''.

By the Commission.

Dated: August 12, 2014.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–19421 Filed 8–15–14; 8:45 am]

**BILLING CODE 8011–01–P**

[50] Public Law 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C. and as a note to 5 U.S.C. 601).

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

### 33 CFR Part 334

### United States Navy Restricted Area, Supervisor of Shipbuilding, Conversion and Repair, USN, Gulf Coast, Pascagoula, Mississippi

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of proposed rulemaking and request for comments.

**SUMMARY:** The U.S. Army Corps of Engineers (Corps) is proposing to establish a restricted area around the Huntington Ingalls Incorporated/Ingalls Shipbuilding and Dry Dock (HII) facility located in Pascagoula Mississippi, because of the sensitive nature of the on-going and potential future activities at that facility. The Supervisor of Shipbuilding, Conversion and Repair, Gulf Coast, located in Pascagoula, Mississippi is responsible for United States Navy shipbuilding activities at the HII facility, USA located in Pascagoula, Mississippi. The proposed restricted area will be used for on-going construction when vessels are placed in the water. The proposed restricted area is essential to protect persons and property from the dangers associated with the operation and safeguard the area from accidents, sabotage and other subversive acts.

**DATES:** Written comments must be submitted on or before September 17, 2014.

**ADDRESS:** You may submit comments, identified by docket number COE–2014–0008, by any of the following methods:

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

*Email: david.b.olson@usace.army.mil.* Include the docket number COE–2014–0008 in the subject line of the message.

*Mail:* U.S. Army Corps of Engineers, Attn: CECW–CO (David B. Olson), 441 G Street NW., Washington, DC 20314–1000.

*Hand Delivery/Courier:* Due to security requirements, we cannot receive comments by hand delivery or courier.

*Instructions:* Direct your comments to docket number COE–2014–0008. All comments received will be included in the public docket without change and may be made available on-line at *http://regulations.gov,* including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through regulations.gov or email. The regulations.gov Web site is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to the Corps without going through regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* For access to the docket to read background documents or comments received, go to *www.regulations.gov.* All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202–761–4922 or Mr. Philip A. Hegji, U.S. Army Corps of Engineers, Mobile District, at 251–690–3222.

**SUPPLEMENTARY INFORMATION:** The Supervisor of Shipbuilding, Conversion and Repair, Gulf Coast, located in Pascagoula, Mississippi is responsible for United States Navy shipbuilding activities at HII located in Pascagoula, Mississippi. In accordance with Department of Defense and Department of the Navy guidance, the SUPERVISOR is responsible for the antiterrorism efforts and force protection of Department of the Navy assets under his or her charge.

In response to a request by the United States Navy, and pursuant to its authorities in Section 7 of the Rivers

and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3), the Corps is proposing to amend the regulations in 33 CFR Part 334 by establishing a new restricted area.

**Procedural Requirements**

a. *Review Under Executive Order 12866.* This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. *Review Under the Regulatory Flexibility Act.* This proposed rule has been reviewed under the Regulatory Flexibility Act (Public Law 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small governments). Unless information is obtained to the contrary during the public notice comment period, the Corps expects that the economic impact of the proposed restricted area would have practically no impact on the public, any anticipated navigational hazard or interference with existing waterway traffic. This proposed rule, if adopted, will have no significant economic impact on small entities.

c. *Review Under the National Environmental Policy Act.* The Corps expects that the proposed rule will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered. After it is prepared, it may be reviewed at the District office listed at the end of the **FOR FURTHER INFORMATION CONTACT**, above.

d. *Unfunded Mandates Act* . The proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Reform Act (Public Laws 104–4, 109 Stat. 48, 2 U.S.C. 1501 *et seq.*). We have also found, under Section 203 of the Act, that small governments will not be significantly or uniquely affected by this rulemaking.

**List of Subjects in 33 CFR Part 334**

Danger Zones, Navigation (water), Restricted Areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR Part 334 as follows:

## PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for 33 CFR part 334 continues to read as follows:

**Authority:** 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Add § 334.781 to read as follows:

**§ 334.781 Huntington Ingalls Incorporated/ Ingalls Shipbuilding and Dry Dock (HII)/ Supervisor of Shipbuilding, Conversion and Repair (SUPSHIP), Gulf Coast, Pascagoula, Mississippi; Naval Restricted Area.**

(a) *The area.* The datum for all coordinates is in NAD83 in accordance with § 334.6. The restricted area shall encompass all navigable waters of the United States, as defined at part 329 of this chapter, contiguous to the area identified as HII and the mean high water level within an area contained in an ''L'' shaped area bounded by the shore on the west and north ends of the area and bounded by buoys on the east and south sides of the area starting at: Latitude N 30°21.13′ longitude W 88°34.09′, thence to latitude N 30°21.08′ longitude W 88°34.09′, thence to latitude N 30°21.03′ longitude W 88°34.09′, thence to latitude N 30°20.98′ longitude W 88°34′.09′, thence to latitude N 30°20.93′ longitude W 88°34.09′, thence to latitude N 30°20.89, longitude W 88°34.09′, thence to latitude N 30°20.83′ longitude W 88°34.09′, thence to latitude N 30°20.78′ longitude W 88°34.09′, thence to latitude N 30°20.73′ longitude W 88°34.09′, thence to latitude N 30°20.68′ longitude W 88°34.09′, thence to latitude N 30°20.63′ longitude W 88°34.09′, thence to latitude N 30°20.63′ longitude W 88°34.18′, thence to latitude N 30°20.63′ longitude W 88°34.25′, thence to latitude N 30°20.63′ longitude W 88°34.33′, thence to latitude N 30°20.63′ longitude W 88°34.40′, thence to latitude N 30°20.59′ longitude W 88°34.46′, thence to latitude N 30°20.59′ longitude W 88°34.51′, thence to latitude N 30°20.59′ longitude W 88°34.57′, thence to latitude N 30°20.59′ longitude W 88°34.63′, thence to latitude N 30°20.59′ longitude W 88°34.70′, thence to latitude N 30°20.63′ longitude W 88°34.75′, thence to latitude N 30°20.63′ longitude W 88°34.82′, thence to latitude N 30°20.63′ longitude W 88°34.87′, thence to latitude N 30°20.70′ longitude W 88°34.87′.

(b) *The regulations.* (1) All persons, swimmers, vessels and other craft, except those vessels under the supervision or contract to local military or Naval authority, vessels of the United States Coast Guard, and local or state law enforcement vessels, are prohibited from entering the restricted area without permission from the Supervisor of Shipbuilding, Conversion and Repair, USN, Gulf Coast or his/her authorized representative.

(2) The restricted area is in effect twenty-four hours per day and seven days a week (24/7).

(3) Should warranted access into the restricted navigation area be needed, all entities are to contact the Supervisor of Shipbuilding, Conversion and Repair, USN, Gulf Coast, Pascagoula, Mississippi, or his/her authorized representative on Marine Communication Channel 16.

(c) *Enforcement.* The regulation in this section shall be enforced by the Supervisor of Shipbuilding, Conversion and Repair, USN, Gulf Coast and/or such agencies or persons as he/she may designate.

Dated: August 11, 2014.

**James R. Hannon,**

*Chief, Operations and Regulatory, Directorate of Civil Works.*

[FR Doc. 2014–19385 Filed 8–15–14; 8:45 am]

BILLING CODE 3720–58–P

## POSTAL SERVICE

## 39 CFR Part 111

## New Standards to Enhance Business Reply Mail (BRM) Visibility

**AGENCY:** Postal Service.™

**ACTION:** Proposed rule.

**SUMMARY:** The Postal Service proposes to revise *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) to require the use of an Intelligent Mail® package barcode (IMpb) on Business Reply Mail® (BRM) labels intended for use on cartons, parcel-shaped items, or Priority Mail® items of any shape.

**DATES:** Submit comments on or before September 17, 2014.

**ADDRESSES:** Mail or deliver written comments to the manager, product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 4446, Washington, DC 20260–5015. You may inspect and photocopy all written comments at USPS® Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor North, Washington, DC, by appointment only, between 9 a.m. and 4 p.m., Monday through Friday by calling 202–268–2906 in advance. Email comments, containing the name and address of the commenter, may be sent to: *ProductClassification@usps.gov,* with a subject line of ''BRM Visibility.'' Faxed comments are not accepted.

**FOR FURTHER INFORMATION CONTACT:** Juliaann Hess at 202–268–7663, John F. Rosato at 202–268–8597, or Suzanne Newman at 202–695–0550.

**SUPPLEMENTARY INFORMATION:** The Postal Service continues to enhance its operational capability to scan IMpb, encoded with routing and tracking information, via automated mail processing equipment and Intelligent Mail scanning devices and to provide tracking information to the mailers. Full implementation of the Postal Service's package strategy relies on the availability of piece-level information provided through the widespread use of IMpb. Mailing standards recently added to the DMM now require the use of IMpb on all commercial parcels (except parcels paid for using BRM service). The Postal Service now advances its package strategy by requiring a unique IMpb on cartons, parcel-shaped items, or Priority Mail pieces of any shape, sent using BRM service.

*Background:* On December 18, 2013, the Postal Service published a final rule in the **Federal Register** (78 FR 76548) announcing that an IMpb, unique to each mailpiece, would be required on all commercial parcels, effective January 26, 2014. At that time the Postal Service also announced that it would be eliminating the option for any mailpiece meeting the physical characteristics of a parcel (under DMM 201) to pay for postage using Business Reply Mail® (BRM).

In response to mailer feedback, on June 5, 2014, the Postal Service published a **Federal Register** notice (79 FR 32490) indefinitely deferring the elimination of the option to use BRM to pay postage for parcel-shaped items. At that time the Postal Service also indicated that it expected to issue proposed rules requiring the use of an IMpb on certain BRM cartons and labels.

In accordance with its previously expressed intent, the Postal Service now issues proposed rules for requiring the use of an IMpb on BRM cartons, parcels, and Priority Mail items of any shape.

*General IMpb Requirements:* Technical and general specifications for IMpb use are provided in Publication 199, *Intelligent Mail Package Barcode (IMpb) Implementation Guide for: Confirmation Services and Electronic Verification System (eVS) Mailers,* and DMM 708.5.1.

*BRM:* In order to ensure that parcel-shaped items sent using BRM service comply with the same standards as all other commercial parcels, the Postal Service would require a unique IMpb on:

a. All BRM cartons.

b. All BRM labels distributed with the intent of being placed on an item meeting the physical characteristics of a parcel in DMM 201.

c. All BRM labels distributed with the intent of being placed on Priority Mail items of any shape.

For the purposes of this requirement, a BRM carton is defined as a parcel-shaped mailpiece with a BRM label either printed directly on the mailpiece or affixed by the end user prior to mailing. BRM permit holders would not be required to submit shipping manifests to support these mailpieces. BRM labels would be required to use a unique Mailer ID (MID) for parcel-shaped BRM pieces and a concatenated IMpb construct that includes the ZIP+4® routing code. The barcodes must be unique for 180 days. BRM cartons and parcels shall use IMpb service type codes for Merchandise Return Service for Priority Mail or First-Class Mail®, based on the product shipped. The Postal Service will provide an exception process—for mailers of small BRM cartons and parcels lacking sufficient label space to apply an IMpb barcode meeting the ¾-inch height requirement—to submit barcodes of at least ½-inch in height for USPS® testing and approval. This exception process will be administered by the National Customer Service Center (NCSC), as part of the normal barcode approval process. At this time, no other changes would be made to the BRM requirements in DMM 505.1 applicable to all other mail shapes.

*Noncompliant Mailpieces:* The Postal Service would assess a per-piece price adjustment on all noncompliant pieces. The Postal Service would begin enforcement of the per piece price adjustment for Priority Mail pieces once final rules are issued. The proposed effective date for the per-piece adjustment on First-Class Mail pieces would be predicated on the Postal Service filing a notice with, and receiving approval from, the Postal Regulatory Commission.

**List of Subjects in 39 CFR Part 111**

Administrative practice and procedure, Postal Service.

Although we are exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), we invite public comments on the following proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. *See* 39 CFR 111.1. Accordingly, 39 CFR part 111 is proposed to be amended as follows:

## PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), as follows:

**Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)**

* * * * *

**505 Return Services**

**1.0 Business Reply Mail (BRM)**

* * * * *

**1.4 General Information**

**1.4.1 Description**

*[Insert a new fourth sentence in 1.4.1 to read as follows:]*

* * * All BRM labels intended for use on cartons, mailpieces meeting the physical characteristics of a parcel in DMM 201, or a Priority Mail item of any shape, must meet the standards under 1.7.10. * * *

* * * * *

**1.7 Mailpiece Characteristics**

* * * * *

*[Insert new 1.7.10 to read as follows:]*

**1.7.10 Labels for Parcels**

BRM labels intended for use on cartons, mailpieces meeting the physical standards of a parcel under DMM 201, or a Priority Mail item of any shape, must also bear an IMpb prepared under 708.5.0 and meet the technical standards in the Parcel Labeling Guide available on *RIBBS.*

* * * * *

**1.8 Format Elements**

**1.8.1 General**

*[Revise the text of the first and second sentences of 1.8.1 to read as follows:]*

Except for BRM labels for parcels as provided under 1.7.10, all pieces of BRM are subject to these format elements. For all other BRM pieces, an Intelligent Mail barcode (IMb) is not required, except for QBRM prices; if an IMb is used, it must be printed and placed as provided under 1.9 and as shown in Exhibit 1.8.1. * * *

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes if our proposal is adopted.

**Stanley F. Mires,**

*Attorney, Federal Requirements.*

[FR Doc. 2014–19433 Filed 8–15–14; 8:45 am]

BILLING CODE 7710–12–P

# Notices

Federal Register

Vol. 79, No. 159

Monday, August 18, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

August 12, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**Rural Utilities Service**

*Title:* RUS Specification for Quality Control and Inspection of Timber Products.

*OMB Control Number:* 0572–0076.

*Summary of Collection:* The Rural Utilities Service (RUS) is a credit agency of the U.S. Department of Agriculture (USDA) and is authorized to manage loan programs in accordance with the Rural Electrification Act (RE Act) of 1936, 7 U.S.C. 901 et seq., as amended. It makes mortgage loans and loan guarantees to finance telecommunications, electric, and water and waste facilities in rural areas. To ensure the security of loan funds, adequate quality control of timber products is vital to loan security on electric power systems where hundreds of thousands of wood poles and cross-arms are used. Prior to receiving loan funds, a RUS borrower must enter into a loan contract with RUS. In accordance with Article V, Section 5.14 of the loan contract, ''the borrower shall use design standards, construction standards and lists of acceptable materials in conformance with RUS regulations.

*Need and Use of the Information:* The purchaser or treating company may obtain the services of an inspection agency or third party oversight organization to perform certain inspection services to insure that the specifications for wood poles and cross-arms are being met. As required by 7 CFR 1728.202(i) copies of test reports on various preservatives must accompany each charge (a charge being a load of poles treated at the same time in a pressure cylinder). Test reports are needed so that the purchaser, the inspectors, and RUS will be able to spot-check the general accuracy of the tests. RUS will use the information in verifying acceptability of poles and cross-arms purchased by RUS borrowers.

*Description of Respondents:* Business or other for-profit; Not-for-profit institutions.

*Number of Respondents:* 25.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 20,333.

**Rural Utilities Service**

*Title:* 7 CFR Part 1738, Rural Broadband Loan and Loan Guarantee.

*OMB Control Number:* 0572–0130.

*Summary of Collection:* Title VI, Rural Broadband Access, of the Rural Electrification Act of 1936, as amended (RE Act), provides loans and loan guarantees to fund the cost of construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural communities in State and territories of the United States. The regulation prescribes the types of loans available, facilities financed and eligible applicants, as well as minimum credit support requirements considered for a loan. In addition, Title VI of the RE Act requires that Rural Utilities Service (RUS) make or guarantee a loan only if there is reasonable assurance that the loan, together with all outstanding loans and obligations of the borrower, will be repaid in full within the time agreed.

*Need and Use of the Information:* The information in the application will be used to determine an applicant's eligibility, availability of broadband service for priority consideration, technical and economic feasibility of the proposed project (that the funds requested are adequate to complete the project taking into consideration any additional funding provided by the applicant and that the loan can be repaid within the allowable time frame), and the applicant complies with statutory, regulatory and administrative eligibility requirements for loan assistance.

*Description of Respondents:* Business or other for-profit; Not-for-profit institutions.

*Number of Respondents:* 25.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 10,545.

**Charlene Parker,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2014–19452 Filed 8–15–14; 8:45 am]

BILLING CODE 3410–15–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

**[Doc. No. AMS–LPS–14–0061]**

### Notice of Request for Revision of a Currently Approved Information Collection

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's intention to request approval from the Office of Management and Budget, for a Revision of the currently approved information collection used to compile and generate the Federally Inspected Estimated Daily Slaughter Report.

**DATES:** Comments must be received by October 17, 2014.

**ADDITIONAL INFORMATION OR COMMENTS:** Comments should be submitted electronically at *http://www.regulations.gov.* Comments may also be submitted to Kim Harmon, Assistant to the Director, Livestock, Poultry, and Grain Market News Division (LPGMN), Livestock, Poultry and Seed Program (LPS), Agricultural Marketing Service (AMS), U.S. Department of Agriculture; STOP 0252; 1400 Independence Avenue SW., Room 2619–S; Washington, DC 20250–0252. All comments should reference this publication number AMS–LPS–14–0061 and note the date and page number of this issue of the **Federal Register**.

Submitted comments will be available for public inspection at *http://www.regulations.gov* or at the above address during regular business hours. Comments submitted in response to this Notice will be included in the records and will be made available to the public. All comments received will be posted without change, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Kim Harmon, Assistant to the Director, LPGMN, AMS, USDA, by telephone at (202) 720–6231, or via email at *Kim.Harmon@ams.usda.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Plan for Estimating Daily Livestock Slaughter Under Federal Inspection.

*OMB Number:* 0581–0050.

*Expiration Date of Approval:* 01–31–2015.

*Type of Request:* Revision of a currently approved information collection.

*Abstract:* The Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), section 203(g) directs and authorizes the collection and dissemination of marketing information including adequate outlook information, on a market area basis, for the purpose of anticipating and meeting consumer requirements, aiding in the maintenance of farm income, and to bring about a balance between production and utilization.

Under this market news program, USDA issues a market news report estimating daily livestock slaughter under Federal inspection. This report is compiled by AMS on a voluntary basis in cooperation with the livestock and meat industry. Market news reporting must be timely, accurate, and continuous if it is to be useful to producers, processors, and the trade in general. The daily livestock slaughter estimates are provided at the request of industry and are used to make production and marketing decisions.

The Daily Estimated Livestock Slaughter Under Federal Inspection Report is used by a wide range of industry contacts, including packers, processors, producers, brokers and retailers of meat and meat products. The livestock and meat industry requested that USDA issue slaughter estimates (daily and weekly), by species, for cattle, calves, hogs and sheep in order to assist them in making immediate production and marketing decisions and as a guide to the volume of meat in the marketing channel. The information requested from respondents includes their estimation of the current day's slaughter at their plant(s) and the actual slaughter for the previous day. Also, the Government is a large purchaser of meat and related products and this report assists other Government agencies in providing timely information on the quantity of meat entering the processing channels.

The information must be collected, compiled, and disseminated by an impartial third-party, in a manner which protects the confidentiality of the reporting entity. AMS is in the best position to provide this service.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average .0333 hours per response.

*Respondents:* Business or other for-profit entities, individuals or households, farms, and the Federal Government.

*Estimated Number of Respondents:* 61.

*Estimated Number of Responses:* 15,860.00.

*Estimated Number of Responses per Respondent:* 260.

*Estimated Total Annual Burden on Respondents:* 528 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (2) the accuracy of the Agency's estimate of the burden of the proposed collection of information, 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.

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

Dated: August 12, 2014.

**Rex Barnes,**

*Associate Administrator, Agricultural Marketing Service.*

[FR Doc. 2014–19455 Filed 8–15–14; 8:45 am]

**BILLING CODE 3410–02–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Dixie, Fishlake, and Manti-La Sal National Forests; Utah; Initiation of Forest Plan Assessment Process

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of initiating the forest plan assessment process to determine whether a forest plan amendment is needed regarding livestock grazing for the Dixie, Fishlake, and Manti-La Sal National Forests.

**SUMMARY:** The U.S. Department of Agriculture (USDA), Forest Service, is initiating a forest plan amendment process pursuant to 36 CFR 219 (''Planning Rule'') for the Forest Land Management Plans (forest plans) for the Dixie, Fishlake, and Manti-La Sal National Forests, beginning with an assessment of current forest plan direction for managing livestock grazing as it relates to specific ecological conditions in riparian, aquatic, and sagebrush-grassland ecosystems. Interested parties are invited to contribute information to be used in the preliminary identification of the need for changing the forest plans. The appropriate National Environmental

Policy Act (NEPA) analysis processes will be initiated if the result of the assessment indicates that an amendment may be needed.

**DATES:** Comments or submissions for the assessment for the preliminary identification of a need for changing the forest plans of the Dixie, Fishlake, and Manti-La Sal National Forests will be most helpful if received by 45 days of publication of this notice. Based on the assessment, the three national forests will together or separately initiate the appropriate NEPA process, including proposing needs for change for forest plan amendments. The projected completion date for the assessment is early fall 2014.

**ADDRESSES:** To contribute information or comments to the process, electronic submissions should be addressed to: *grazingassessment@fs.fed.us.* Written comments should be addressed to Attn: John Zapell, Fishlake National Forest, 115 E 900 N., Richfield, UT 84701, or via fax: 435–896–9347.

All comments, including names and addresses when provided, are placed in the project record, which will be maintained at the Fishlake National Forest Supervisor's Office. All comments will be available for public inspection.

**FOR FURTHER INFORMATION CONTACT:** Shirley Frank, Interdisciplinary Team Leader, TEAMS, Forest Service at 559–920–6358 or *safrank@fs.fed.us;* or contact John Zapell, Public Affairs Officer, Fishlake National Forest at 435–896–1070 or *jzapell@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** Pursuant to the National Forest Management Act of 1976, the Dixie, Fishlake, and Manti-La Sal National Forests are managed under the direction included in their respective land and resource management plans (''forest plans''). Under the Planning Rule, plan amendments should be used to keep forest plans current and help units adapt to new information or changing conditions. Plan amendments are to be based on a preliminary identification of the needs to change the plan. The preliminary identification of the need to change the plan may be based on a new assessment; a monitoring report; or other documentation of new information, changed conditions, or changed circumstances.

Because of numerous issues and conflicting views surrounding livestock grazing the forests conducted an initial review to identify what if any changes in resource conditions have occurred since the forest plans were established in 1986. The team was asked to identify resource concerns, determining whether they might be related to livestock management and what, if anything, in the forest plans' direction could be related to those resource concerns. The initial review indicates that ecological conditions in riparian, aquatic, and sagebrush-grassland ecosystems are not progressing toward sustaining the multiple use of these ecosystem's renewable resources in perpetuity while maintaining the long-term health and productivity of the land. Specific resource concerns were identified for riparian vegetation, lakes, ponds, springs, and wetlands, physical stream channel habitat and sagebrush grasslands. The review was based on monitoring information, observed changed conditions, and new scientific information.

Concerns were also identified that existing forest plans do not have clear measurable desired conditions and descriptions for riparian, aquatic, and sagebrush grassland areas, especially in relation to use for domestic livestock grazing. Where desired conditions are described, they may not be effective at sustaining the natural resources, may conflict with other direction, or may not be supported by current scientific information. For further information, the initial review document is available by request and is posted on the Fishlake National Forest Web site at *http://go.usa.gov/NnHQ.*

Because the initial review also indicated that the management direction in the forest plans may be a contributing factor, we, the Forest Supervisor of the Dixie National Forest and the Forest Supervisor of the Fishlake and Manti-LaSal National Forests, have determined that an assessment is needed for the preliminary identification of the need for changing the forest plans to address the above concerns. Because livestock grazing management was identified as a contributing factor to the ecological conditions, this assessment will also focus on the relationship of livestock grazing management to riparian vegetation, groundwater-dependent ecosystems, physical stream channel habitat, and sagebrush grassland ecosystems. Due to the commonality of concerns across the three forests, this assessment is being undertaken for all three forest plans.

The purpose of the assessment is to evaluate rapidly the existing information on the ecological conditions of riparian vegetation, groundwater-dependent ecosystems, physical stream channel habitat, and sagebrush grassland areas; the use of these areas for domestic livestock grazing; and the relationship of the ecological conditions of these areas to forest plan direction. The assessments will facilitate building common understanding of that information to identify preliminary needs for changing the forest plans.

With this notice, the agency invites other governments, nongovernmental parties, and the public to contribute to the assessment development. The intent of public engagement during development of the assessment is to identify as much relevant information as possible to inform the preliminary identification of the need to change the forest plans and, if needed, the subsequent plan amendment development process. Contributors are encouraged to share material about existing conditions and trends of the ecological conditions of concern, as well as about social, economic, and ecological values relevant to the specified ecological conditions and the use of these ecosystems for livestock grazing management.

For efficiency and effectiveness, the assessment is being conducted for all three national forests because of similarities in their resources. We encourage contribution of information relating to the three-forest scale, individual forest-scale, as well as beyond the forest if related to the management of livestock grazing on the forest. Each plan is unique to the needs of the people and communities being served. The result of the assessment may be the preliminary identification of needs for change applicable to one, two, or all three forest plans.

To contribute to the process, see the **ADDRESS** section above. Or contact John Zapell, Public Affairs Officer, Fishlake National Forest at 435–896–1070 or *jzapell@fs.fed.us.* Or contact Shirley Frank, Interdisciplinary Team Leader and Environmental Coordinator, TEAMS, Forest Service at 559–920–6358 or *safrank@fs.fed.us.*

Dated: August 7, 2014.

**Allen Rowley,**

*Fishlake Forest Supervisor and Acting Manti-La Sal Supervisor.*

Dated: August 7, 2014.

**Angelita S. Bulletts,**

*Dixie Forest Supervisor.*

[FR Doc. 2014–19453 Filed 8–15–14; 8:45 am]

**BILLING CODE 3410–11–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Wrangell-Petersburg Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Wrangell-Petersburg Resource Advisory Committee (RAC) will meet by videoconference in Wrangell, Alaska and Petersburg, Alaska. The Committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) (Pub. L. 110–343) and operates in compliance with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. 2). The purpose of the Committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Title II of the Act. The meeting is open to the public. Additional information concerning the Committee can be found by visiting the Committee's Web site at: *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf/RAC/Wrangell-Petersburg?OpenDocument.*

**DATES:** The meeting will be held Saturday, September 6, 2014 from 8:00 a.m. to 4:00 p.m., or until business is concluded.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meeting will be held at the Wrangell Ranger District Office, 525 Bennett Street, Wrangell, Alaska, and the Petersburg Ranger District Office, 12 North Nordic Drive in Petersburg, Alaska. Interested persons may attend in person at either location, or by teleconference. For anyone who would like to attend by teleconference, please visit the Committee's Web site listed in the **SUMMARY** section or contact Jason Anderson at *jasonanderson@fs.fed.us* or Robert Dalrymple at *rdalrymple@fs.fed.us* for further details. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Petersburg Ranger District Office or the Wrangell Ranger District Office, Monday through Friday at 8:00 a.m. to 4:30 p.m. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Jason Anderson, District Ranger, Petersburg Ranger District, P.O. Box 1328, Petersburg, Alaska 99833, by phone at (907) 772–3871 or via email at *jasonanderson@fs.fed.us,* or Robert Dalrymple, District Ranger, Wrangell Ranger District, P.O. Box 51, Wrangell, Alaska 99929, by phone at (907) 874–2323 or via email *rdalrymple@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to:

(1) Review progress of previously funded projects; and

(2) Conclude any business that may be remaining concerning recommendations for allocation of Title II funding to projects.

The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by September 3, 2014 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Written comments and time requests for oral comments must be sent to Jason Anderson, District Ranger, Petersburg Ranger District, P.O. Box 1328, Petersburg, Alaska 99833; or Robert Dalrymple, District Ranger, Wrangell Ranger District, P.O. Box 51, Wrangell, Alaska 99929; or by email to *jasonanderson@fs.fed.us,* or via facsimile to (907) 772–5995. Summary/minutes of the meeting will be posted on the Web site listed above within 45 days after the meeting.

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: August 7, 2014.

**Robert J. Dalrymple,**

*District Ranger.*

[FR Doc. 2014–19494 Filed 8–15–14; 8:45 am]

BILLING CODE 3411–15–P

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

**[Docket No. NRCS–2014–0009]**

### Notice of Proposed Changes to the National Handbook of Conservation Practices for the Natural Resources Conservation Service

**AGENCY:** Natural Resources Conservation Service (NRCS), USDA.

**ACTION:** Notice of availability of proposed changes in the NRCS National Handbook of Conservation Practices for public review and comment.

**SUMMARY:** Notice is hereby given of the intention of NRCS to issue a series of revised conservation practice standards in the National Handbook of Conservation Practices. These standards include: Conservation Cover (Code 327), Conservation Crop Rotation (Code 328), Contour Buffers (Code 332), Cover Crop (Code 340), Cross Wind Trap Strips (Code 589c), Grassed Waterway (Code 412), Groundwater Testing (Code 355), Heavy Use Area Protection (Code 561), Irrigation System, Tailwater Recovery (Code 447), Irrigation Water Management (Code 449), Monitoring Well (Code 353), On-Farm Secondary Containment Facility (Code 319), Roof Runoff Structure (Code 558), Surface Roughening (Code 609), Tree/Shrub Pruning (Code 660), Waste Transfer (Code 634), Water Well Decommissioning (Code 351) and Wildlife Structure (Code 649).

NRCS State Conservationists who choose to adopt these practices for use within their States will incorporate them into section IV of their respective electronic Field Office Technical Guide. These practices may be used in conservation systems that treat highly erodible land (HEL) or on land determined to be a wetland. Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 requires NRCS to make available for public review and comment all proposed revisions to conservation practice standards used to carry out HEL and wetland provisions of the law.

**DATES:** *Effective Date:* This is effective August 18, 2014.

*Comment Date:* Submit comments on or before September 17, 2014. Final versions of these new or revised conservation practice standards will be adopted after the close of the 30-day period and after consideration of all comments.

**ADDRESSES:** Comments should be submitted, identified by Docket Number

NRCS–2014–0009, using any of the following methods:

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

• *Mail or Hand-Delivery:* Public Comments Processing, Attention: Regulatory and Agency Policy Team, Strategic Planning and Accountability, Natural Resources Conservation Service, 5601 Sunnyside Avenue, Building 1–1112D, Beltsville, Maryland 20705.

NRCS will post all comments on *http://www.regulations.gov.* In general, personal information provided with comments will be posted. If your comment includes your address, phone number, email, or other personal identifying information, your comments, including personal information, may be available to the public. You may ask in your comment that your personal identifying information be withheld from public view, but this cannot be guaranteed.

**FOR FURTHER INFORMATION CONTACT:** Wayne Bogovich, National Agricultural Engineer, Conservation Engineering Division, Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue SW., Room 6136 South Building, Washington, DC 20250.

Electronic copies of the proposed revised standards are available through *http://www.regulations.gov* by accessing Docket No. NRCS–2014–0009. Alternatively, copies can be downloaded or printed from the following Web site: *http://go.usa.gov/TXye. Requests for p*aper versions or inquiries may be directed to Emil Horvath, National Practice Standards Review Coordinator, Natural Resources Conservation Service, Central National Technology Support Center, 501 West Felix Street, Fort Worth, Texas 76115.

**SUPPLEMENTARY INFORMATION:** The amount of the proposed changes varies considerably for each of the conservation practice standards addressed in this notice. To fully understand the proposed changes, individuals are encouraged to compare these changes with each standard's current version as shown at: *http://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/technical/cp/ncps/?cid=nrcs143026849.* To aid in this comparison, following are highlights of some of the proposed revisions to each standard:

*Conservation Cover (Code 327)*—The purpose to manage pests as the purpose was not appropriate for this standard and was deleted. NRCS resource concerns were associated with each of the conservation practice purposes. Added ''beneficial organism habitat'' to the pollinator purpose of the practice. Added one new reference: National Agronomy Technical Note 9. Preventing or Mitigating Potential Negative Impacts of Pesticides on Pollinators Using IPM and Other Conservation Practices.

*Conservation Crop Rotation (Code 328)*—Changed definition slightly from ''Growing crops in a planned sequence on the same field'' to ''A planned sequence of crops grown on the same ground over a period of time (i.e. the rotation).'' NRCS resource concerns were associated with each of the conservation practice purposes.

*Contour Buffers (Code 332)*—NRCS resource concerns were associated with each of the conservation practice purposes. Added an additional practice purpose to reduce transport of nutrients downslope and combined the additional criteria for this purpose with the additional criteria to reduce transport of sediment and other water-borne contaminants downslope. Made minor wording modifications to improve understanding and reduce redundancy in the standard.

*Cover Crop (Code 340)*—Deleted two purposes (1) promote biological nitrogen fixation and reduce energy use and (2) increase biodiversity as the two purposes are captured in the criteria in the general criteria and the criteria for the other purposes. Edited the criteria to improve clarity and understanding of the standard. Added additional criteria to address the need to terminate cover crops within the NRCS cover Crop Termination Guidelines. Provided additional criteria for haying and grazing cover crops.

*Cross Wind Trap Strips (Code 589c)*—NRCS resource concerns were associated with each of the conservation practice purposes. Removed the purpose to induce wind-borne sediment deposition as this is covered under the purpose to reduce soil erosion and induce wind-blown sediment deposition. Deleted the purpose to provide food and cover for pollinators and wildlife. In the general criteria for the practice changed the language from using university extension guides to NRCS approved technical references for seeding and establishment.

*Grassed Waterway (Code 412)*—The agency refined the definition and purposes slightly and modified the criteria to allow the use of state planting guides.

*Groundwater Testing (Code 355)*—The agency changed the title from ''Well Water Testing'' to ''Groundwater Testing,'' modified conditions where practice applies, removed items from criteria, and an item under operation and maintenance.

*Heavy Use Area Protection (Code 561)*—The agency changed the units of this practice from acres to square feet to better reflect usage. The definition of this practice changed slightly. Criteria for the use of concrete and mulches were modified. Criteria for the use of vegetation and other material as a surface treatment were added. Considerations for animal health and air quality were added.

*Irrigation System, Tailwater Recovery (Code 447)*—447 was rewritten to use clearer, plain language. Definition and purpose were clarified but not materially changed. Under criteria for storage, two new criteria setting the minimum size of the storage component were added. The plans and specifications section was completely rewritten, and 4 new references were added.

*Irrigation Water Management (Code 449)*—The Definition, sections of 449 were not changed in this revision from the May 2011 version. The Purpose section was changed to remove the purpose of improving air quality. IWM would not be applied to treat air quality in and of itself. The purpose of the practice to decrease non-point source pollution of surface and groundwater resources was rewritten to read as ''a decrease degradation of surface and groundwater resources.'' The Conditions Where Practice Applies section was not changed. The Criteria section has been edited for clarity, and the criteria for plant stress monitoring was updated to include current technology. Several new references were added.

*Monitoring Well (Code 353)*—The agency changed the definition, deleted a purpose, modified conditions where practice applies, changed some criteria, and added considerations.

*On-Farm Secondary Containment Facility (Code 319)*—The agency created this new conservation practice standard to provide secondary containment of oil and petroleum products used on-farm. The creation of a new standard was recommended in the SPCC Pilot Final report. As noted in the report, producers will continue to request assistance with implementation of secondary containment facilities and as operations change or new operations established, compliance with the EPA SPCC rule will be an ongoing requirement. Natural resource benefits from providing secondary containment of oils include control of excessive release of organics into groundwater and surface waters, and control of excessive suspended sediment and turbidity into surface water.

*Roof Runoff Structure (Code 558)*—The agency added inventory and assessment information, clarified the language and organization of the standard, added conditions and criteria for capturing roof runoff for other uses, and added considerations.

*Surface Roughening (Code 609)*—NRCS resource concerns were associated with each of the conservation practice purposes. Revised the condition where the practice applies to stress the practice is ''emergency tillage'' and not the primary method of erosion control. The general criterion for the random roughness based in the ''soil erodibility factor'' from the former Wind Erosion Equation was removed as the current technology is now based on the Wind Erosion Prediction System technology.

*Tree/Shrub Pruning (Code 660)*—The agency added two new purposes, and updated the criteria, considerations, plans and specifications, operation and maintenance, and references sections of *Tree/Shrub Pruning (Code 660).* The original DEFINITION of *Tree/Shrub Pruning* was retained. Two PURPOSES were added to address soil quality and energy use. They are, ''Maintain or improve soil quality and organic matter content'', and ''Reduce energy use.'' Other purposes were rephrased for clarity and consistency but their meanings are unchanged. The CRITERIA section on methods and timing for pruning, and minimizing damage to the residual plant, was split into several separate sections and clarified. A restriction on treating cuts, and another on pollarding, was added. Timing to minimize disturbance to wildlife, formerly in Considerations, was moved to this section. A section on ''Additional Criteria for Maintaining Health and Vigor'' was added; material on pruning to limit insect infestations and plant diseases was moved to this section and expanded to address root pruning. A section on ''Additional Criteria to Maintain or Improve Soil Quality'' was added, calling for pruning residues to remain on site unless insect or disease considerations prevail. Finally, a section on ''Additional Criteria to Reduce Energy Use'' was added for situations where alternative methods are available and one is less energy-intensive than others. CONSIDERATIONS: Additional considerations were placed in this section, including those for the effects of pruning on plant health, retaining and treating pruning residues for soil quality, pruning for disease or pest control, and pruning for fire hazard reduction. A reference to NRCS Conservation Practice Standard (CPS) *Woody Residue Treatment (Code 384)* was included for treatment of pruning residues when needed, and a reference to NRCS Conservation Practice Standard (CPS) *Forest Stand Improvement (Code 666)* was added for situations where disease or pest control requires cutting or killing entire trees. The PLANS AND SPECIFICATIONS section was expanded to include a list of the minimum information needed to prepare a plan. The OPERATION AND MAINTENANCE section was expanded to include additional requirements for controlling invasive plants. The REFERENCES were updated to include more current information.

*Waste Transfer (Code 634)*—The agency removed 'hauling waste material with equipment or vehicles' from the conditions where this practice is applied and expanded the design criteria information specific for waste transfer pipelines.

*Water Well Decommissioning (Code 351)*—The agency revised the purposes and criteria sections. Disinfection was moved from criteria to considerations.

*Wildlife Structure (Code 649)*—This is a new National Conservation Practice Standard with a five-year lifespan. Prior to this new National Conservation Practice Standard, there existed no minimum requirements for applying fish and wildlife structures or retrofitting existing structures as needed to improve management and conservation of fish and wildlife habitats, and to achieve their intended purpose. To address this technical gap, an Interim National Conservation Practice Standard, ''Fish and Wildlife Structures'' (Code 734) was developed and tested in several states. Ultimately, States recommended conversion of this interim standard to a new National Conservation Practice Standard. ''Structures for Wildlife'' does not apply to structures benefitting aquatic species. During field testing, NRCS found that most habitat structures for aquatic species (e.g. fish ladders) are adequately addressed in other National Conservation Practice Standards. Also discovered during the testing process, was that the interim standard (Code 734) did not provide for retrofitting existing structures that pose a threat to wildlife. This standard corrects that oversight by providing for retrofitting existing structures, such as the installation of wildlife escape ramps to existing water troughs and retrofitting existing fencing to allow for safe passage by wildlife.

Signed this 6th day of August, 2014, in Washington, DC

**Jason A. Weller,**

*Chief, Natural Resources Conservation Service.*

[FR Doc. 2014–19520 Filed 8–15–14; 8:45 am]

BILLING CODE 3410–16–P

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

**[Docket No. NRCS–2014–0012]**

### Notice of Availability of the Finding of No Significant Impact (FONSI) for the Upper Kanab Creek Watershed Vegetation Management Project

**AGENCY:** Natural Resources Conservation Service (NRCS), USDA.

**ACTION:** Notice of Availability of the Finding of No Significant Impact.

**SUMMARY:** This notice announces the availability of NRCS's adoption, under provisions provided for in 40 CFR 1506.3, of an Environmental Assessment (EA) prepared by the Bureau of Land Management (BLM) for the Upper Kanab Creek Watershed Vegetation Management Project, dated April 2012.

**ADDRESSES:** Copies of the EA and FONSI are available upon request from the Natural Resources Conservation Service, Wallace F. Bennett Federal Building, 125 South State Street, Room 4010, Salt Lake City, Utah 84138.

**FOR FURTHER INFORMATION CONTACT:** Gary McRae, Resource Conservationist, Natural Resources Conservation Service, Wallace F. Bennett Federal Building, 125 South State Street, Room 4010, Salt Lake City, Utah 84138; telephone: (801) 524–4599.

**SUPPLEMENTARY INFORMATION:** NRCS prepared the FONSI in compliance with the National Environmental Policy Act after reviewing the EA and concurring with the analysis and findings therein, and the finding that the proposed project modifications described in the EA will not result in significant impacts to the environment.

The project area encompasses the upper portion of the Kanab, Arizona-Utah 4th level, 8-digit HUC (#15010003). The project is needed to rehabilitate vegetation communities.

Signed this 8th day of August 2014, in Salt Lake City, Utah.

**David C. Brown,**

*State Conservationist.*

[FR Doc. 2014–19519 Filed 8–15–14; 8:45 am]

BILLING CODE 3410–16–P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–56–2014]**

### Foreign-Trade Zone 49—Newark/Elizabeth, New Jersey; Application for Reorganization and Expansion Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by The Port Authority of New York and New Jersey, grantee of FTZ 49, requesting authority to reorganize and expand the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on August 11, 2014.

FTZ 49 was approved by the Board on April 6, 1979 (Board Order 146, 44 FR 22502, 4/16/79) and expanded on May 26, 1983 (Board Order 211, 48 FR 24958, 6/3/83), on October 23, 1987 (Board Order 365, 52 FR 41599, 10/29/87), on April 19, 1990 (Board Order 470, 55 FR 17478, 4/25/90), on December 15, 1999 (Board Order 1067, 64 FR 72462–72643, 12/28/99), on April 14, 2006 (Board Order 1446, 71 FR 23895, 4/25/06), on February 28, 2007 (Board Order 1504, 72 FR 10642–10643, 3/9/07), on July 16, 2009 (Board Order 1634, 74 FR 37688–37689, 7/29/09) and on February 6, 2013 (Board Order 1884, 78 FR 12716, 2/25/13).

The current zone includes the following sites in the Newark/Elizabeth area: *Site 1* (total—2,075 acres, sunset 2/28/18)—Port Newark/Elizabeth Port Authority Marine Terminal (2,029 acres), a parcel (23 acres) located at 888 Doremus Avenue, Newark, a parcel (6 acres) located at 580 Division Street, Elizabeth, and a parcel (17 acres) located at 251–259 Kapowski Road, Elizabeth; *Site 2* (64 acres, sunset 2/28/18)—Global Terminal and Container Services facility (41 acres) and adjacent Jersey Distribution Services facility (23 acres) Jersey City/Bayonne; *Site 3* (124 acres, sunset 2/28/18)—Port Authority Industrial Park, adjacent to the Port Newark/Elizabeth Port Authority Marine Terminal; *Site 4* (198 acres, sunset 2/28/18)—Port Authority Auto Marine Terminal (145 acres) and adjacent 53-acre Greenville Industrial Park on Upper New York Bay's Port Jersey Channel in Bayonne and Jersey City; *Site 5* (40 acres, sunset 2/28/18)—Newark International Airport jet fuel storage and distribution system in the Cities of Newark and Elizabeth (Essex and Union Counties); *Site 6* (407 acres, sunset 2/28/18)—within an industrial park located at 100 Central Avenue, Kearny; *Site 13* (546 acres, sunset 2/28/18)—Raritan Center Business Park, 300 Raritan Center, Edison; *Temporary Site 14* (2 acres, expires 9/30/15)—National Retail Transportation, Inc., 2700 16th Street, North Bergen; and, *Temporary Site 15* (16 acres, expires 1/31/15)—Western Carriers, Inc., 2400 83rd Street and 8501 West Side Avenue, N. Bergen. (Note: Sites 7 through 10 sunsetted on 3/31/14. Sites 11 and 12 sunsetted on 7/31/14.)

The grantee's proposed service area under the ASF would be the County of Hudson, New Jersey, in its entirety, as well as those parts of the Counties of Bergen, Essex, Passaic, Union, Middlesex, Monmouth, Morris and Somerset, New Jersey, which lie within the Port Authority's jurisdiction known as the Port District, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is within and adjacent to the Newark/Elizabeth Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize and expand its existing zone to include existing Sites 1, 2, 3, 4, 6 and 13 as magnet sites and existing Site 5 and temporary Sites 14 and 15 as usage-driven sites. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. The application would have no impact on FTZ 49's previously authorized subzones.

In accordance with the FTZ Board's regulations, Kathleen Boyce of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is October 17, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to November 3, 2014.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.* For further information, contact Kathleen Boyce at *Kathleen.Boyce@trade.gov* or (202) 482–1346.

Dated: August 12, 2014.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2014–19541 Filed 8–15–14; 8:45 am]

**BILLING CODE 3510–DS–P**

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## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–58–2014]**

### Foreign-Trade Zone (FTZ) 7—Mayaguez, Puerto Rico; Notification of Proposed Production Activity; Neolpharma, Inc. (Pharmaceutical Products); Caguas, Puerto Rico

The Puerto Rico Industrial Development Company, grantee of FTZ 7, submitted a notification of proposed production activity to the FTZ Board on behalf of Neolpharma, Inc. (Neolpharma), located in Caguas, Puerto Rico. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on August 12, 2014.

A separate application for subzone designation at the Neolpharma facility was submitted and is being processed under Section 400.31 of the FTZ Board's regulations. The facility is used for the production of pharmaceutical products. 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 Neolpharma from customs duty payments on the foreign status components used in export production. On its domestic sales, Neolpharma would be able to choose the duty rates during customs entry procedures that apply to the finished products: Clarithromycin, azithromycin, levothyroxine, hydroxyzine pamoate and, hydroxyzine hydrochloride (duty 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 sodium alginate and the following active pharmaceutical ingredients: Clarithromycin, azithromycin monohydrate, levothyroxine sodium, and hydroxyzine pamoate (duty rate ranges from free to 6.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is September 29, 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 FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: August 12, 2014.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2014–19542 Filed 8–15–14; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–890]**

### Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Changed Circumstances Review, and Intent To Revoke Antidumping Duty Order in Part

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

**SUMMARY:** On March 12, 2014, the Department of Commerce (the ''Department'') received a request for revocation, in part, of the antidumping duty (''AD'') order on wooden bedroom furniture from the People's Republic of China (''PRC'') [1] with respect to certain wall bed units. We preliminarily determine that the producers accounting for substantially all of the production of the domestic like product to which the *Order* pertains lack interest in the relief provided by the *Order* with respect to certain wall bed units described below. Accordingly, we intend to revoke, in part, the *Order* as to imports of certain wall bed units. The Department invites interested parties to comment on these preliminary results.

**DATES:** *Effective Date:* August 18, 2014.

**FOR FURTHER INFORMATION CONTACT:** Erin Kearney or Howard Smith, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0167 or (202) 482–5193, respectively.

### Background

On January 4, 2005, the Department published the *Order* in the **Federal Register**. On March 12, 2014, the Department received a request on behalf of Techcraft Manufacturing, Inc. (''Techcraft'') for a changed circumstances review to revoke, in part, the *Order* with respect to certain wall bed units.[2] In its request, Techcraft stated that the American Furniture Manufacturing Committee for Legal Trade and Vaughan-Basset Furniture Company, Inc. (''Petitioners'') discussed the scope exclusion described below and are in agreement with the revocation, in part. On March 19, 2014, the Department received a letter from the Petitioners in which they stated they were in agreement with the proposed scope exclusion language in Techcraft's March 12, 2014 changed circumstances review request.[3]

On May 2, 2014, we published the *Initiation Notice* in the **Federal Register**. Because the statement submitted by Petitioners in support of Techcraft's Request did not indicate whether Petitioners account for substantially all of the domestic wooden bedroom furniture production, in the *Initiation Notice,* we invited interested parties to submit comments concerning industry support, as well as comments and/or factual information regarding the changed circumstances review. On May 14, 2014, Petitioners submitted comments stating that they are not aware of any U.S. domestic producer that opposes exclusion of the merchandise defined in Techcraft's Request, and that if no interested party raises an objection to the exclusion, the Department should issue a determination excluding certain wall bed units, as defined in Techcraft's Request. On May 16, 2014, Techcraft submitted comments stating that the record of the proceeding demonstrates that there is no longer interest in having wall bed units that meet the scope exclusion language provided in the *Initiation Notice* covered by the *Order.* On June 13, 2014 and July 1, 2014, Techcraft revised the proposed scope exclusion language in its original changed circumstances review request.[4] On July 9, 2014, the Department received a letter from the Petitioners in which they consented to the revised scope exclusion language contained in Techcraft's July 1, 2014, submission.[5]

### Scope of the Order

The product covered by the order is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) Wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen's chests, bachelor's chests, lingerie chests, wardrobes, vanities, chessers, chifforobes, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-

[1] *See* Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture From the People's Republic of China, 70 FR 329 (January 4, 2005) (''*Order*'').

[2] *See* Submission from Techcraft, ''Techcraft Manufacturing Inc. Request for a Changed Circumstance Review,'' dated March 12, 2014 (''Techcraft's Request'').

[3] *See* Submission from Petitioners, ''Petitioners' Response to Techcraft's Letter of March 12, 2014,'' dated March 19, 2014.

[4] *See* Submissions from Techcraft, ''Techcraft Manufacturing Inc., Request for a Changed Circumstance Review,'' dated June 13, 2014; ''Techcraft Manufacturing Inc. Request for Amended Language in Changed Circumstance Review,'' dated July 1, 2014.

[5] *See* Submission from Petitioners, ''Petitioners' Response to Techcraft's Letter Filed on July 1, 2014,'' dated July 9, 2014.

on-chests,[6] highboys,[7] lowboys,[8] chests of drawers,[9] chests,[10] door chests,[11] chiffoniers,[12] hutches,[13] and armoires;[14] (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) Seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate;[15] (9) jewelry armories;[16] (10) cheval mirrors;[17] (11) certain metal parts;[18] (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; (13) upholstered beds;[19] and (14) toy boxes.[20]

Imports of subject merchandise are classified under subheadings 9403.50.9042 and 9403.50.9045 of the HTSUS as ''wooden . . . beds'' and under subheading 9403.50.9080 of the HTSUS as ''other . . . wooden furniture of a kind used in the bedroom.'' In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9042 or 9403.50.9045 of the HTSUS as ''parts of wood.'' Subject merchandise may also be entered under subheadings 9403.50.9041, 9403.60.8081, or 9403.20.0018. Further, framed glass mirrors may be entered under subheading 7009.92.1000 or 7009.92.5000 of the HTSUS as ''glass mirrors . . . framed.'' The order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

## Scope of Changed Circumstances Review

The products covered by this changed circumstances review are certain enclosable wall bed units, also referred to as murphy beds, which are composed of the following three major sections: (1) A metal wall frame, which attaches to the wall and uses coils or pistons to support the metal mattress frame; (2) a metal frame, which has euro slats for supporting a mattress and two legs that pivot; and (3) wood panels, which attach to the metal wall frame and/or the metal mattress frame to form a cabinet to enclose the wall bed when not in use. Excluded enclosable wall bed units are imported in ready-to-assemble format with all parts necessary for assembly. Enclosable wall bed units do not include a mattress. Wood panels of enclosable wall bed units, when imported separately, remain subject to the order.

[6] A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

[7] A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

[8] A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

[9] A chest of drawers is typically a case containing drawers for storing clothing.

[10] A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

[11] A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

[12] A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

[13] A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

[14] An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

[15] As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. *See* CBP's Headquarters Ruling Letter 043859, dated May 17, 1976.

[16] Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24 inches in width, 18 inches in depth, and 49 inches in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. *See* Issues and Decision Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, concerning ''Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China,'' dated August 31, 2004. *See also Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review, and Determination To Revoke Order in Part,* 71 FR 38621 (July 7, 2006).

[17] Cheval mirrors are any framed, tiltable mirror with a height in excess of 50 inches that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, *i.e.,* a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet line with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. *See Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review and Determination To Revoke Order in Part,* 72 FR 948 (January 9, 2007).

[18] Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (*i.e.,* wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under HTSUS subheadings 9403.90.7005, 9403.90.7010, or 9403.90.7080.

[19] Upholstered beds that are completely upholstered, *i.e.,* containing filling material and completely covered in sewn genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor. *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part,* 72 FR 7013 (February 14, 2007).

[20] To be excluded the toy box must: (1) Be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply with American Society for Testing and Materials (''ASTM'') standard F963–03. Toy boxes are boxes generally designed for the purpose of storing children's items such as toys, books, and playthings. *See Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination to Revoke Order in Part,* 74 FR 8506 (February 25, 2009). Further, as determined in the scope ruling memorandum ''Wooden Bedroom Furniture from the People's Republic of China: Scope Ruling on a White Toy Box,'' dated July 6, 2009, the dimensional ranges used to identify the toy boxes that are excluded from the wooden bedroom furniture order apply to the box itself rather than the lid.

**Preliminary Results of Changed Circumstances Review, and Intent To Revoke the Order, in Part**

Pursuant to section 751(d)(1) of the Tariff Act of 1930, as amended (the ''Act''), and 19 CFR 351.222(g), the Department may revoke an AD order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.,* a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 782(h)(2) of the Act gives the Department the authority to revoke an order if producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the order. 19 CFR 351.222(g) provides that the Department will conduct a changed circumstances review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it concludes that (i) producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part, or (ii) if other changed circumstances sufficient to warrant revocation exist. Both the Act and the Department's regulations require that ''substantially all'' domestic producers express a lack of interest in the order for the Department to revoke the order, in whole or in part.[21] The Department has interpreted ''substantially all'' to represent producers accounting for at least 85 percent of U.S. production of the domestic like product.[22]

On March 12, 2014, Techcraft requested that the Department expedite the changed circumstances review.[23] The Department's regulations do not specify a deadline for the issuance of preliminary results of a changed circumstances review, but provide that the Department will issue the final results of review within 270 days after the date on which the changed circumstances review is initiated, or within 45 days if all parties to the proceeding agree to the outcome of the review.[24] The Department did not issue a combined notice of initiation and preliminary results because, as discussed above, the statement provided by Petitioners and offered in support of Techcraft's Request does not indicate whether Petitioners account for substantially all domestic wooden bedroom furniture production.[25] Thus, the Department did not determine in the *Initiation Notice* that producers accounting for substantially all of the production of the domestic like product lacked interest in the continued application of the *Order* as to certain wall bed units. Further, the Department requested interested party comments on the issue of domestic industry support of a partial revocation.[26] Because the Department received no comments concerning a lack of industry support or opposing initiation of the changed circumstances review of the *Order,* the Department now preliminarily finds that producers accounting for substantially all of the production of the domestic like product lack interest in the relief afforded by the *Order* with respect to the certain wall bed units described in Techcraft's Request. We request comment from interested parties on that preliminary finding before issuing the final results of this review.[27]

As noted in the *Initiation Notice,* Techcraft requested the revocation of the *Order,* in part, and supported its request. In light of Techcraft's Request and the interested party comments received during the comment period, we preliminarily conclude that changed circumstances warrant revocation of the *Order,* in part, because the producers accounting for substantially all of the production of the domestic like product to which the *Order* pertains lack interest in the relief provided by the *Order* with respect to the certain wall bed units that are the subject of Techcraft's Request.

Accordingly, we are notifying the public of our intent to revoke the *Order,* in part, with respect to certain wall bed units. We intend to revoke the *Order* as to certain wall bed units by including the following language in the scope of the *Order:*

Also excluded from the scope are certain enclosable wall bed units, also referred to as murphy beds, which are composed of the following three major sections: (1) A metal wall frame, which attaches to the wall and uses coils or pistons to support the metal mattress frame; (2) a metal frame, which has euro slats for supporting a mattress and two legs that pivot; and (3) wood panels, which attach to the metal wall frame and/or the metal mattress frame to form a cabinet to enclose the wall bed when not in use. Excluded enclosable wall bed units are imported in ready-to-assemble format with all parts necessary for assembly. Enclosable wall bed units do not include a mattress. Wood panels of enclosable wall bed units, when imported separately, remain subject to the order.

**Public Comment**

Interested parties are invited to comment on these preliminary results in accordance with 19 CFR 351.309(c)(1)(ii). If an interested party is of the view that certain arguments continue to be relevant to the Department's final results of this review, that interested party is required to file a case brief containing all such arguments, including any such arguments presented to the Department before the date of publication of the preliminary results, pursuant to 19 CFR 351.309(c)(2). Written comments may be submitted no later than 14 days after the date of publication of these preliminary results. Rebuttals to written comments, limited to issues raised in such comments, may be filed no later than seven days after the due date for comments. All comments are to be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS) which is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, Room 7046 of the main Department of Commerce building. Comments must also be served on interested parties.[28] An electronically filed document must be received successfully in its entirety by IA ACCESS by 5:00 p.m. Eastern Standard Time on the day it is due.[29]

The Department will issue the final results of this changed circumstances review, which will include its analysis of any written comments, no later than 270 days after the date on which this review was initiated.

If, in the final results of this review, the Department continues to determine that changed circumstances warrant the revocation of the *Order,* in part, we will instruct U.S. Customs and Border Protection (''CBP'') to liquidate without regard to antidumping duties, and to refund any estimated antidumping duties, on all unliquidated entries of the

[21] *See* Section 782(h) of the Act and 19 CFR 351.222(g).

[22] *See Honey From Argentina; Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders,* 77 FR 67790, 67791 (November 14, 2012), unchanged in *Honey From Argentina; Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews; Revocation of Antidumping and Countervailing Duty Orders,* 77 FR 77029 (December 31, 2012).

[23] *See* Techcraft's Request.

[24] 19 CFR 351.216(e).

[25] *See Initiation Notice.*

[26] *Id.*

[27] *See, e.g., Honey From Argentina; Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders,* 77 FR 67790, 67791 (November 14, 2012); *Aluminum Extrusions From the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke Antidumping and Countervailing Duty Orders in Part,* 78 FR 66895 (November 7, 2013); *see also* 19 CFR 351.222(g)(1)(v).

[28] *See* 19 CFR 351.303(f).

[29] *See* 19 CFR 351.310(c).

merchandise covered by the revocation that are not covered by the final results of an administrative review or automatic liquidation.

The current requirement for cash deposits of estimated antidumping duties on all entries of subject merchandise will continue unless until they are modified pursuant to the final results of this changed circumstances review.

These preliminary results of review and notice are in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.221 and 19 CFR 351.222.

Dated: August 8, 2014.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2014–19546 Filed 8–15–14; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Advisory Committee on Supply Chain Competitiveness: Notice of Public Meetings

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

**ACTION:** Notice of open meetings.

**SUMMARY:** This notice sets forth the schedule and proposed topics of discussion for public meetings of the Advisory Committee on Supply Chain Competitiveness (Committee).

**DATES:** The meetings will be held on September 10 from 1:00 p.m. to 3:00 p.m., and September 11 from 9:00 a.m. to 4:00 p.m., Eastern Standard Time (EST).

**ADDRESSES:** The meetings will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4830, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Richard Boll, Office of Supply Chain, Professional & Business Services, International Trade Administration. (Phone: (202) 482–1135 or Email: *richard.boll@trade.gov*)

**SUPPLEMENTARY INFORMATION:**

*Background:* The Committee was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2). It provides advice to the Secretary of Commerce on the necessary elements of a comprehensive policy approach to supply chain competitiveness designed to support U.S. export growth and national economic competitiveness, encourage innovation, facilitate the movement of goods, and improve the competitiveness of U.S. supply chains for goods and services in the domestic and global economy; and provides advice to the Secretary on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. For more information about the Committee visit: *http://ita.doc.gov/td/sif/DSCT/ACSCC/.*

*Matters To Be Considered:* Committee members are expected to continue to discuss the major competitiveness-related topics raised at the previous Committee meetings, including trade and competitiveness; freight movement and policy; information technology and data requirements; regulatory issues; and finance and infrastructure. The Committee's subcommittees will report on the status of their work regarding these topics. The agendas may change to accommodate Committee business. The Office of Supply Chain, Professional & Business Services will post the final detailed agendas on its Web site, *http://ita.doc.gov/td/sif/DSCT/ACSCC/,* at least one week prior to the meeting.

The meetings will be open to the public and press on a first-come, first-served basis. Space is limited. The public meetings are physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Mr. Richard Boll, at (202) 482–1135 or *richard.boll@trade.gov* five (5) business days before the meeting.

Interested parties are invited to submit written comments to the Committee at any time before and after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of this meeting must send them to the Office of Supply Chain, Professional & Business Services, 1401 Constitution Ave. NW., Room 11014, Washington, DC 20230, or email to *supplychain@trade.gov.*

For consideration during the meetings, and to ensure transmission to the Committee prior to the meetings, comments must be received no later than 5:00 p.m. EST on September 3, 2014. Comments received after September, 3, 2014, will be distributed to the Committee, but may not be considered at the meetings. The minutes of the meetings will be posted on the Committee Web site within 60 days of the meeting.

Dated: August 12, 2014.

**David Long,**

*Director, Office of Supply Chain, Professional and Business Services.*

[FR Doc. 2014–19534 Filed 8–15–14; 8:45 am]

**BILLING CODE 3510–DR–P**

## DEPARTMENT OF DEFENSE

**[Docket ID: DoD–2014–OS–0118]**

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

**DATES:** Consideration will be given to all comments received by September 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** Fred Licari, 571–372–0493.

**SUPPLEMENTARY INFORMATION:**

*Title, Associated Form and OMB Number:* Taxes Assessed by the Government of Afghanistan; OMB Control Number 0704–XXXX.

*Type of Request:* Emergency: New Collection.

*Number of Respondents:* 192.

*Responses per Respondent:* 1.

*Annual Responses:* 192.

*Average Burden per Response:* 4 hours.

*Annual Burden Hours:* 768.

*Needs and Uses:* Section 1216 of NDAA 2014 authorizes the Secretary of Defense to withhold Department of Defense assistance to Afghanistan in the amount equivalent to 100 percent of all taxes assessed by Afghanistan to extent such taxes are not reimbursed by Afghanistan.

*Affected Public:* Business or other for-profit.

*Frequency:* On occasion.

*Respondent's Obligation:* Voluntary.

*OMB Desk Officer:* Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

*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.

*DOD Clearance Officer:* Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: August 13, 2014.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2014–19563 Filed 8–15–14; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

**[Docket ID: DoD–2014–OS–0117]**

## Privacy Act of 1974; System of Records

**AGENCY:** Defense Health Agency, DoD.

**ACTION:** Notice to alter a system of records.

**SUMMARY:** The Defense Health Agency proposes to alter an existing system of records, EDHA 24, entitled ''Defense and Veterans Eye Injury and Vision Registry (DVEIVR)'' in its inventory of record systems subject to the Privacy Act of 1974, as amended. This system longitudinally collects and analyzes diagnoses, medical and surgical interventions, other treatments, and the results of eye injuries and/or visual dysfunctions/disorders incurred by members of the Armed Forces while serving on active duty; longitudinally collects from the Department of Veterans Affairs (VA) medical and rehabilitation treatment, surgical procedure, and/or outcome information about individuals who receive treatment from the Veterans Health Administration (VHA) and are listed in the DVEIVR to support readiness, enhance best practices, guide research, and inform policy; encourages and facilitates studies, and the development of best practices and clinical education, on eye injuries and/or visual dysfunctions/disorders incurred by members of the Armed Forces; supports collaborative DoD and VA programs that may provide vision screening, diagnosis, and rehabilitative management to those with eye injuries and/or visual dysfunctions/disorders, and guides vision research, at DoD medical treatment facilities and VA medical centers; and is a management tool for statistical analysis, longitudinal data collection, reporting, evaluating program effectiveness, guiding research, and informing policy.

**DATES:** Comments will be accepted on or before September 17, 2014. This proposed action will be effective on the day 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 should 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. Linda S. Thomas, Chief, Defense Health Agency Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101, or by telephone at (703) 681–7500.

**SUPPLEMENTARY INFORMATION:** The Defense Health Agency 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 *http://dpclo.defense.gov/.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 24, 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: August 13, 2014.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

### EDHA 24

**SYSTEM NAME:**

Defense and Veterans Eye Injury and Vision Registry (DVEIVR), (November 18, 2013, 78 FR 69076)

**CHANGES:**

* * * * *

**SYSTEM LOCATION:**

Delete entry and replace with ''Primary location: Office of the Chief Information Officer/Enterprise Infrastructure, Defense Health Agency, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101.

**SECONDARY LOCATIONS:**

Department of Defense/Department of Veterans Affairs Vision Center of Excellence, 2900 Crystal Drive, Suite 210, Arlington, VA 22202–3557.

For a complete listing of all system locations, write to the system manager.''

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Delete entry and replace with ''Individuals who incurred an eye injury and/or visual dysfunction/disorder while serving as a member of the Armed Forces on active duty after September 10, 2001. This includes individuals with a visual dysfunction/disorder related to a traumatic brain injury, an eye injury resulting in a visual acuity in the injured eye of 20/200 or less, and/or a loss of peripheral vision resulting in 20 degrees or less of visual field in the injured eye.''

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Delete entry and replace with ''Records include the individual's full name; Department of Defense (DoD) Identification Number (DoD ID Number); date of birth; place of birth; date of death; gender; other names used; mailing address; email address; contact telephone numbers; marital status; race and ethnicity; citizenship; mother's maiden name; biometric information; service and employment information including rank, service branch, job category, operation, work location, and disability information; medical information including information on diagnosis, treatment, surgical interventions or other operative procedures, follow up services and treatment, visual outcomes, on-going eye care, visual rehabilitation benefits, services received, whether treatments, benefits, and services were provided on

an inpatient or outpatient basis, inpatient service dates, and outpatient visit dates; and information on where the eye injury and/or visual dysfunction/disorder occurred. The name and phone number of the individual's alternative contacts and/or personal representatives will only be collected into the DVEIVR if available in the original record.''

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Delete entry and replace with ''10 U.S.C. 1071, note, Sec. 1623, Center of Excellence in Prevention, Diagnosis, Mitigation, Treatment, and Rehabilitation of Military Eye Injuries; and 10 U.S.C. Chapter 55, Medical and Dental Care.''

**PURPOSE(S):**

Delete entry and replace with ''To longitudinally collect and analyze diagnoses, medical and surgical interventions, other treatments, and the results of eye injuries and/or visual dysfunctions/disorders incurred by members of the Armed Forces while serving on active duty.

To longitudinally collect from the Department of Veterans Affairs (VA) medical and rehabilitation treatment, surgical procedure, and/or outcome information about individuals who receive treatment from the Veterans Health Administration (VHA) and are listed in the DVEIVR to support readiness, enhance best practices, guide research, and inform policy.

To encourage and facilitate studies, and the development of best practices and clinical education, on eye injuries and/or visual dysfunctions/disorders incurred by members of the Armed Forces.

To support collaborative DoD and VA programs that may provide vision screening, diagnosis, and rehabilitative management to those with eye injuries and/or visual dysfunctions/disorders, and to guide vision research, at DoD medical treatment facilities and VA medical centers.

Also used as a management tool for statistical analysis, longitudinal data collection, reporting, evaluating program effectiveness, guiding research, and informing policy.''

**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, these records may be specifically disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the VA, and Federal, state, and educational institutions to encourage and facilitate research, the development of best practices, and clinical education on eye injuries and/or visual dysfunctions/disorders incurred by members of the Armed Forces.

To the VA in order to inform the VA whether the VHA is providing medical treatment to an individual listed in the DVEIVR and allow the VA to transfer information pertaining to that individual's medical and rehabilitation treatments, surgical procedures, and/or outcomes into his or her DVEIVR record.

To the VA Blind Rehabilitation Service and the eye care services of the VHA to analyze the coordination of eye injury and/or visual dysfunction/disorder care and visual rehabilitation benefits and services, which may be provided by the VA after individuals are separated or released from the Armed Forces.

To the VA to coordinate eye injury and/or visual dysfunction/disorder care, and visual rehabilitation benefits and services, provided by the VA before and after individuals are separated or released from the Armed Forces.

The DoD Blanket Routine Uses may apply to this system of records.

**Note:** This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) or any successor DoD issuances implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and 45 CFR Parts 160 and 164, Health and Human Services, General Administrative Requirements and Security & Privacy, respectively, applies to most such health information. DoD 6025.18–R or a successor issuance may place additional procedural requirements on uses and disclosures of such information beyond those found in the Privacy Act of 1974, as amended, or mentioned in this system of records notice.''

* * * * *

**RETRIEVABILITY:**

Delete entry and replace with ''Records may be retrieved by the individual's name and DoD ID Number.''

**SAFEGUARDS:**

Delete entry and replace with ''Physical access to system locations is restricted by cipher locks, visitor escort, access rosters, and photo identification. Adequate locks on doors and server components are secured in locked computer room(s) with limited access. Each system end user device is protected within a locked storage container, room, or building outside of normal business hours. All visitors and other persons who require access to facilities that house servers and other network devices supporting the system, but who do not have authorization for access, are escorted by appropriately screened/cleared personnel at all times.

Approved system users have role-based access to the system and, as appropriate, are provided role-based access to query the system for single patient look-up and reporting purposes. On a system level, all access is tracked to ensure that only appropriate and approved personnel have access to personally identifiable information and protected health information. System authentication requires either a Common Access Card or Personal Identity Verification Card and personal identification number or a unique logon identification and password. Passwords must be renewed every sixty (60) days. Authorized personnel must have appropriate Information Assurance, HIPAA, and Privacy Act of 1974 training.''

**RETENTION AND DISPOSAL:**

Delete entry and replace with ''Close an individual's records after the last episode of care; records are deleted 20 years after the last episode of care.''

**SYSTEM MANAGER(S) AND ADDRESS:**

Delete entry and replace with ''Director of Technology, Department of Defense/Department of Veterans Affairs Vision Center of Excellence, 2900 Crystal Drive, Suite 210, Arlington, VA 22202–3557.''

**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 Chief, Freedom of Information Act (FOIA) Service Center, Defense Health Agency Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101.

Requests should contain the individual's full name, DoD ID Number, current address, telephone number, the name and number of this system of records notice, and be signed.''

**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 Chief, FOIA Service Center, Defense Health Agency Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101.

Requests should contain the individual's full name, DoD ID Number,

current address, telephone number, the name and number of this system of records notice, and be signed.''

**CONTESTING RECORD PROCEDURES:**

Delete entry and replace with ''The Office of the Secretary of Defense (OSD) rules for accessing records, contesting contents, and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR Part 311; or may be obtained from the system manager.''

**RECORD SOURCE CATEGORIES:**

Delete entry and replace with ''The Defense Enrollment Eligibility Reporting System; medical treatment records maintained at DoD military treatment facilities, VA medical care facilities, and rehabilitation facilities contracted by DoD and/or VA to perform medical care; VA Eye Injury Data Store (also called the VA Eye Injury Registry); the Clinical Data Repository; AHLTA; Theater Medical Data Store; Joint Theater Trauma Registry; the Pharmacy Data Transaction Service; the Service Medical Evaluation Boards; and the Combat Trauma Registry.''

* * * * *

[FR Doc. 2014–19561 Filed 8–15–14; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2014–ICCD–0086]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Annual State Application Under Part C of the Individuals With Disabilities Education Act as Amended in 2004

**AGENCY:** Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before September 17, 2014.

**ADDRESSES:** Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0086 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Rebecca Walawender, 202–245–7399.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Annual State Application under Part C of the Individuals with Disabilities Education Act as Amended in 2004.

*OMB Control Number:* 1820–0550.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* State, Local, or Tribal Governments.

*Total Estimated Number of Annual Responses:* 56.

*Total Estimated Number of Annual Burden Hours:* 560.

*Abstract:* The Individuals with Disabilities Education Improvement Act of 2004, signed on December 3, 2004, became PL 108–446. The Department of Education promulgated final regulations in 34 CFR Part 303. In order to be eligible for a grant under 20 U.S.C. 1433, a State shall provide assurance to the Secretary that the State has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State, infants and toddlers with disabilities who are homeless children and their families, and has in effect a statewide system that meets the requirements of 20 U.S.C. 1435.

Dated: August 12, 2014.

**Tomakie Washington,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2014–19443 Filed 8–15–14; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2014–ICCD–0085]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; OSERS Peer Review Data Form

**AGENCY:** Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before September 17, 2014.

**ADDRESSES:** Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0085 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after*

*the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Melanie Winston, 202–245–7419.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* OSERS Peer Review Data Form.

*OMB Control Number:* 1820–0583.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* Individuals or households.

*Total Estimated Number of Annual Responses:* 1,800.

*Total Estimated Number of Annual Burden Hours:* 450.

*Abstract:* The Office of Special Education Rehabilitative Services (OSERS) Peer Reviewer Data Form is used to support the peer review process panel assignments and to update individual peer reviewer personal information in the OSERS Peer Reviewer System (PRS) database. This information is requested when an individual is asked to serve as a peer reviewer and/or updated biannually by persons who previously served as peer reviewers. The information is used by OSERS staff and the peer review contractor to identify potential reviewers who would be appropriate to review specific types of grant applications for funding; provide background information on each potential reviewer; and provide information on any reasonable accommodations that might be required by the individual.

Dated: August 12, 2014.

**Tomakie Washington,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2014–19445 Filed 8–15–14; 8:45 am]

**BILLING CODE 4000–01–P**

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## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2014–ICCD–0087]**

## Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; State and EIS Record Keeping and Reporting Requirements Under Part C

**AGENCY:** Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before September 17, 2014.

**ADDRESSES:** Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0087 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will only accept comments during the comment period in this mailbox when the regulations.gov site is not available. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Rebecca Walawender, 202–245–7399.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* State and EIS Record Keeping and Reporting Requirements under Part C.

*OMB Control Number:* 1820–0682.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* State, Local, or Tribal Governments.

*Total Estimated Number of Annual Responses:* 56.

*Total Estimated Number of Annual Burden Hours:* 4,828.

*Abstract:* State Lead Agencies for Part C of the Individuals with Disabilities Education Act (IDEA)are required to maintain records pertaining to due process procedures pertinent to Part C of IDEA, maintain a list of qualified

mediators and a list of those serving as hearing officers, and adopt written procedures for receiving and resolving complaints. These records are used by Part C State Lead Agencies ensure that all Part C information responsibilities and processes are documented and conducted in a manner consistent with the requirement of IDEA Part C.

Dated: August 12, 2014.

**Tomakie Washington,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2014–19444 Filed 8–15–14; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2014–ICCD–0119]**

### Agency Information Collection Activities; Comment Request; State Agency Use of an Alternative Method to Distribute Title I Funds to Local Educational Agencies With Fewer Than 20,000 Total Residents

**AGENCY:** Office of Elementary and Secondary Education (OESE), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before October 17, 2014.

**ADDRESSES:** Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0119 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Todd Stephenson, 202–205–1645.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* State Agency Use of An Alternative Method to Distribute Title I Funds to Local Educational Agencies with Fewer than 20,000 Total Residents.

*OMB Control Number:* 1810–0620.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* State, Local, or Tribal Governments.

*Total Estimated Number of Annual Responses:* 25.

*Total Estimated Number of Annual Burden Hours:* 200.

*Abstract:* Title I, Part A of the Elementary and Secondary Education Act gives State Educational Agencies (SEA) the flexibility to use an alternative method to distribute Title I, Part A funds to small Local Educational Agencies (LEA). This data collection addresses the burden associated with the actual process an SEA must follow to obtain approval from ED to use alternative poverty data to redistribute Title I, Part A funds to small LEAs.

Dated: August 12, 2014.

**Tomakie Washington,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2014–19435 Filed 8–15–14; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2014–ICCD–0121]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and approval; Comment Request; Application for Asian American and Native American Pacific Islander-Serving Institutions Program (1894–0001)

**AGENCY:** Office of Postsecondary Education (OPE), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing a reinstatement of a previously approved information collection.

**DATES:** Interested persons are invited to submit comments on or before September 17, 2014.

**ADDRESSES:** Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0121 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Pearson Owens, 202–502–7804.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork

Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Application for Asian American and Native American Pacific Islander-Serving Institutions Program (1894–0001).

*OMB Control Number:* 1840–0798.

*Type of Review:* A reinstatement of a previously approved information collection.

*Respondents/Affected Public:* Private Sector.

*Total Estimated Number of Annual Responses:* 75.

*Total Estimated Number of Annual Burden Hours:* 5,625.

*Abstract:* The program is authorized under Title III, Part A, Section 320 of the Higher Education Opportunity Act (HEOA) of 2008, as amended. The program awards discretionary grants to eligible institutions of higher education so that they might increase self-sufficiency by improving academic programs, institutional management, and fiscal stability.

Dated: August 13, 2014.

**Stephanie Valentine,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2014–19564 Filed 8–15–14; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2014–ICCD–0084]**

## Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Office of Innovation and Improvement Grantee Viewpoint Survey

**AGENCY:** Office of Innovation and Improvement (OII), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

**DATES:** Interested persons are invited to submit comments on or before September 17, 2014.

**ADDRESSES:** Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0084 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will only accept comments during the comment period in this mailbox when the regulations.gov site is not available. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Ayesha Edwards-Kemp, 202–205–4516.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Office of Innovation and Improvement Grantee Viewpoint Survey.

*OMB Control Number:* 1855—NEW.

*Type of Review:* A new information collection.

*Respondents/Affected Public:* State, Local, or Tribal Governments.

*Total Estimated Number of Annual Responses:* 200.

*Total Estimated Number of Annual Burden Hours:* 200.

*Abstract:* The purpose of the Office of Innovation and Improvement (OII) Grantee Viewpoint survey is for the Department to collect data from grantees on their satisfaction in regards to OII services and to learn ways in which the organization can improve service to external customers. The survey would collect information on satisfaction regarding current technical assistance resources and services that the organization offers; and provide grantees with an opportunity to provide feedback on resources and services that would improve their fiduciary responsibilities.

Fifteen of OIIs grant programs will participate in the survey including the Charter Schools Program, Investing In Innovation, Promise Neighborhoods, School Leadership Program, Supporting Effective Educator Development, Transition to Teaching, Magnet Schools Assistance Program, Full Service Community Schools, Ready to Learn Television Program, Teacher Quality Programs, Arts in Education Model Development and Dissemination, and Professional Development for Arts Educators.

Dated: August 12, 2014.

**Tomakie Washington,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2014–19446 Filed 8–15–14; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2014–ICCD–0118]**

### Agency Information Collection Activities; Comment Request; Corrective Action Plan (CAP)

**AGENCY:** Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before October 17, 2014.

**ADDRESSES:** Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0118 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will only accept comments during the comment period in this mailbox when the regulations.gov site is not available. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Edward West, 202–245–6145.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Corrective Action Plan (CAP).

*OMB Control Number:* 1820–0694.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* State, Local, or Tribal Governments.

*Total Estimated Number of Annual Responses:* 60.

*Total Estimated Number of Annual Burden Hours:* 975.

*Abstract:* Pursuant to Section 107 (a) of the Rehabilitation Act of 1973, as amended, the Rehabilitation Services Administration (RSA) must conduct periodic monitoring of the Vocational Rehabilitation (VR) programs in each state. As a result of this monitoring, RSA may require that VR agencies to develop a Corrective Action Plan (CAP) in order to resolve findings of non-compliance. The CAP must contain the specific steps that the agency will take to resolve each finding, timelines for the completion of each step and methods for evaluating that the findings have been resolved. RSA requires the agency to report progress toward completion of the CAP on a quarterly basis.

Dated: August 12, 2014.

**Tomakie Washington,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2014–19437 Filed 8–15–14; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 12686–004]**

### Baker County, OR; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* 12686–004.

c. *Date filed:* April 30, 2013 (revised December 5, 2013).

d. *Applicant:* Baker County, Oregon (Baker County).

e. *Name of Project:* Mason Dam Hydroelectric Project.

f. *Location:* The proposed project would be located on the Powder River, at the existing U.S. Bureau of Reclamation's (Reclamation) Mason dam, near Baker City, in Baker County, Oregon. The project would occupy 6.4 acres of federal land managed by Reclamation and the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Fred Warner Jr., Baker County Board of Commissioners Chairman, 1995 Third Street, Baker City, OR 97814, (541) 523–8200.

i. *FERC Contact:* Jennifer Adams, Telephone (202) 502–8087, and email *jennifer.adams@ferc.gov.*

j. *Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance,

please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–12686–004.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. *The Project Description:* The proposed project facilities include: (1) A 6-foot diameter, 105-foot-long steel penstock; (2) a 40-foot by 28-foot powerhouse containing a single horizontal shaft Francis turbine with an installed capacity of 3.4 megawatts; (3) an approximately 0.8-mile-long, 12.47-kilovolt (kV) overhead transmission line along Black Mountain Road; (4) a substation at the interconnection point with an existing Idaho Power Company 138-kV transmission line; and (5) appurtenant facilities.

The proposed project would operate utilizing flood control, irrigation, and instream flow releases from Mason dam and established under existing agreements between the Reclamation, the U.S. Army Corps of Engineers, and/or the Baker Valley Irrigation District. Generation flow discharge would be delivered to the Powder River at the base of Mason dam in the vicinity of the exiting discharge via the project's tailrace.

Baker County estimates that the average annual generation would be about 7,510 megawatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''PRELIMINARY TERMS AND CONDITIONS,'' or ''PRELIMINARY FISHWAY PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

o. *Procedural Schedule:*

The application will be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

| Milestone | Target date |
|---|---|
| Filing of recommendations, preliminary terms and conditions, and preliminary fishway prescriptions. | October 2014. |
| Commission issues EA ..... | February 2015. |
| Comments on EA ..... | March 2015. |
| Modified terms and conditions. | April 2015. |

q. A license applicant must file no later than 60 days following the date of issuance of the notice of acceptance and ready for environmental analysis provided for in § 5.22: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

r. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Dated: August 11, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–19467 Filed 8–15–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL14–89–000]**

### GDF Suez Energy Resources, NA (Complainant) v. New York Independent System Operator, Inc. Consolidated Edison Company of New York, Inc. (Respondents); Notice of Complaint

Take notice that on August 11, 2014, pursuant to Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, GDF Suez Energy Resources, NA (Suez), filed a formal complaint against New York Independent System Operator, Inc. (NYISO) and Consolidated Edison Company of New York, Inc. (ConEd), alleging, among other things, that the Complainant paid over-charges for electric service from NYISO during November/December 2012 billing period based on consumption data

submitted by ConEd that Suez contends is erroneous, as more fully explained in the complaint.

The Complainant states that a copy of the complaint has been served on the Respondents.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Comment Date:* 5:00 p.m. Eastern Time on September 2, 2014.

Dated: August 11, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–19465 Filed 8–15–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP13–551–000]**

### Transcontinental Gas Pipe Line Company, LLC; Notice of Availability of the Environmental Assessment for the Proposed Leidy Southeast Expansion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Leidy Southeast Expansion Project, proposed by Transcontinental Gas Pipe Line Company, LLC (Transco) in the above-referenced docket. Transco requests authorization to construct and operate certain natural gas pipeline facilities in various counties in New Jersey, Pennsylvania, Maryland, Virginia, and North Carolina to expand the natural gas delivery capacity to the northeast region of the United States by up to 525,000 dekatherms per day.

The EA assesses the potential environmental effects of the construction and operation of the Leidy Southeast Expansion Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

On June 12, 2014, FERC issued a *Notice of Schedule for Environmental Review of the Leidy Southeast Expansion Project.* That notice identified the EA issuance date as August 8, 2014, with a 90-day Federal Authorization Decision Deadline of November 6, 2014 (now November 9, 2014).

The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration and the U.S. Army Corps of Engineers (COE) participated as cooperating agencies in the preparation of the EA. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. The COE will use the EA as part of its review to consider the issuance of a Section 404 Clean Water Act permit.

The proposed Leidy Southeast Expansion Project includes the following facilities:

- About 29.8 miles of new 42-inch-diameter pipeline loop[1] in four separate segments in Mercer, Somerset, and Hunterdon Counties, New Jersey, and Monroe and Luzerne Counties, Pennsylvania;
- Additional compression and modification of existing Compressor Stations 205, 515, 517, and 520 in Mercer County, New Jersey, and Luzerne, Columbia, and Lycoming Counties, Pennsylvania, respectively;
- Modification of existing compressor stations in North Carolina (1 facility), Virginia (5 facilities), and Maryland (1 facility); and
- Modification of existing meter and regulating stations, mainline valves, and pig launchers and receivers in North Carolina, Pennsylvania, Virginia, and Maryland.

The FERC staff mailed copies of the EA to Federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding. In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before September 10, 2014.

For your convenience, there are three methods you can use to file your comments to the Commission. In all instances, please reference the project docket number (CP13–551–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (i.e., CP13–551). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp*.

Dated: August 11, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–19468 Filed 8–15–14; 8:45 am]

**BILLING CODE 6717–01–P**

[1] See the previous discussion on the methods for filing comments.

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[ Docket Nos. CP14–511–000; CP14–347–000]**

### Kinder Morgan Louisiana Pipeline, LLC; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Lake Charles Expansion Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will discuss the potential environmental effects of the Lake Charles Expansion Project (Project), involving construction and operation of natural gas facilities by Kinder Morgan Louisiana Pipeline, LLC (KMLP), in the Commission's environmental impact statement (EIS) currently under preparation for the Magnolia Liquefied Natural Gas Project (Magnolia LNG Project) in Docket No. CP14–347–000 for Magnolia LNG, LLC (Magnolia). Under the proposed Lake Charles Expansion Project, KMLP would construct and operate approximately 40 feet of 36-inch-diameter pipeline off of KMLP's existing 42-inch-diameter mainline and a meter station to deliver approximately 1,400 thousand cubic feet per day (Mcf/d) of natural gas to the Magnolia Terminal in Calcasieu Parish, Louisiana. KMLP would also construct and operate one compressor station, approximately 6,400 feet of 36-inch-diameter and 700 feet of 24-inch-diameter header pipelines, and modify five existing meter stations to be bi-directional in Acadia and Evangeline Parishes, Louisiana. The additions and changes proposed in the Lake Charles Expansion Project would move gas south to the proposed Magnolia Terminal, resulting in the creation of a new firm north-to-south service path on the existing 42-inch-diameter KMLP mainline.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on KMLP's project. Commission staff previously held a scoping period for the Magnolia LNG Project from June 18, 2013 through July 19, 2013. Magnolia filed an application for its Project on April 30, 2014. Because the Magnolia LNG Project is operationally dependent on the Lake Charles Expansion Project to provide the intended service, and the two projects have similar projected construction and in-service dates, the Commission staff will evaluate the two projects jointly in the EIS. This EIS will be used by the Commission in its decision-making process to determine whether the Magnolia LNG and Lake Charles Expansion Projects are in the public convenience and necessity.

Comments on the Lake Charles Expansion Project may be submitted to the FERC either electronically or by mail. Further details on how to submit comments are provided in the Public Participation section of this notice. Please note that the scoping period for the Lake Charles Expansion Project will close on September 10, 2014.

This notice is being sent to the Commission's current environmental mailing list for both the Magnolia LNG and Lake Charles Expansion Projects. State and local government representatives are asked to notify their constituents of the Lake Charles Expansion Project and encourage them to comment on their areas of concern. This scoping period is established to receive comments on the Lake Charles Expansion Project; comments previously filed with the FERC regarding the Magnolia LNG Project should not be refiled under the Lake Charles Expansion Project docket.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the Project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*www.ferc.gov*). This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

**Summary of the Lake Charles Expansion Project**

KMLP plans to modify, construct, and operate facilities along its existing KMLP mainline in Louisiana to receive, as well as continue to deliver, natural gas to existing meter stations, as well as provide about 1,400 Mcf/d of natural gas transportation service to a new meter station at the Magnolia LNG Terminal site.

The Lake Charles Expansion Project consists of the following components:

- Construction of a new meter station and approximately 40 feet of new 36-inch-diameter pipeline off of KMLP's existing 42-inch mainline in Calcasieu Parish, Louisiana;
- construction of one new compressor station consisting of four 16,000 horsepower gas fired turbines, a 42-inch pig launcher and receiver[1], main line valve, auxiliary and control buildings, and appurtenant facilities in Acadia Parish, Louisiana;
- construction of approximately 6,400 feet of new 36-inch-diameter and 700 feet of 24-inch-diameter header[2] pipelines adjacent to the existing KMLP right-of-way in Acadia Parish, Louisiana;
- modifications at five existing compressor stations in Evangeline and Acadia Parishes, Louisiana to allow bi-directional flow.

The general location of the planned project facilities is shown in Appendix 1.[3]

**Land Requirements for Construction**

Construction of the Lake Charles Expansion Project facilities would disturb a total of 55.7 acres of land. Because the proposed pipeline routes cross agricultural lands, KMLP has proposed using a 125-foot-wide construction right-of-way to allow for topsoil segregation. Following construction, KMLP would retain a 50-foot-wide permanent easement, resulting in 21.6 acres being maintained for operation of the Project facilities. The remaining acreage would be restored and revert to former uses.

**The EIS Process**

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[4] to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EIS on important environmental issues. By this notice, the Commission requests public comments on the scope of issues to address in the EIS. We will consider all filed comments during the preparation of the EIS.

In the EIS, we will discuss impacts that could occur as a result of the construction and operation of the proposed Projects under these general headings:

- Geology;
- soils;
- water resources and wetlands;
- vegetation and wildlife;
- fisheries and aquatic resources;
- threatened, endangered, and other special-status species;
- land use, recreation, special interest areas, and visual resources;
- socioeconomics;
- cultural resources;
- air quality;
- noise;
- reliability and safety; and
- cumulative environmental impacts.

We will also evaluate possible alternatives to the Lake Charles Expansion Project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The FERC staff is in the process of preparing an EIS for the Magnolia LNG Project. As mentioned previously, the facilities proposed by KMLP and presented in this Notice will be evaluated in that EIS. Three other agencies are participating as cooperating agencies in the preparation of the EIS: the U.S. Coast Guard, U.S. Department of Energy, and the U.S. Army Corps of Engineers. With this notice, we are asking other agencies with jurisdiction by law and/or special expertise with respect to environmental issues related to the Lake Charles Expansion Project to formally cooperate with us in the preparation of the EIS.[5] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

The EIS will present our independent analysis of the issues. We will publish and distribute the draft EIS for public comment. After the comment period, we will consider all timely comments and revise the document, as necessary, before issuing a final EIS. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section below.

**Consultations Under Section 106 of the National Historic Preservation Act**

In accordance with the Advisory Council on Historic Preservation's implementing regulations for Section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Offices and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the Project's potential effects on historic properties.[6] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPOs as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include the construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EIS for this Project will document our findings on the impacts on historic properties and summarize the status of consultations under Section 106.

**Currently Identified Environmental Issues**

We have already identified issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by KMLP. This preliminary list of issues may be changed based on your comments and our analysis:

- Impacts on agricultural areas, including impacts on soils;
- impacts on residential areas;
- impacts on wetlands;
- impacts on air quality due to construction and operation;
- impacts related to noise during construction and operation;

[1] A pig is a tool that can be used to clean and dry a pipeline and/or to inspect it for damage or corrosion.

[2] A pipe that serves as a central connection for two or more smaller pipes.

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[4] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[5] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[6] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Historic properties are defined in those regulations as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

• visual and other impacts from construction of aboveground facilities, and;

• cumulative impacts.

**Public Participation**

You can make a difference by providing us with your specific comments or concerns about the Lake Charles Expansion Project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before September 10, 2014.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the project docket number (CP14–511–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the *eComment* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.''* You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

**Environmental Mailing List**

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined by the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for Project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the Project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed Project.

Copies of the completed draft EIS will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of a CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

**Becoming an Intervenor**

In addition to involvement in the EIS scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site.

**Additional Information**

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (i.e., CP14–511). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–19464 Filed 8–15–14; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER13–1864–000]**

### Southwest Power Pool, Inc.; Notice of Technical Conference

By order dated July 11, 2014, in Docket No. ER13–1864–000, the Federal Energy Regulatory Commission (Commission) directed staff to convene in a technical conference regarding Southwest Power Pool, Inc.'s proposed modifications to its Joint Operating Agreement with Midcontinent Independent System Operator, Inc. to implement a market-to-market coordination mechanism (Market-to-Market protocols).[1] Take notice that such conference will be held on Monday, September 22, 2014, at the Commission's headquarters at 888 First Street NE., Washington, DC 20426, between 9:30 a.m. and 4:00 p.m. (Eastern Time) in the Commission Meeting Room. The conference will be open for the public to attend and will not be available via webcast. The technical conference will be led by Commission staff.

Advance registration is required and may be made at the following Web page: *https://www.ferc.gov/whats-new/registration/09-22-14-form.asp.*

The purpose of this technical conference is to explore the following issues regarding the Market-to-Market protocols: (1) The implementation of Interface Bus Pricing (proposed tariff section 2); (2) the creation of Market-to-Market flowgates (proposed sections 3.1.13 and 8.1.4); and (3) the deferred implementation of a Day-Ahead Firm Flow Entitlement exchange process (proposed section 4). A subsequent notice providing a more detailed description of the topics to be discussed will be issued in advance of the technical conference. In addition,

[1] *Southwest Power Pool, Inc.,* 148 FERC ¶ 61,019 (2014).

information on this event will be posted on the Calendar of Events on the Commission's Web site, *www.ferc.gov,* prior to the event. Following the technical conference, the parties will have an opportunity to file written comments that will be included in the formal record of the proceeding, which, together with the record developed to date, will form the basis for further Commission action.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY); or send a fax to 202–208–2106 with the required accommodations.

For more information about this conference, please contact: Sarah McKinley, 202–502–8368, *sarah.mckinley@ferc.gov,* regarding logistical concerns, or Helen Shepherd, 202–502–6176, *helen.shepherd@ferc.gov,* regarding substantive issues.

Dated: August, 11, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–19469 Filed 8–15–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of FERC Staff Attendance at the Entergy Regional State Committee Meeting

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of its staff may attend the meeting noted below. Their attendance is part of the Commission's ongoing outreach efforts.

**Entergy Regional State Committee**

*August 12, 2014 (9:00 a.m.–12:00 p.m.)*

This meeting will be held at the Hilton Jackson Mississippi Hotel, 1001 East County Line Road, Jackson, MS 39211.

The discussions may address matters at issue in the following proceedings:

Docket No. EL01–88: Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL09–50: Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL09–61: Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL10–55: Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL10–65: Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL11–57: Louisiana Public Service Commission v. Entergy Services, Inc., et al.
Docket No. EL11–34: Midwest Independent Transmission System Operator, Inc. v. Southwest Power Pool, Inc.
Docket No. EL11–63: Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL11–65: Louisiana Public Service Commission v. Entergy Services, Inc.
Docket No. EL13–41: Occidental Chemical Company v. Midwest Independent System Transmission Operator, Inc.
Docket No. EL13–43: Council of the City of New Orleans, Mississippi Public Service Commission, Arkansas Public Service Commission, Public Utility Commission of Texas, Louisiana Public Service Commission.
Docket No. EL14–21: Southwest Power Pool, Inc. v. Midcontinent Independent System Operator, Inc.
Docket No. EL11–30: Midcontinent Independent System Operator, Inc. v. Southwest Power Pool, Inc.
Docket No. ER05–1065: Entergy Services, Inc.
Docket No. ER07–682: Entergy Services, Inc.
Docket No. ER07–956: Entergy Services, Inc.
Docket No. ER08–1056: Entergy Services, Inc.
Docket No. ER09–1224: Entergy Services, Inc.
Docket No. ER10–794: Entergy Services, Inc.
Docket No. ER10–1350: Entergy Services, Inc.
Docket No. ER10–2001: Entergy Arkansas, Inc.
Docket No. ER10–3357: Entergy Arkansas, Inc.
Docket No. ER11–2161: Entergy Texas, Inc.
Docket No. ER12–480: Midwest Independent Transmission System Operator, Inc.
Docket No. ER12–1384: Entergy Arkansas, Inc.
Docket No. ER12–1385: Entergy Gulf States Louisiana, L.L.C.
Docket No. ER12–1386: Entergy Louisiana, LLC.
Docket No. ER12–1387: Entergy Mississippi, Inc.
Docket No. ER12–1388: Entergy New Orleans, Inc.
Docket No. ER12–1390: Entergy Texas, Inc.
Docket No. ER12–1428: Entergy Arkansas, Inc.
Docket No. ER13–432: Entergy Services, Inc.
Docket No. ER13–769: Entergy Arkansas, Inc. and Entergy Mississippi, Inc.
Docket No. ER13–770: Entergy Arkansas, Inc. and Entergy Louisiana, LLC.
Docket No. ER13–868: Midwest Independent Transmission System Operator, Inc.
Docket No. ER13–948: Entergy Services, Inc.
Docket No. ER13–1194: Entergy Services, Inc.
Docket No. ER13–1195: Entergy Services, Inc.
Docket No. ER13–1508: Entergy Arkansas, Inc.
Docket No. ER13–1509: Entergy Gulf States Louisiana, L.L.C.
Docket No. ER13–1510: Entergy Louisiana, LLC.
Docket No. ER13–1511: Entergy Mississippi, Inc.
Docket No. ER13–1512: Entergy New Orleans, Inc.
Docket No. ER13–1513: Entergy Texas, Inc.
Docket No. ER13–1556: Entergy Services, Inc.
Docket No. ER13–1623: Entergy Services, Inc.
Docket No. EL14–19: Midcontinent Independent System Operator, Inc. and Entergy Services, Inc.
Docket No. ER14–73: Entergy Services, Inc.
Docket No. ER14–75: Entergy Arkansas, Inc.
Docket No. ER14–76: Entergy Gulf States Louisiana, L.L.C.
Docket No. ER14–77: Entergy Louisiana, LLC.
Docket No. ER14–78: Entergy Mississippi, Inc.
Docket No. ER14–79: Entergy New Orleans, Inc.
Docket No. ER14–80: Entergy Texas, Inc.
Docket No. ER14–89: Entergy Arkansas, Inc.
Docket No. ER14–98: Midcontinent Independent System Operator and Entergy Services, Inc.; Entergy Services, Inc.
Docket No. ER14–107: Midcontinent Independent System Operator, Inc.
Docket No. ER14–108: Entergy Services, Inc.
Docket No. ER14–128: Entergy Texas, Inc.
Docket No. ER14–134: Entergy Arkansas, Inc.
Docket No. ER14–148: Midcontinent Independent System Operator, Inc.

Docket No. ER14–1174: Southwest Power Pool, Inc.
Docket No. ER14–2445: Midcontinent Independent System Operator, Inc.

These meetings are open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov.*

Dated: August 11, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–19470 Filed 8–15–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project Nos. 405–106 and 2355–018: Project No. 1888–030]**

### Exelon Generation Company, LLC; York Haven Power Company, LLC; Public Meetings Soliciting Comments on the Draft Multi-Project Environmental Impact Statement for the York Haven Hydroelectric Project, The Muddy Run Pumped Storage Project, and the Conowingo Hydroelectric Project

On July 30, 2014, the Federal Energy Regulatory Commission (Commission or FERC) issued a Draft Multi-Project Environmental Impact Statement (draft EIS) for the York Haven Hydroelectric Project No. 1888–030 (York Haven Project), the Muddy Run Pumped Storage Project No. 2355–018 (Muddy Run Project), and the Conowingo Hydroelectric Project No. 405–106 (Conowingo Project). The draft EIS documents the views of governmental agencies, non-governmental organizations, affected Indian tribes, the public, the license applicants, and Commission staff. All written comments must be filed by Monday, September 29, 2014, and should reference Project Nos. 1888–030, 2355–018, and 405–106. More information on filing comments can be found in the letter at the front of the draft EIS or on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* Although the Commission strongly encourages electronic filing, documents may also be paper-filed.

In addition to or in lieu of sending written comments, you are invited to attend public meetings that will be held to receive comments on the draft EIS. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization comments, while the evening meetings are primarily for receiving input from the public; however, all interested individuals and entities are invited to attend any of the public meetings. The time and location of the meetings are as follows:

*Date:* Tuesday, September 16, 2014.
*Time:* 10:00 a.m.
*Place:* Darlington Fire Station.
*Address:* 2600 Castleton Road, Darlington, Maryland 21034, (410) 965–7740.

*Date:* Tuesday, September 16, 2014.
*Time:* 6:00 p.m.
*Place:* Darlington Fire Station.
*Address:* 2600 Castleton Road, Darlington, Maryland 21034, (410) 965–7740.

*Date:* Wednesday, September 17, 2014.
*Time:* 6:00 p.m.
*Place:* Holiday Inn Harrisburg East.
*Address:* 4751 Lindle Road, Harrisburg, Pennsylvania 17111, (717) 939–7841.

At these meetings, resource agency personnel and other interested persons will have the opportunity to provide oral and written comments and recommendations regarding the draft EIS. The meetings will be recorded by a court reporter, and all statements (verbal and written) will become part of the Commission's public record for the project. These meetings are posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

For further information, contact Emily Carter at (202) 502–6512 or at *emily.carter@ferc.gov.*

Dated: August 11, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–19466 Filed 8–15–14; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2013–0298; FRL—9914–73–OEI]**

### Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Industrial, Commercial, and Institutional Boilers Area Sources (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Industrial, Commercial, and Institutional Boilers Area Sources (Renewal)'' (EPA ICR No. 2253.03, OMB Control No. 2060–0668), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*). This is a proposed extension of the ICR, which is currently approved through September 30, 2014. Public comments were previously requested via the **Federal Register** (78 FR 35023) on June 11, 2013, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

**DATES:** Additional comments may be submitted on or before September 17, 2014.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2013–0298, to (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the

Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

*Abstract:* The NESHAP for Industrial, Commercial, and Institutional Boilers Area Sources (40 CFR part 63 subpart JJJJJJ) fulfills the requirements of section 112 of the Clean Air Act (CAA), which requires the U.S. Environmental Protection Agency (EPA) to promulgate national emission standards for industrial, commercial, and institutional boilers. Records and reports required by the NESHAP for industrial, commercial, and institutional boilers area sources are necessary to enable EPA to identify sources subject to the standards and to ensure that these standards are being achieved. Records and reports must be maintained at the facility and/or submitted to EPA. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office.

*Form numbers:* None.

*Respondents/affected entities:* Owners and operators of industrial, commercial, or institutional boilers.

*Respondent's obligation to respond:* Mandatory (40 CFR Part 63, Subpart JJJJJJ).

*Estimated number of respondents:* 96,985 (total).

*Frequency of response:* Initially, biennially, semiannually and annually.

*Total estimated burden:* 1,656,984 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $284,902,526 (per year), including $125,515,823 annualized capital and/or operation & maintenance costs.

*Changes in the estimates:* There is a decrease in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This decrease is not due to any program changes. The change in burden and cost estimates occurred because the standards have been in effect for more than three years and the requirements are different during initial compliance (new facilities) as compared to the on-going compliance, which is reflected in this estimates for this ICR. The previous ICR reflected those burdens and costs associated with initial activities for subject facilities. This includes purchasing monitoring equipment and conducting performance tests. This ICR, by in large, reflects the on-going burden and costs for existing facilities. The overall result is a decrease in both burden hours and costs.

There is also a decrease in total annual capital/startup and O&M costs as compared to the previous ICR. This decrease is attributed to the fact that initial compliance with the standards occurred during the period of the previous ICR (e.g., monitors were purchased). For the next three years, however, fewer monitors will be purchased, but existing CEM monitors will have on-going O&M costs.

**Spencer Clark,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 2014–19459 Filed 8–15–14; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2013–0354; FRL–9915–26–OEI]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Paint Stripping and Miscellaneous Surface Coating at Area Sources (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Paint Stripping and Miscellaneous Surface Coating at Area Sources (Renewal)'' (EPA ICR No. 2268.04, OMB Control No. 2060–0607) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through August 31, 2013. Public comments were previously requested via the **Federal Register** (78 FR 35023) on June 11, 2013 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

**DATES:** Additional comments may be submitted on or before September 17, 2014.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2013–0354, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, mail code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is (202) 566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* The National Emissions Standards for Hazardous Air Pollutants for Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources are part of EPAs Integrated Urban Strategy to reduce cancer risk from area sources under section 112(k)(3)(C) of the Clean Air Act. Affected sources must comply with recordkeeping and reporting requirements of the rule. The owners or operators of facilities with affected operations must read instructions to determine how they will be affected by the rule. New and existing sources must submit an initial notification. New sources are also required to submit a notification of compliance status, an annual compliance report and maintain records. All surface coating sources must keep records demonstrating that spray painters have completed training. Existing paint stripping facilities using more than 150 gallons per year of methylene chloride stripping solvent must complete a methylene chloride minimization plan and submit a notification of compliance status. Annual compliance reports are also required.

*Form Numbers:* None.

*Respondents/affected entities:* Owners or operators of paint stripping and miscellaneous surface coating operations area sources.

*Respondent's obligation to respond:* Mandatory (40 CFR Part 63, Subpart HHHHHH).

*Estimated number of respondents:* 39,812 (total).

*Frequency of response:* Initially, annually, and occasionally.

*Total estimated burden:* 125,171. Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $12,157,130, includes $116,822 annualized capital or operation & maintenance costs.

*Changes in the estimates:* There is an apparent increase in the total estimated respondent cost burden as currently identified in the OMB Inventory of Approved Burdens. The increase is not due to any program changes. It primarily is attributed to corrections to the previous renewal's burden calculations, which omitted technical and managerial labor burdens associated with painter certification recordkeeping activities conducted by commercial miscellaneous surface coating operations at area sources, as presented in Table 1a. This omission was inconsistent with the approach used throughout the remainder of the previous renewal and is inconsistent with the approach typically used by the Agency to calculate the respondent labor burden. Also, this renewal uses updated labor rates, which further contributed to the apparent increase in the respondent burden cost. This ICR references labor rates from the Bureau of Labor Statistics to calculate the respondent cost burden.

There is a decrease in the total O&M cost as compared to the previous renewal. This change also is not due to any program changes, and is attributed directly to corrections made to the previous renewal's calculations. The previous renewal overestimated the number of initial report and notification that are required for new sources. This renewal revises the calculations which resulted in the observed decrease in the total O&M cost.

**Spencer Clark,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 2014–19458 Filed 8–15–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIROMENTAL PROTECTION AGENCY

**[FRL–9915–33–Region–3]**

## Clean Air Act Operating Permit Program; Petition to Object to Title V Permits for the Homer City and Bruce Mansfield Electric Generating Facilities; Pennsylvania

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of final action.

**SUMMARY:** Pursuant to the Clean Air Act (CAA), the Environmental Protection Agency (EPA) Administrator signed an Order, dated July 30, 2014, partially granting and partially denying petitions to object to two state operating permits issued by the Pennsylvania Department of Environmental Protection (PaDEP). The Order responds to a September 12, 2012 petition, and a May 15, 2013 supplement to that petition, relating to EME Homer City Generation L.P.'s Homer City plant in Indiana County, as well as an October 22, 2012 petition, which relates to First Energy Generation Corporation's Bruce Mansfield plant in Beaver County. The petitions were submitted by the Sierra Club. In the Bruce Mansfield petition, Sierra Club was joined by the Little Blue Regional Action Group (LBRAG), Environmental Integrity Project (EIP), Group Against Smog and Pollution (GASP), and Clean Air Council (CAC). This Order constitutes final action on those petitions requesting that the Administrator object to the issuance of the proposed CAA title V permit.

**ADDRESSES:** Copies of the final Order, the petition, and all pertinent information relating thereto are on file at the following location: EPA, Region III, Air Protection Division (APD), 1650 Arch St., Philadelphia, Pennsylvania 19103. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view copies of the final Order, petition, and other supporting information. You may view the hard copies Monday through Friday, from 9 a.m. to 3 p.m., excluding Federal holidays. If you wish to examine these documents, you should make an appointment at least 24 hours before the visiting day. The final Order is also available electronically at the following Web site: *http://www.epa.gov/region07/air/title5/petitiondb/petitiondb.htm.*

**FOR FURTHER INFORMATION CONTACT:** David Talley, Air Protection Division, EPA Region III, telephone (215) 814–2117, or by email at *talley.david@epa.gov.*

**SUPPLEMENTARY INFORMATION:** The CAA affords EPA a 45-day period to review and object to, as appropriate, operating permits proposed by state permitting authorities. Section 505(b)(2) of the CAA authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to a state operating permit if EPA has not done so. Petitions must be based only on objections raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or that the grounds for objection or other issue arose after the comment period.

In the Homer City petition and Homer City supplemental petition (numbered III–2012–06 and III–2013–03 respectively), the petitioner sought the EPA objection on the following issues: (1) The proposed permit fails to include the general prohibition against air pollution found in Pennsylvania's State Implementation Plan (PA SIP); (2) the proposed permit fails to include emission limits and averaging periods sufficient to prevent the Homer City plant from causing impermissible air pollution in the form of harmful concentrations of sulfur dioxide ($SO_2$) in violation of the state adopted, federally-enforceable acid rain provisions and the PA SIP; (3) the proposed permit fails to require sufficient emissions limits and monitoring requirements to ensure compliance with particulate matter (PM) standards; (4) the proposed permit impermissibly claims to apply a permit shield to unidentified future projects; and (5) various miscellaneous claims not separately identified in the petition. The Homer City supplemental petition identifies the following bases on which the EPA should object: (1) Pennsylvania's general prohibition on harmful air pollution is an applicable requirement with which the permit must assure compliance; and (2) Pennsylvania's acid rain regulations are federally-enforceable applicable requirements with which the permit must assure compliance. The PaDEP issued the final Homer City operating permit (No. 32–00055) on November 16, 2012.

In the Mansfield petition (numbered III–2012–07), the petitioners sought the EPA objection on the following issues: (1) The proposed permit fails to include numerical emission limits and monitoring sufficient to prevent the facility from causing impermissible air pollution in the form of harmful concentrations of $SO_2$ as well as violations of an applicable acid rain provision; (2) the proposed permit fails

to require adequate monitoring to assure compliance with its PM emission limits; (3) the proposed permit fails to require adequate monitoring to assure compliance with its opacity limits; and (4) various miscellaneous claims not separately identified in the petition. The PaDEP issued the final operating permit (No. 04–00235) on February 8, 2013. The Order explains the reasons behind EPA's decision to partially grant and partially deny the petition for objection. Pursuant to section 505(b)(2) of the CAA, the petitioner may seek judicial review of those portions of the Homer City and Bruce Mansfield petitions which EPA denied in the United States Court of Appeals for the appropriate circuit. Any petition for review shall be filed within 60 days of this notice in accordance with the requirements of section 307 of the CAA.

Dated: August 6, 2014.

**William C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2014–19559 Filed 8–15–14; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### Information Collection Being Reviewed by the Federal Communications Commission.

**AGENCY:** Federal Communication Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning: (a) Whether the proposed collection(s) of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection(s) of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) 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 Office of Management and Budget (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 September 17, 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:** Direct all PRA comments to Leslie F. Smith, Federal Communications Commission (FCC), via email *PRA@fcc.gov* or to *Leslie.Smith@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information the information collection, contact Leslie F. Smith at (202) 418–0217.

**SUPPLEMENTARY INFORMATION:** The Commission is requesting that OMB approve this new information collection under the emergency processing provisions of the PRA, 5 C.F.R. Sections 1320.5, 1320.8(d), and 1320.13 by September 19, 2014.

*OMB Control Number:* 3060–XXXX.

*Title:* Application to Participate in Rural Broadband Experiments and Post-Selection Review of Rural Broadband Experiment Winning Bidders.

*Form Number:* FCC 5610 and 5620.

*Type of Review:* New information collection.

*Respondents:* Business or other for-profit, and Not-for-profit institutions.

*Number of Respondents and Responses:* 500 respondents; 520 responses.

*Estimated Time Per Response:* 5–10 hours.

*Frequency of Response:* One time and occasion reporting requirements.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 151–154 and 254.

*Total Annual Burden:* 2,700 hours.

*Total Annual Cost:* No cost(s).

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* Information collected in FCC Form 5610 will be confidential until winning applicants are announced. At that time, the proposals submitted by winning applicants will be made publicly available. All other proposals submitted will remain confidential. Information collected in FCC Form 5620 will be confidential.

*Needs and Uses:* Under this information collection, the Commission proposes to collect information to determine applicants that will be selected to participate in the rural broadband experiments and whether winning bidders are technically and financially capable of receiving funding for rural broadband experiment projects. To aid in collecting this information regarding the rural broadband experiments, the Commission has created proposed FCC Form 5610 and FCC Form 5620, which applicants will use to apply to participate in the rural broadband experiments. This information will be used to determine which applicants submit the most-cost effective proposals in each funding category and whether winning bidders have the technical and financial qualifications to successfully complete the proposed project within the required timeframes.

The Communications Act of 1934, as amended requires the ''preservation and advancement of universal service.'' The information collection requirements reported under this new collection are the result of various Commission actions to promote the Act's universal service goals, while minimizing waste, fraud, and abuse.

Federal Communications Commission.

**Gloria J. Miles,**

*Federal Register Liaison.*

[FR Doc. 2014–19562 Filed 8–15–14; 8:45 am]

**BILLING CODE 6712–01–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 September 2, 2014.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice

President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *James Lee Clayton and BF3, LP,* both of Knoxville, Tennessee; to acquire voting shares of MidCountry Financial Corp, and thereby indirectly acquire voting shares of MidCountry Bank, both in Macon, Georgia.

2. *Jayendrakumar J. (J.J.) Shah; Meena J. (M.J.) Shah; 455 Trust, M.J. Shah and K.J. Parikh, trustees; 475 Trust, J.J. Shah and Shveta S. Raju, trustees; Mahendrabala J. Parikh; Asha J. Shah; Eastern Horizons Properties, LP, and its managing general partner, Eastern Horizons Management, Inc.; GCMT 17, LLC; GCMT2, LLC; DVR Trust No. 1, M.J. Shah, trustee; DVR Trust No. 2, J.J. Shah, trustee; Dinesh V. Raju; and Shveta S. Raju,* all of Duluth, Georgia; to retain, and acquire additional voting shares of Touchmark Bancshares, Inc., and thereby indirectly retain voting shares of Touchmark National Bank, both in Alpharetta, Georgia.

Board of Governors of the Federal Reserve System, August 13, 2014.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2014–19535 Filed 8–15–14; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Proposed Collection; Comment Request

**AGENCY:** Federal Trade Commission (FTC or Commission).

**ACTION:** Notice.

**SUMMARY:** The information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act (PRA). The FTC seeks public comments on its proposal to extend through December 31, 2017, the current PRA clearance for information collection requirements contained in its Trade Regulation Rule entitled Power Output Claims for Amplifiers Utilized in Home Entertainment Products (Amplifier Rule or Rule), 16 CFR Part 432 (OMB Control Number 3084–0105). That clearance expires on December 31, 2014.

**DATES:** Comments must be received on or before October 17, 2014.

**ADDRESSES:** Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Amplifier Rule: FTC File No. P974222'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/amplifierrulepra* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Requests for copies of the collection of information and supporting documentation should be addressed to Jock K. Chung, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Mail Code CC–9528, 600 Pennsylvania Ave. NW., Washington, DC 20580, (202) 326–2984.

**SUPPLEMENTARY INFORMATION:**

### Proposed Information Collection Activities

Under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3520, Federal agencies must get OMB approval for each collection of information they conduct, sponsor, or require. ''Collection of information'' means agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing PRA clearance for the information collection requirements associated with the Commission's Amplifier Rule, 16 CFR Part 432 (OMB Control Number 3084–0105).

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, 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. All comments must be received on or before October 17, 2014.

The Amplifier Rule assists consumers by standardizing the measurement and disclosure of power output and other performance characteristics of amplifiers in stereos and other home entertainment equipment. The Rule also specifies the test conditions necessary to make the disclosures that the Rule requires.

*Amplifier Rule Burden Statement*

*Estimated annual hours burden:* 450 hours (300 testing-related hours; 150 disclosure-related hours).

The Rule's provisions require affected entities to test the power output of amplifiers in accordance with a specified FTC protocol. The Commission staff estimates that approximately 300 new amplifiers and receivers come on the market each year. High fidelity manufacturers routinely conduct performance tests on these new products prior to sale. Because manufacturers conduct such tests, the Rule imposes no additional costs except to the extent that the FTC protocol is more time-consuming than alternative testing procedures. In this regard, a warm-up period that the Rule requires before measurements are taken may add approximately one hour to the time testing would otherwise entail. Thus, staff estimates that the Rule imposes approximately 300 hours (1 hour x 300 new products) of added testing burden annually.

In addition, the Rule requires disclosures if a manufacturer makes a power output claim for a covered product in an advertisement, specification sheet, or product brochure. This requirement does not impose any additional costs on manufacturers because, absent the Rule, media advertisements, as well as manufacturer specification sheets and product brochures, would contain a power specification obtained using an alternative to the Rule-required testing protocol. The Rule, however, also requires disclosure of harmonic distortion, power bandwidth, and impedance ratings in manufacturer specification sheets and product brochures that might not otherwise be included.

Staff assumes that manufacturers produce one specification sheet and one brochure each year for each new amplifier and receiver. The burden of disclosing the harmonic distortion, bandwidth, and impedance information on the specification sheets and brochures is limited to the time needed to draft and review the language pertaining to the aforementioned specifications. Staff estimates the time involved for this task to be a maximum

of fifteen minutes (or 0.25 hours) for each new specification sheet and brochure for a total of 150 hours (derived from [300 new products x 1 specification sheet) + (300 new products x 1 brochure)] x 0.25 hours).

The total annual burden imposed by the Rule, therefore, is approximately 450 burden hours for testing and disclosures.

*Estimated annual cost burden:* $22,200.

Generally, electronics engineers perform the testing of amplifiers and receivers. Staff estimates a labor cost of $14,100 for such testing (300 hours for testing × $47 mean hourly wages). Staff assumes advertising or promotions managers prepare the disclosures contained in product brochures and manufacturer specification sheet and estimates a labor cost of $8,100 (150 hours for disclosures x $54 mean hourly wages). Accordingly, staff estimates the total labor costs associated with the Rule to be approximately $22,200 per year ($14,100 for testing + $8,100 for disclosures).[1]

The Rule imposes no capital or other non-labor costs because its requirements are incidental to testing and advertising done in the ordinary course of business.

Request for Comments

You can file a comment online or on paper. Write ''Amplifier Rule: FTC File No. P974222'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like a Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you must follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[2] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, the Commission encourages you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/amplifierrulepra* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Amplifier Rule: FTC File No. P974222'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before October 17, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

**David C. Shonka,**

*Principal Deputy General Counsel.*

[FR Doc. 2014–19504 Filed 8–15–14; 8:45 am]

BILLING CODE 6750–01–P

[1] The wage rates for electronics engineers and advertising and promotions managers are based on recent data from the Bureau of Labor Statistics Occupational Employment Statistics Survey at *http://www.bls.gov/news.release/ocwage.htm.*

[2] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Recombinant DNA Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

*Name of Committee:* Recombinant DNA Advisory Committee.

*Date:* September 9–10, 2014.

*Time:* September 09, 2014, 9:15 a.m. to 4:30 p.m.

*Agenda:* The NIH Recombinant DNA Advisory Committee (RAC) will review and discuss selected human gene transfer protocols and related data management activities. Please check the meeting agenda at OBA Meetings Page (available at the following URL: *http://oba.od.nih.gov/rdna_rac/rac_meetings.html*) for more information.

*Place:* National Institutes of Health, Rockledge II, Conference Room 9100, 6701 Rockledge Drive, Bethesda, MD 20892.

*Time:* September 10, 2014, 8:30 a.m. to 10:30 a.m.

*Agenda:* The NIH Recombinant DNA Advisory Committee (RAC) will review and discuss selected human gene transfer protocols and related data management activities. Please check the meeting agenda at OBA Meetings Page (available at the following URL: *http://oba.od.nih.gov/rdna_rac/rac_meetings.html*) for more information.

*Place:* National Institutes of Health, Rockledge II, Conference Room 9100, 6701 Rockledge Drive, Bethesda, MD 20892.

*Contact Person:* Chris Nice, Program Assistant, Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892, 301–496–9838, *nicelc@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://oba.od.nih.gov/rdna/rdna.html,* where an agenda and any additional information for the meeting will be posted when available.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the

official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers virtually every NIH and Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: August 12, 2014.

**Carolyn A. Baum,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–19503 Filed 8–15–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, September 3, 2014, 2:00 p.m. to September 3, 2014, 4:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on August 11, 2014, 79 FR 46846.

The meeting will be held on September 25, 2014, 4:00 p.m. to 6:00 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: August 12, 2014.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–19498 Filed 8–15–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council on Drug Abuse.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Council on Drug Abuse.

*Date:* September 2–3, 2014.

*Closed:* September 2, 2014, 2:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications and/or proposals.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Rooms C & D, Rockville, MD 20852.

*Open:* September 3, 2014, 8:30 a.m. to 12:30 p.m.

*Agenda:* This portion of the meeting will be open to the public for announcements and reports of administrative, legislative, and program developments in the drug abuse field.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Rooms C & D, Rockville, MD 20852.

*Contact Person:* Mark Swieter, Ph.D., Acting Director, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4243, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1389, *ms80x@nih.gov.*

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.drugabuse.gov/NACDA/NACDAHome.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: August 12, 2014.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–19499 Filed 8–15–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Center for Complementary & Alternative Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council for Complementary and Alternative Medicine.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Council for Complementary and Alternative Medicine NCCAM Advisory Council.

*Date:* October 10, 2014.

*Closed:* 8:45 a.m. to 9:45 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Building 31, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

*Open:* 10:00 a.m. to 3:30 p.m.

*Agenda:* Report from the Institute Director and other staff.

*Place:* National Institutes of Health, Building 31, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

*Contact Person:* Martin H. Goldrosen, Ph.D., Director, Division of Extramural Activities, National Center for Complementary and Alternative Medicine, NIH, 6707 Democracy Blvd., Ste. 401, Bethesda, MD 20892–5475, (301) 594–2014, *goldrosm@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *nccam.nih.gov/about/naccam/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: August 12, 2014.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–19501 Filed 8–15–14; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Nursing Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council for Nursing Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Council for Nursing Research.

*Date:* September 16–17, 2014.

*Open:* September 16, 2014, 1:00 p.m. to 5 p.m.

*Agenda:* Discussion of Program Policies and Issues.

*Place:* National Institutes of Health, Building 31, 31 Center Drive, 6th Floor, C Wing, Room 6, Bethesda, MD 20892.

*Closed:* September 17, 2014, 9 a.m. to 12 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Building 31, 31 Center Drive, 6th Floor, C Wing, Room 6, Bethesda, MD 20892.

*Contact Person:* Ann R. Knebel, DNSC, RN, FAAN, Deputy Director, National Institute of Nursing Research, National Institutes of Health, 31 Center Drive, Building 31, Room 5B05, Bethesda, MD 20892, 301–496–8230, *knebelar@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nih.gov/ninr/a_advisory.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: August 12, 2014.

**Michelle D. Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–19500 Filed 8–15–14; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Cancellation of Meeting

Notice is hereby given of the cancellation of the National Cancer Institute Special Emphasis Panel, August 26, 2014, 8:00 a.m. to August 26, 2014, 3:00 p.m., NCI Shady Grove 3W032/034, Rockville, MD, 20850 which was published in the **Federal Register** on July 17, 2014, 79 FR 41701.

This meeting was canceled due to unforeseen circumstances. A new date will be set in the near future.

Dated: August 12, 2014.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–19497 Filed 8–15–14; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of 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 Cancer Institute Special Emphasis Panel; Quantitative Imaging for Cancer Therapies PAR 14–116.

*Date:* August 26, 2014.

*Time:* 11:00 a.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 1E030, Rockville, MD 20850, (Telephone Conference Call).

*Contact Person:* Kenneth Bielat, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W244, Bethesda, MD 20892–9750, 240–276–6373, *bielatk@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:* National Cancer Institute Special Emphasis Panel; NCI Program Project Meeting III (P01).

*Date:* October 2–3, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* David G. Ransom, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W124, Rockville, MD 20850, 240–276–6351, *david.ransom@nih.gov*.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; NCI SPORE Review.

*Date:* October 6–7, 2014.

*Time:* 5:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

*Contact Person:* Wlodek Lopaczynski, MD, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W608, Rockville, MD 20850, 240–276–6458, *lopacw@mail.nih.gov*.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; Omnibus-SEP 10.

*Date:* November 4, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W034, Rockville, MD 20850, (Telephone Conference Call).

*Contact Person:* Wlodek Lopaczynski, MD, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W608, Rockville, MD 20850, 240–276–6458, *lopacw@mail.nih.gov*.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; Omnibus R03/R21–SEP 9.

*Date:* November 6–7, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

*Contact Person:* Delia Tang, MD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W602, Bethesda, MD 20892, 240–276–6456, *tangd@mail.nih.gov*.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 12, 2014.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–19496 Filed 8–15–14; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Environmental Health Sciences; 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 Environmental Health Sciences Special Emphasis Panel DNA Damage Response.

*Date:* September 4, 2014.

*Time:* 1 p.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Conference Room 3118, Research Triangle Park, NC 27709 (Telephone Conference Call).

*Contact Person:* Sally Eckert-Tilotta, Ph.D., Scientific Review Officer, Nat. Institute of Environmental Health Sciences, Office of Program Operations, Scientific Review Branch, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–1446, *eckertt1@niehs.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: August 12, 2014.

**Carolyn Baum,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–19502 Filed 8–15–14; 8:45 am]

**BILLING CODE 4140–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP) Drug Testing Advisory Board (DTAB) will meet on September 3, 2014, from 9:00 a.m. to 4:00 p.m., and September 4, 2014, from 9:00 a.m. to 2:00 p.m. E.D.T. The DTAB will convene in both open and closed sessions on these two days.

On September 3, 2014, from 9:00 a.m. to 4:00 p.m., the meeting will be open to the public. The meeting will include updates on the previously announced DTAB recommendations, legalization/decriminalization of marijuana, hair testing subversion products, unique components of hair, unique drug metabolites in hair, and hair pigmentation.

The public is invited to attend the open session in person or to listen via web conference. Due to the limited seating space and call-in capacity, registration is requested. Public comments are welcome. To register, make arrangements to attend, obtain the web conference call-in numbers and access codes, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register at the SAMHSA Advisory Committees Web site at *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx*

or contact the CSAP DTAB Designated Federal Official, Dr. Janine Denis Cook (see contact information below).

On September 4, 2014, from 9:00 p.m. to 2:00 p.m., the Board will meet in closed session to discuss proposed revisions to the Mandatory Guidelines for Federal Workplace Drug Testing Programs. Therefore, this meeting is closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(9)(B) and 5 U.S.C. App. 2, Section 10(d).

Meeting information and a roster of DTAB members may be obtained by accessing the SAMHSA Advisory Committees Web site, *http://beta.samhsa.gov/about-us/advisory-councils/drug-testing-advisory-board-dtab,* or by contacting Dr. Cook.

*Committee Name:* Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Prevention Drug Testing Advisory Board.

*Dates/Time/Type:* September 3, 2014, from 9:00 a.m. to 4:00 p.m. E.D.T.: OPEN; September 4, 2014, from 9:00 a.m. to 2:00 p.m. E.D.T.: CLOSED.

*Place:* Sugarloaf Conference Room, SAMHSA Building, 1 Choke Cherry Road, Rockville, Maryland 20850.

*Contact:* Janine Denis Cook, Ph.D., Designated Federal Official, CSAP Drug Testing Advisory Board, 1 Choke Cherry Road, Room 7–1043, Rockville, Maryland 20857, *Telephone:* 240–276–2600, *Fax:* 240–276–2610, *Email: janine.cook@samhsa.hhs.gov.*

**Janine Denis Cook,**

*Designated Federal Official, DTAB, Division of Workplace Programs, Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 2014–19483 Filed 8–15–14; 8:45 am]

BILLING CODE 4162–20–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2010–0455]**

### Record of Decision, Fort Hamer Bridge, Manatee County, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Coast Guard announces the availability of its Record of Decision for the Final Environmental Impact Statement approved on April 8, 2014 for proposed construction of a highway bridge across the Manatee River at Parrish, Manatee County, Florida. In accordance with the National Environmental Policy Act and the Council on Environmental Quality regulations, the Coast Guard has approved the preferred alternative. All practicable measures to avoid or minimize environmental harm have been identified and incorporated in the preferred alternative.

**ADDRESSES:** The ROD is available online at *http://www.regulations.gov* under the docket number for this notice, USCG–2010–0455. It can also be viewed at the Coast Guard's Seventh District Bridge Office, 909 SE. 1st Avenue, Brickell Plaza Federal Building, Ste. 432, Miami, Florida 33131, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For information about this document call or email Randall Overton, Bridge Management Specialist, Seventh Coast Guard District, U.S. Coast Guard; telephone 305–415–6736, email *Randall.D.Overton@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

Dated: August 1, 2014.

**Brian L. Dunn,**

*Chief, Office of Bridge Programs, U.S. Coast Guard.*

[FR Doc. 2014–19575 Filed 8–15–14; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2014–0651]**

### Boston Area Maritime Security Advisory Committee; Vacancies

**AGENCY:** Coast Guard, DHS.

**ACTION:** Solicitation for Membership.

**SUMMARY:** This notice requests individuals interested in serving on the Boston Area Maritime Security Committee (AMSC) to submit their applications for membership, to the Captain of the Port (COTP), Boston, MA.

**DATES:** Requests for membership should reach the U.S. Coast Guard COTP Boston September 17, 2014.

**ADDRESSES:** Applications for membership should be submitted to the Captain of the Port Boston at the following address: Commander (sx), USCG Sector Boston, 427 Commercial Street, Boston, MA 02109 or by email via Mr. Phillip C. Smith at *Phillip.C.Smith@uscg.mil.*

**FOR FURTHER INFORMATION CONTACT:** For questions about submitting an application or about the AMSC in general, contact Mr. Phillip C. Smith at 617–223–3008 or by email to *Phillip.C.Smith@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

#### Authority

Section 102 of the Maritime Transportation Security Act (MTSA) of 2002 (Pub. L. 107–295) added section 70112 to Title 46 of the U.S. Code, and authorized the Secretary of the Department in which the Coast Guard is operating to establish Area Maritime Security Advisory Committees for any port area of the United States. (See 33 U.S.C. 1226; 46 U.S.C. 70112; 33 CFR 1.05–1, 6.01; Department of Homeland Security Delegation No. 0170.1). The MTSA includes a provision exempting these AMSCs from the Federal Advisory Committee Act (FACA), Public Law 92–436, 86 Stat. 470 (5 U.S.C. App.2).

#### Boston AMSC Purpose

The AMSCs shall assist the Captain of the Port in the development, review, update, and exercising of the Area Maritime Security (AMS) Plan for their area of responsibility. Such matters may include, but are not limited to: Identifying critical port infrastructure and operations; identifying risks (threats, vulnerabilities, and consequences); determining mitigation strategies and implementation methods; developing strategies to facilitate the recovery of the MTS after a Transportation Security Incident; developing and describing the process to continually evaluate overall port security by considering consequences and vulnerabilities, how they may change over time, and what additional mitigation strategies can be applied; and providing advice to and assisting the COTP in developing and maintaining the AMS Plan.

#### AMSC Composition

The composition of an AMSC, to include the Boston AMSC, is controlled by 33 CFR 103.305. Accordingly, members may be selected from the Federal, Territorial, or Tribal government; the State government and political subdivisions of the State; local public safety, crisis management, and emergency response agencies; law enforcement and security organizations; maritime industry, including labor; other port stakeholders having a special competence in maritime security; and port stakeholders affected by security practices and policies. Also, members of the Boston AMSC must have at least 5 years of experience related to maritime or port security operations.

**AMSC Membership**

The Boston AMSC has 38 members who represent Federal, State, local, and industry stakeholders from Massachusetts. We are seeking to fill 11 positions with this solicitation.

Applicants may be required to pass an appropriate security background check prior to appointment to the committee. Members' terms of office will be for 5 years; however, a member is eligible to serve additional terms of office. Members will not receive any salary or other compensation for their service on an AMSC.

**Request for Applications**

Those seeking membership are not required to submit formal applications to the local COTP. Because there is an obligation to ensure that a specific number of members have the prerequisite maritime security experience, however, the COTP encourages the submission of resumes highlighting experience in the maritime and security industries.

In support of the USCG policy on gender and ethnic nondiscrimination, we encourage qualified women and men of all racial and ethnic groups to apply.

Dated: August 1, 2014.

**J.C. O'Connor III,**

*Captain, U.S. Coast Guard, Federal Maritime Security Coordinator Boston.*

[FR Doc. 2014–19569 Filed 8–15–14; 8:45 am]

**BILLING CODE 9110–04–P**

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## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

**[Docket No. TSA–2006–26514]**

### Extension of Agency Information Collection Activity Under OMB Review: Rail Transportation Security

**AGENCY:** Transportation Security Administration, DHS.

**ACTION:** 30-day notice.

**SUMMARY:** This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0051, abstracted below to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on May 14, 2014, 79 FR 27630. The collection involves the submission of contact information of Rail Security Coordinators and alternate Rail Security Coordinators from freight railroad carriers; shippers and receivers of certain hazardous materials; and passenger railroad carriers, including each carrier operating light rail or heavy rail transit service on track that is part of the general railroad system of transportation; and rail transit systems. Also, these persons are required to report significant security concerns, including security incidents, suspicious activity, and any threat information. In addition, freight railroad carriers and the affected shippers and receivers of hazardous materials are required to document the transfer of custody of certain hazardous materials and provide location and shipping information for certain rail cars.

**DATES:** Send your comments by [Insert date 30 days after date of publication in the **Federal Register**]. A comment to OMB is most effective if OMB receives it within 30 days of publication.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** Christina A. Walsh, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–2062; *email TSAPRA@tsa.dhs.gov*.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

In accordance with the Paperwork Reduction Act of 1995 (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 unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov*. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

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

(2) Evaluate the accuracy of the agency's estimate of the burden;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Information Collection Requirement**

*Title:* Rail Transportation Security.

*Type of Request:* Extension of a currently approved collection.

*OMB Control Number:* 1652–0051.

*Forms(s):* N/A.

*Affected Public:* Rail and shippers/receivers of certain hazardous materials.

*Abstract:* TSA will continue to collect information from regulated parties on Rail Security Coordinators and significant security concerns. TSA further requires freight railroad carriers and certain facilities handling specified hazardous materials be able to report location and shipping information to TSA upon request. These regulated parties must also implement chain of custody and control requirements to ensure a positive and secure exchange of the specified hazardous materials listed in 49 CFR 1580.100(b), and make the reports available to TSA upon request.

*Number of Respondents:* 2,100.

*Estimated Annual Burden Hours:* An estimated 45,332 hours annually.

Dated: August 11, 2014.

**Christina A. Walsh,**

*TSA Paperwork Reduction Act Officer, Office of Information Technology.*

[FR Doc. 2014–19461 Filed 8–15–14; 8:45 am]

**BILLING CODE 9110–05–P**

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## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

### Extension of Agency Information Collection Activity Under OMB Review: Critical Facility Information of the Top 100 Most Critical Pipelines

**AGENCY:** Transportation Security Administration, DHS.

**ACTION:** 30-day Notice.

**SUMMARY:** This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0050, abstracted below to OMB for review and approval of an extension of the currently approved collection under the

Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on May 14, 2014, 79 FR 27631. TSA has developed and implemented a plan to inspect critical pipeline systems based on the Recommendations of the 9/11 Commission Act of 2007 (9/11 Act).

**DATES:** Send your comments by September 17, 2014. A comment to OMB is most effective if OMB receives it within 30 days of publication.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** Christina A. Walsh, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–2062; email *TSAPRA@tsa.dhs.gov.*

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

In accordance with the Paperwork Reduction Act of 1995 (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 unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

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

(2) Evaluate the accuracy of the agency's estimate of the burden;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Information Collection Requirement**

*Title:* Critical Facility Information of the Top 100 Most Critical Pipelines.

*Type of Request:* Extension of a currently approved collection.

*OMB Control Number:* [1652–0050].

*Forms(s):* Critical Facility Security Review.

*Affected Public:* Pipeline companies.

*Abstract:* The 9/11Act specifically tasked TSA to develop and implement a plan for inspecting critical facilities of the 100 most critical pipeline systems. *See* sec. 1557 of the 9/11 Act (Pub. L. 110–53 codified at 6 U.S.C. 1207). TSA will visit critical pipeline facilities and collect site-specific information from pipeline operators on facility security policies, procedures, and physical security measures. TSA will use the information to determine strengths and weaknesses at the nation's critical pipeline facilities, areas to target for risk reduction strategies, pipeline industry implementation of the TSA ''Pipeline Security Guidelines,'' and operator implementation of recommendations made during TSA critical facility visits.

*Number of Respondents:* 180

*Estimated Annual Burden Hours:* An estimated 810 hours annually.

Dated: August 11, 2014.

**Christina A. Walsh,**

*TSA Paperwork Reduction Act Officer, Office of Information Technology.*

[FR Doc. 2014–19462 Filed 8–15–14; 8:45 am]

**BILLING CODE 9110–05–P**

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## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

**[Docket No. TSA–2001–11120]**

### Intent To Request Renewal From OMB of One Current Public Collection of Information: Imposition and Collection of Passenger Civil Aviation Security Service Fees

**AGENCY:** Transportation Security Administration, DHS.

**ACTION:** 60-day Notice.

**SUMMARY:** The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0001, abstracted below that we will submit to OMB for renewal in compliance with the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. The collection involves air carriers maintaining an accounting system to account for the passenger civil aviation security service fees collected and reporting this information to TSA on a quarterly basis, as well as retaining the data used for these reports for a three-year rolling period.

**DATES:** Send your comments by October 17, 2014.

**ADDRESSES:** Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

**FOR FURTHER INFORMATION CONTACT:** Christina A. Walsh at the above address.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

In accordance with the Paperwork Reduction Act of 1995 (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 unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

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

(2) Evaluate the accuracy of the agency's estimate of the burden;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Information Collection Requirement**

*OMB Control Number 1652–0001; Imposition and Collection of Passenger Civil Aviation Security Service Fees.* In accordance with the Aviation Transportation Security Act (ATSA) (49 U.S.C. 44940) and relevant TSA Regulations (49 CFR part 1510), TSA imposes a Passenger Civil Aviation Security Service Fee (September 11th Security Fee) on passenger air carriers and foreign air carriers (''air carriers'') on air transportation originating at airports in the United States. In December of 2013, 49 U.S.C. 44940 was amended. *See* section 601, Title A of the Bipartisan Budget Act of 2013 (Pub. L. 113–67 (Dec. 26, 2013)) (Budget Act).

Changes to the underlying statute required amendments to 49 CFR part 1510, which were addressed through an Interim Final Rule (IFR) published in the **Federal Register** on June 20, 2014 (2014 IFR). *See* 79 FR 35462. The adjusted September 11th Security Fee now requires fees to be based on one-way trips rather than enplanements.

The September 11th Security Fee is used to help defray the costs of providing Federal services, including civil aviation security services. This information collection requires air carriers to submit to TSA the amount of September 11th Security Fees an air carrier has imposed, collected, refunded, and remitted. Air carriers are required to retain this information for a three-year rolling period. For instance, air carriers must keep the information collected during fiscal year 2011 until the expiration of fiscal year 2014.

TSA rules require air carriers to impose and collect the September 11th Security Fee and remit the amounts collected to TSA. *See* 49 CFR 1510.13. The regulation also requires air carriers to submit quarterly reports to TSA, indicating the amount of the fees (no more than $5.60 per one-way trip) imposed on, collected from, and refunded to passengers, and the amount remitted to TSA. *See* 49 CFR 1510.17.

As initially promulgated in 2001, 49 CFR 1510.15 requires each air carrier that collects security service fees from more than 50,000 passengers annually have an independent certified public accountant perform an annual independent audit of its security service fee activities and accounts. TSA made a decision in 2003 to conduct its own audits of air carriers (under the provisions of 49 CFR 1510.11), mitigating the need for the annual independent audit requirements. To that end, the independent audit requirements were suspended on January 23, 2003. *See* 68 FR 3192. While the independent audit requirements have been suspended, air carriers are still required to establish and maintain an accounting system to account for the security service fees imposed, collected, refunded and remitted. *See* 49 CFR 1510.15(a).

The Office of Management and Budget approved a revision to the collection to reflect changes resulting from basing the security service fee on enplanements to basing the fee on one-way trips. *See* ICR No. 201405–1652–001. That collection has been approved through January 2015. TSA is seeking renewal of this revised collection related to the requirement for air carriers to submit the quarterly reports to TSA, retain the information for a three-year rolling period, and provide to TSA upon request the information required for the quarterly reports or necessary for an independent audit.

TSA estimates that 173 total respondent air carriers will each spend approximately 1 hour to prepare and submit each quarterly report. TSA estimates that all respondents will incur a total of 692 hours (173 carriers * 4 quarterly reports * 1 hour per report) to satisfy the quarterly reporting requirements annually.

Should TSA reinstate the audit requirement, TSA estimates that 105 air carriers would be required to submit annual audits, which would require approximately 20 hours for preparation, for a total of 2,100 hours (105 carriers * 20 hours per audit) annually.

TSA estimates that all respondent air carriers would incur 2,792 hours (692 hours for quarterly reports and 2,100 hours for audits) annually to satisfy the quarterly report and audit requirements.

TSA estimates that the 173 air carriers will each incur an average cost of $363.96 annually to satisfy the quarterly reporting requirement. This estimate includes $291.00 in labor for preparation of each quarterly report (4 reports * $72.75 per hour, each quarterly report is estimated to take 1 hour to prepare), $71.00 in annual records storage related costs, and $1.96 for postage to submit the report (4 stamps at 49 cents each). TSA estimates an aggregate annual cost of $62,965.08 ($363.96 cost * 173 air carriers) for all air carriers to prepare, store, and submit quarterly reports and a cost of $188,895.24 for the three-year extension period requested.

Should TSA reinstate the annual audit requirement, TSA estimates that 105 air carriers would be required to submit annual audits and would incur an average cost of $3,074.50 per audit. This estimate includes $3,000.00 in labor for preparation of each audit (20 hours per report * $150.00 per hour), $71.00 in annual records storage related costs, and $3.50 for postage to submit the report. TSA estimates an aggregate annual cost of $322,822.50 ($3,074.50 cost * 105 air carries) for all air carriers to prepare, store, and summit the annual audit should the requirement be reinstated and $968,647.50 for the three-year extension period requested.

Dated: August 11, 2014.

**Christina A. Walsh,**

*TSA Paperwork Reduction Act Officer, Office of Information Technology.*

[FR Doc. 2014–19463 Filed 8–15–14; 8:45 am]

BILLING CODE 9110–05–P

## DEPARTMENT OF HOMELAND SECURITY

### Customs and Border Protection

**[1651–0107]**

### Agency Information Collection Activities: Application of Waiver of Passport and/or Visa

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** 30-Day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Application for Waiver of Passport and/or Visa (Form I–193). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

**DATES:** Written comments should be received on or before September 17, 2014 to be assured of consideration.

**ADDRESSES:** Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

**SUPPLEMENTARY INFORMATION:** This proposed information collection was previously published in the **Federal Register** (79 FR 32745) on June 6, 2014, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing

information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

*Title:* Application for Waiver of Passport and/or Visa.

*OMB Number:* 1651–0107.

*Form Number:* CBP Form I–193.

*Abstract:* The data collected on DHS Form I–193, Application for Waiver of Passport and/or Visa, is used by CBP to determine an applicant's identity, alienage, claim to legal status in the United States, and eligibility to enter the United States under 8 CFR 211.1(b)(3) and 212.1(g). This form is a tool used by CBP for aliens requesting to enter the country for a medical or humanitarian emergency, but wishing for CBP to waive the documentary requirements to present a valid passport or visa due to an expired passport, or a lost, stolen, or forgotten passport or permanent resident card, or if there is insufficient time for the alien to obtain a nonimmigrant visa or a passport. The waiver of the documentary requirements and the information collected on DHS Form I–193 is authorized by Section 212(a)(7) of the Immigration and Nationality Act. This form is accessible at *http://forms.cbp.gov/pdf/CBP_Form_i193.pdf*

*Current Actions:* This submission is being made to extend the expiration date with no change to the burden hours or to the information collected on Form I–193.

*Type of Review:* Extension (without change).

*Affected Public:* Individuals.

*Estimated Number of Respondents:* 25,000.

*Estimated Number of Annual Responses per Respondent:* 1.

*Estimated Time per Response:* 10 minutes.

*Estimated Total Annual Burden Hours:* 4,150.

Dated: August 11, 2014.

**Tracey Denning,**

*Agency Clearance Officer, U.S. Customs and Border Protection.*

[FR Doc. 2014–19528 Filed 8–15–14; 8:45 am]

BILLING CODE 9111–14–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Safety and Environmental Enforcement (BSEE)

**[Docket ID BSEE–2014–0007; OMB Control Number 1014–0003; 14XE1700DX EEEE500000 EX1SF0000.DAQ000]**

### Information Collection Activities: Oil and Gas Production Safety Systems; Proposed Collection; Comment Request

**ACTION:** 60-Day Notice.

**SUMMARY:** To comply with the Paperwork Reduction Act of 1995 (PRA), BSEE is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns a revision to the paperwork requirements in the regulations under Subpart H, *Oil and Gas Production Safety Systems.*

**DATES:** You must submit comments by October 17, 2014.

**ADDRESSES:** You may submit comments by either of the following methods listed below.

- Electronically go to *http://www.regulations.gov.* In the Search box, enter BSEE–2014–0007 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email *nicole.mason@bsee.gov.* Mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 381 Elden Street, HE3313; Herndon, Virginia 20170–4817. Please reference ICR 1014–0003 in your comment and include your name and return address.

**FOR FURTHER INFORMATION CONTACT:** Nicole Mason, Regulations and Standards Branch at (703) 787–1605 to request additional information about this ICR.

**SUPPLEMENTARY INFORMATION:**

*Title:* 30 CFR Part 250, Subpart H, *Oil and Gas Production Safety Systems.*

*OMB Control Number:* 1014–0003.

*Abstract:* The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 et seq. and 43 U.S.C. 1801 et seq.), authorizes the Secretary of the Interior to prescribe rules and regulations necessary for the administration of the leasing provisions of that Act related to mineral resources on the OCS. Such rules and regulations will apply to all operations conducted under a lease, pipeline right-of-way, or a right-of-use and easement. Section 1332(6) states that ''operations in the [O]uter Continental Shelf should be conducted in a safe manner by well trained personnel using technology, precautions, and other techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstructions to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property or endanger life or health.''

In addition to the general authority of OCS Lands Act, section 301(a) of the Federal Oil and Gas Royalty Management Act (FOGRMA), 30 U.S.C. 1751(a), grants authority to the Secretary to prescribe such rules and regulations as are reasonably necessary to carry out FOGRMA's provisions. While the majority of FOGRMA is directed to royalty collection and enforcement, some provisions apply to offshore operations. For example, section 108 of FOGRMA, 30 U.S.C. 1718, grants the Secretary broad authority to inspect lease sites for the purpose of determining whether there is compliance with the mineral leasing laws. Section 109(c)(2) and (d)(1), 30 U.S.C. 1719(c)(2) and (d)(1), impose substantial civil penalties for failure to permit lawful inspections and for knowing or willful preparation or submission of false, inaccurate, or misleading reports, records, or other information. The Secretary has delegated some of the authority under FOGRMA to BSEE.

The Independent Offices Appropriations Act (31 U.S.C. 9701), the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996), and OMB Circular A–25, authorize Federal agencies to recover the full cost of services that confer special benefits. Under the Department of the Interior's implementing policy, the Bureau of Safety and Environmental Enforcement (BSEE) is required to charge fees for services that provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those which accrue to the public at large. Facility Production

Safety System Applications are subject to cost recovery and BSEE regulations specify filing fees for these applications.

Regulations implementing these responsibilities are among those delegated to the BSEE. The regulations at 30 CFR part 250, Subpart H, pertain to governing oil and gas production safety systems, and any related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify and provide additional guidance on some aspects of the regulations.

We use the information to evaluate equipment and/or procedures that lessees and operators propose to use during production operations, including evaluation of requests for departures or use of alternate procedures or equipment. Information is also used to verify that production operations are safe and protect the human, marine, and coastal environment. The BSEE inspectors review the records required by this subpart to verify compliance with testing and minimum safety requirements.

The Gulf of Mexico OCS Region (GOMR) has a policy regarding approval of requests to use a chemical-only fire prevention and control system in lieu of a water system. The BSEE may require additional information be submitted to maintain approval. The information is used to determine if the chemical-only system provides the equivalent protection of a water system for the egress of personnel should a fire occur.

We will protect personally identifiable information about individuals according to the Privacy Act (5 U.S.C. 552a) and DOI's implementing regulations (43 CFR 2). No questions of a sensitive nature are asked. We protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and DOI's implementing regulations (43 CFR 2); 30 CFR 250.197, *Data and information to be made available to the public or for limited inspectio*n; and 30 CFR part 252, *OCS Oil and Gas Information Program.* Responses are mandatory.

*Frequency:* On occasion, or as a result of situations encountered depending upon the regulatory requirement.

*Description of Respondents:* Potential respondents comprise Federal oil, gas, or sulphur lessees and/or operators.

*Estimated Reporting and Recordkeeping Hour Burden:* The currently approved annual reporting burden for this collection is 62,963 hours and $343,704 non-hour cost burdens. In this submission, we are requesting a total of 92,341 burden hours and $323,481 non-hour cost burdens. The following chart details the individual components and respective burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

## BURDEN TABLE

| Citation 30 CFR 250 subpart H and NTL(s) | Reporting and Recordkeeping Requirement* | Hour Burden | Average No. of Annual Responses | Annual Burden Hours (rounded) |
|---|---|---|---|---|
| | | Non-Hour Cost Burdens | | |
| **APD/APM** | | | | |
| 807 | This section contain references to information, approvals, requests, payments, etc., which are submitted with an APD, the burdens for which are covered under its own information collection. | Burden covered under 1014-0025. | | 0 |
| 801(h); 807(a) | These sections contain references to information, approvals, requests, payments, etc., which are submitted with an APM, the burdens for which are covered under its own information collection. | Burden covered under 1014-0026. | | 0 |
| **Submittals/Requests** | | | | |
| 800; 801; 802; 803 | Submit application, and all required/supporting information, for a production safety system with > 125 components. | 26 | 1 application | 26 |
| | | $5,426 per submission x 1 = $5,426<br>$14,280 per offshore visit x 1 = $14,280<br>$7,426 per shipyard visit x 1 = $7,426 | | |
| | 25 – 125 components. | 19 | 4 applications | 76 |
| | | $1,314 per submission x 4 = $5,256<br>$8,967 per offshore visit x 1 = $8,967<br>$5,141 per shipyard visit x 1 = $5,141 | | |
| | < 25 components. | 12 | 10 applications | 120 |
| | | $652 per submission x 10 = $6,520 | | |
| | Submit modification to application for production safety system with > 125 components. | 13 | 174 applications | 2,262 |
| | | $605 per submission x 174 = $105,270 | | |
| | 25 – 125 components. | 10 | 615 applications | 6,150 |
| | | $217 per submission x 615 = $133,455 | | |
| | < 25 components. | 7 | 345 applications | 2,415 |
| | | $92 per submission x 345 = $31,740 | | |
| 801(a), (g) | Submit application for a determination that a well is incapable of natural flow; verify the | 14<br>1/4 | 11 submittals | 157 |

| Citation 30 CFR 250 subpart H and NTL(s) | Reporting and Recordkeeping Requirement* | Hour Burden | Average No. of Annual Responses | Annual Burden Hours (rounded) |
|---|---|---|---|---|
| | | Non-Hour Cost Burdens | | |
| | no-flow condition of the well annually. | | | |
| 801(d) | Demonstrate to the District Manager why a subsurface- controlled SSSV may be used in lieu of a surface-controlled SSSV.** | 10 | 16 demonstrations | 160 |
| 801(f)(2); 803(b)(1)(iii) | Request approval from District Manager for setting depth of the subsurface safety device on a case-by-case basis; Requests for activation of low-pressure sensors operating at < 5 psi (approved by the District Manager on a case-by-case basis). | Not considered IC under 5 CFR 1320(h). | | 0 |
| 803(b)(2) | Submit required documentation for unbonded flexible pipe. | Burden is covered by the application requirement in § 250.802(e). | | 0 |
| 803(b)(8); related NTLs | Request approval to use chemical only fire prevention and control system in lieu of a water system and all supporting/relevant information. | 39 | 23 requests | 897 |
| 807 | Submit detailed info regarding installing SSVs in an HPHT environment with your APD, APM, DWOP etc. | Burden is covered under 1014-0018. | | 0 |
| | | **Subtotal** | **1,199 responses** | **12,263 hours** |
| | | | **$323,481 non-hour costs** | |
| | **General** | | | |
| 801(h)(2); 803(c) | Identify well with sign on wellhead that sub-surface safety device is removed; flag safety devices that are out of service. | Usual/customary safety procedure for removing or identifying out-of-service safety devices. | | 0 |
| 801(e)(1); 801(h)(3); 803(b)(2), (4), (7); | Specific alternate approval requests requiring District Manager approval. | Burden covered under 1014-0022. | | |
| 803(b)(8)(iv); (v) | Post diagram of firefighting system; furnish evidence firefighting system suitable for operations in subfreezing climates. | 8 | 18 postings/ evidence | 144 |
| 804(a)(12); 800 | Notify BSEE prior to production when ready to conduct pre-production test and inspection; upon commencement of production for a complete inspection. | 1 | 41 notifications | 41 |
| 806(c) | Request evaluation and approval of other quality assurance programs covering manufacture of SPPE. | 34 | 1 requests | 34 |
| | | **Subtotal** | **60 responses** | **219 hours** |
| | **Recordkeeping** | | | |
| 801(h)(2); 802(e); 804(b) | Maintain records for 2 years on subsurface and surface safety devices to include approved design & installation features, testing, repair, removal, etc.; make records available to BSEE. | 48 | 658 records | 31,584 |
| 803(b)(1)(iii), | Maintain pressure-recorder charts. | 35 | 658 charts | 23,030 |

| Citation 30 CFR 250 subpart H and NTL(s) | Reporting and Recordkeeping Requirement* | Hour Burden | Average No. of Annual Responses | Annual Burden Hours (rounded) |
|---|---|---|---|---|
| | | Non-Hour Cost Burdens | | |
| (b)(2)(i) | | | | |
| 803(b)(4)(iii) | Maintain schematic of the emergency shutdown (ESD) which indicates the control functions of all safety devices. | 18 | 650 schematics | 11,700 |
| 803(b)(11) | Maintain records of wells that have erosion-control programs and results for 2 years; make available to BSEE upon request. | 21 | 645 records | 13,545 |
| | | **Subtotal** | **2,611 responses** | **79,859 hours** |
| **Total Burden Hours** | | | **3,870 Responses** | **92,341 Hours** |
| | | | **$323,481 Non-Hour Cost Burdens** | |

* In the future, BSEE may require electronic filing of certain submissions.

** Existing requirement previously overlooked.

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*Estimated Reporting and Recordkeeping Non-Hour Cost Burden:* We have identified ten non-hour cost burdens for this collection, all of which are cost recovery fees required under § 250.802(e). However, the actual fee amounts are specified in 30 CFR 250.125, which provides a consolidated table of all of the fees required under the 30 CFR 250 regulations. The total non-hour cost burdens (cost recovery fees) in this IC request are $323,481 and are as follows:

- Submit application for a production safety system with > 125 components—$5,426 per submission; $14,280 per offshore visit; and $7,426 per shipyard visit.
- Submit application for a production safety system with 25–125 components—$1,314 per submission; $8,967 per offshore visit; and $5,141 per shipyard visit.
- Submit application for a production safety system with < 25 components—$652 per submission.
- Submit modification to application for production safety system with > 125 components—$605 per submission.
- Submit modification to application for production safety system with 25–125 components—$217 per submission.
- Submit modification to application for production safety system with <25 components—$92 per submission.

We have not identified any other non-hour cost burdens associated with this collection of information.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

*Comments:* Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''. . . to provide notice . . . and otherwise consult with members of the public and affected agencies concerning each proposed collection of information . . .''. Agencies must specifically solicit comments to: (a) Evaluate whether the collection is necessary or useful; (b) evaluate the accuracy of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of technology.

Agencies must also estimate the non-hour paperwork cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have other than hour burden costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. For further information on this burden, refer to 5 CFR 1320.3(b)(1) and (2), or contact the Bureau representative listed previously in this notice.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

*Public Comment Procedures:* 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.

*BSEE Information Collection Clearance Officer:* Cheryl Blundon (703) 787–1607.

Dated: August 7, 2014.

**Robert W. Middleton,**

*Deputy Chief, Office of Offshore Regulatory Programs.*

[FR Doc. 2014–19537 Filed 8–15–14; 8:45 am]

BILLING CODE 4310–VH–P

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

**[FWS–R8–ES–2014–N113: FXES1120800000–134–FF08ECAR00]**

## Environmental Impact Statement; Major Amendment to the Multiple Species Conservation Program County of San Diego Subarea Plan for the Otay Hills Aggregate Quarry and Inert Debris Landfill, San Diego County, California

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent and request for comments.

**SUMMARY:** We, the Fish and Wildlife Service (Service), intend to prepare an environmental impact statement (EIS) under the National Environmental Policy Act regarding an application to amend the Endangered Species Act permit issued for the Multiple Species Conservation Program County of San Diego Subarea Plan (Subarea Plan). The EIS will evaluate the impacts of several alternatives related to the proposed issuance of an amended incidental take permit to the County of San Diego (applicant) for the quarry and landfill project in San Diego County, California. We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party.

**DATES:** To ensure consideration, please send your written comments by September 17, 2014.

**ADDRESSES:** To request further information or submit written comments, please use one of the following methods and note that your information request or comment is in reference to the ''Major Amendment to the MSCP Subarea Plan'':

- *Email: Karen_Goebel@fws.gov.* Include ''Major Amendment to the MSCP Subarea Plan'' in the subject line of the message.
- *U.S. Mail:* Field Supervisor, Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2177 Salk Ave, Suite 250, Carlsbad, California 92008.
- *In-Person Drop-off, Viewing, or Pickup:* Call 760–431–9440 to make an appointment during regular business hours to drop off comments or view received comments at this location.
- *Fax:* Field Supervisor, 760–431–9624; Attn.: ''Major Amendment to the MSCP Subarea Plan.''

**FOR FURTHER INFORMATION CONTACT:** Ms. Karen Goebel, Assistant Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES**); telephone: 760–431–9440. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:** We intend to prepare an environmental impact statement (EIS) to evaluate the impacts of several alternatives related to the potential issuance of an amended incidental take permit (ITP) for the Multiple Species Conservation Program County of San Diego Subarea Plan (Subarea Plan) for the purpose of covering activities associated with the Otay Hills Aggregate Quarry and Inert Debris Landfill, located in San Diego County, California. The EIS will be a joint document with an environmental impact report (EIR) prepared by the County of San Diego under the California Environmental Quality Act.

The Subarea Plan is a multiple species habitat conservation plan for which the applicant holds an ITP (PRT–840414) for 85 covered species in San Diego County, California. The proposed quarry and landfill project is located on lands designated by the Subarea Plan as a ''major amendment area,'' where the incidental take authorization does not apply. The applicant proposes to amend the Subarea Plan and the ITP issued under section 10(a)(1)(B) of the Endangered Species Act (16 U.S.C. 1531 *et seq.;* ESA). The proposed amendment will include measures necessary to minimize and mitigate the impacts, to the maximum extent practicable, of proposed taking of covered species resulting from construction and operation of the quarry and subsequent landfill operations within the ''major amendment area.''

Along with the proposed Subarea Plan and ITP amendment, the applicant proposes to process an application for a Specific Plan Amendment, Major Use Permit, and Reclamation Plan for the Otay Hills Aggregate Mining and Inert Debris Landfill project, which is located within 10 parcels (APNs 648–050–12, 13, 14, and 17; 648–080–13, 14, and 25; 648–040–39 and 40; and 648–090–04) that total approximately 432 acres. Primary access to the site would be from the east end of Calzada De La Fuente Road, which connects to Alta Road 0.5 miles north of Otay Mesa Road.

If the amendment is approved, the applicant's permit would include as a covered activity within the major amendment area the aggregate mining and subsequent landfill of approximately 110 acres and associated conservation of 322 acres. Several species covered by the exiting Subarea Plan have been observed on or near the project site. The ITP would be amended to cover, within the major amendment area, eleven animal species (1 federally listed and 10 unlisted species) that could be taken, and 9 plant species (1 listed and 8 unlisted plant species) that could be adversely impacted by the aggregate mine and landfill. These 20 species are covered by the existing Subarea Plan. The ITP would also be amended to authorize the take of the federally listed endangered quino checkerspot butterfly (*Euphydryas editha quino*), which occurs on the project site and is not a covered species under the existing Subarea Plan. We will also evaluate potential impacts to the golden eagle under the Bald and Golden Eagle Protection Act (16 U.S.C. 668–668c; Eagle Act). The golden eagle is a covered species under the existing Subarea Plan.

## Background

Section 9 of the ESA prohibits taking of fish and wildlife species listed as endangered or threatened under section 4 of the ESA. Under the ESA, the term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The term ''harm'' is defined in the regulations as significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). The term ''harass'' is defined in the regulations as to carry out actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3).

However, under specified circumstances, the Service may issue permits that allow the take of federally listed fish and wildlife species, provided that the take that occurs is incidental to, but not the purpose of, an otherwise lawful activity. Regulations governing permits for endangered and threatened fish and wildlife species are at 50 CFR 17.22 and 17.32, respectively. The ESA's take prohibitions do not apply to federally listed plants. Plant species would be included in the amended permit in recognition of the conservation measures provided to plants under the amended HCP and would receive assurances under the Service's ''No Surprises'' rule.

Section 10(a)(1)(B) of the ESA authorizes the issuance of incidental take permits to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

(1) The taking will be incidental;

(2) The applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking;

(3) The applicant will develop a proposed HCP and ensure that adequate funding for the plan will be provided;

(4) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and

(5) The applicant will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP.

These same findings must be met for an amendment to the applicant's existing ITP. The applicant's ITP is valid until March 16, 2048.

Golden eagles and bald eagles (*Haliaeetus leucocephalus*) are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668–668c; Eagle Act), which prohibits the take of any eagles or any part, nest, or egg thereof. Take is defined as to ''pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb.'' Disturb is defined by the Service as ''to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.''

An ESA section 10(a)(1)(B) may include bald and golden eagles as covered species. Pursuant to 50 CFR 22.11, an ESA section 10(a)(1)(B) permit constitutes a valid permit under the Bald and Golden Eagle Protection Act to take bald or golden eagles so long as such take is ''compatible with the preservation of the bald or the golden eagle,'' the standard that applies to Eagle Act permits. The golden eagle is a covered species under the existing Subarea Plan, and the applicant proposes to include the golden eagle as a covered species in the amended Subarea Plan and ITP. We will evaluate potential impacts to the golden eagle from the proposed covered activities and determine whether to include the golden eagle as a covered species in an amended ITP under applicable ESA and Eagle Act standards.

**Environmental Impact Statement**

The EIS/EIR will consider the proposed action (i.e., the issuance of an amended Section 10(a)(1)(B) permit under the ESA) and a reasonable range of alternatives. A detailed description of the proposed action and alternatives will be included in the EIS/EIR. It is anticipated that several alternatives will be developed, which may vary by the level of conservation, impacts caused by the proposed action, or a combination of these factors. The proposed action and alternatives will be evaluated against the No-Action alternative, which assumes that no permit amendment will be issued. The No-Action alternative represents estimated future conditions to which the proposed action's estimated future conditions can be compared.

*Proposed Alternative*

The proposed action is the issuance of an amendment to the Subarea Plan ITP (PRT–840414) to extend incidental take authorization for the Otay Hills aggregate quarry and inert debris landfill project. The proposed action will:

(1) Reclassify 79.4 acres of the MSCP Subarea Plan from ''major amendment area'' to ''take authorized area'' to allow for future development;

(2) Reclassify 15.8 acres of the MSCP Subarea Plan from ''minor amendment area subject to special considerations'' into ''hardline preserve'';

(3) Reclassify 306 acres of the MSCP Subarea Plan from ''major amendment area'' into ''hardline preserve'';

(4) Reclassify 3.4 acres of the MSCP Subarea Plan in the ''minor amendment area'' and 26.3 acres in the ''minor amendment subject to special considerations area'' to ''take authorized area''; and

(5) Provide take authorization for the quino checkerspot butterfly.

In combination, these actions would result in permanent conservation of 321.8 acres of high-quality habitat (connected to other conserved, high-value habitat areas) that support listed and/or sensitive plant and animal species, which would contribute to the overall conservation goals of the region.

We anticipate that the following federally listed species will be included as covered species in the applicants' proposed amendment: (1) the endangered quino checkerspot butterfly (*Euphydryas editha quino*), (2) the threatened coastal California gnatcatcher (*Polioptila californica californica*), and (3) the threatened Otay tarplant (*Deinandra conjugens*).

The 18 unlisted species proposed to be included in the amendment are the Otay manzanita (*Arctostaphylos otayensis*), San Diego goldenstar (*Bloomeria* [*Muilla*] *clevelandii*), Dunn's mariposa lily (*Calochortus dunnii*), Orcutt's birds' beak (*Cordylanthus orcuttianus*), Tecate cypress (*Cupressus forbesii*), variegated dudleya (*Dudleya variegata*), San Diego barrel cactus (*Ferocactus viridescens*), Gander's pitcher sage (*Lepechinia ganderi*), Thorne's hairstreak (*Callophrys* [*Mitoura*] *gryneus thornei*), Belding's orange-throated whiptail (*Aspidoscelis hyperythra beldingi*), San Diego horned lizard (*Phrynosoma coronatum blainvillii*), Cooper's hawk (*Accipiter cooperii*), rufous-crowned sparrow (*Aimophila ruficeps canescens*), golden eagle (*Aquila chrysaetos*), burrowing owl (*Athene cunicularia*), northern harrier (*Circus cyaneus*), mountain lion (*Puma concolor*), and mule deer (*Odocoileus hemionus fuliginata*).

The applicant would seek to amend the incidental take authorization to include those wildlife species that are likely to be taken or, in the case of plant species, otherwise impacted, as a result of the covered activities within the 432-acre Otay Hills aggregate quarry and inert debris landfill project area. Other Subarea Plan-covered species and other candidate and federally listed species that are not likely to be taken by the covered activities, and would not be covered by the proposed amended ITP, may also be addressed in the EIS/EIR.

*No-Action Alternative*

Under the No-Action Alternative, we would not issue a permit, and no construction aggregate extraction operation would occur on the project site. The project site would remain as it is today, consisting of undeveloped land crossed by a series of dirt roads used primarily by the U.S. Border Patrol for domestic security purposes. Management of conserved lands through the major amendment would not occur. No changes in the existing environment would be expected.

**Environmental Review and Next Steps**

We will conduct an environmental review to analyze the impacts of the proposed action and a range of other reasonable alternatives. We will prepare a draft EIS, as part of the joint EIS/EIR, that will analyze the effects of each of the alternatives on the covered species and their habitats and on other resources, such as vegetation, wetlands, wildlife, geology and soils, air quality, water resources, water quality, cultural resources, land use, recreation, water use, local economy, and environmental justice.

We will publish a notice of availability and a request for comment on the draft EIS/EIR and the applicant's permit application, which will include the proposed amendment to the Subarea Plan. The draft EIS/EIR and proposed amendment are expected to be completed and available to the public for review and comment in the winter of 2015.

**Public Comments**

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice. We will consider these comments in developing a draft EIS and in the development of the amendment to the County of San Diego's ITP for its Subarea Plan. We

particularly seek comments on the following:

(1) Biological information and data concerning the species proposed for coverage under the amendment to the HCP;

(2) Additional information concerning the range, distribution, population size, and population trends of the species;

(3) Proposed covered activities in the amendment area and their possible impacts on the species;

(4) The presence of archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns that are required to be considered in project planning by the National Historic Preservation Act (Pub. L. 102–575); and

(5) Identification of any other environmental issues that should be considered with regards to the proposed development and permit action.

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section.

Comments and materials we receive, as well as supporting documentation we use in preparing the EIS document, will be available for public inspection by appointment, during normal business hours, at our office (see **FOR FURTHER INFORMATION CONTACT**).

### Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### Authority

We publish this notice under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.;* NEPA), and its implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1501.7, 40 CFR 1506.6, and 1508.22, as well as in compliance with section 10 of the ESA (16 U.S.C. 1531 *et seq.*)

Dated: August 12, 2014.

**Alexandra Pitts,**

*Deputy Regional Director, Pacific Southwest Region, Sacramento, California.*

[FR Doc. 2014–19492 Filed 8–15–14; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLMTC 00900.L16100000.DP0000]**

### Notice of Public Meeting, Eastern Montana Resource Advisory Council Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Public Meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Eastern Montana Resource Advisory Council (RAC) will meet as indicated below.

**DATES:** The next regular meeting of the Eastern Montana RAC will be held on September 16, 2014 in Miles City, Montana. The meeting will start at 8:00 a.m. and adjourn at approximately 4:30 p.m.

**ADDRESSES:** BLM Miles City Field Office, 111 Garryowen Road, Miles City, MT.

**FOR FURTHER INFORMATION CONTACT:** Mark Jacobsen, Public Affairs Specialist, BLM Eastern Montana/Dakotas District, 111 Garryowen Road, Miles City, Montana, 59301; (406) 233–2831; *mjacobse@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–677–8339 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 a question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The 15-member council advises the Secretary of the Interior through the BLM on a variety of planning and management issues associated with public land management in Montana. At this meeting, the agenda will include: An Eastern Montana/Dakotas District report, Miles City and Billings Field Office manager reports, a report on the Montana/Dakotas State Office RAC chair meeting, a report by the Pumpkin Creek Area subcommittee, individual RAC member reports and other issues that the council may raise. All meetings are open to the public and the public may present written comments to the council. Each formal RAC meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations should contact the BLM as provided above.

Dated: August 6, 2014.

**Diane M. Friez,**

*District Manager, Eastern Montana/Dakotas.*

[FR Doc. 2014–19507 Filed 8–15–14; 8:45 am]

**BILLING CODE 4310–DN–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLMTC 00900.L16100000.DP0000]**

### Notice of Public Meeting, Dakotas Resource Advisory Council Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Public Meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Dakotas Resource Advisory Council (RAC) will meet as indicated below.

**DATES:** The next regular meeting of the Dakotas RAC will be held on September 23, 2014 in Sturgis, South Dakota. The meeting will start at 9:00 a.m. and adjourn at approximately 4:30 p.m.

**ADDRESSES:** Meade County Offices, 1300 Sherman Street, Sturgis, South Dakota.

**FOR FURTHER INFORMATION CONTACT:** Mark Jacobsen, Public Affairs Specialist, BLM Eastern Montana/Dakotas District, 111 Garryowen Road, Miles City, Montana, 59301; (406) 233–2831; *mjacobse@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–677–8339 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 15-member council advises the Secretary of the Interior through the BLM on a variety of planning and management issues associated with public land management in North and South Dakota. At this meeting, topics will include: An Eastern Montana/Dakotas District report, North Dakota and South Dakota Field Office manager reports, Montana/Dakotas State Office RAC chair meeting report, Ft. Meade Recreation Area trails projects discussion, Sturgis-

area land transfer proposal discussion, individual RAC member reports and other issues the council may raise. All meetings are open to the public and the public may present written comments to the council. Each formal RAC meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations should contact the BLM as provided above.

Dated: August 6, 2014.

**Diane M. Friez,**

*Dakotas District Manager, Eastern Montana.*

[FR Doc. 2014–19505 Filed 8–15–14; 8:45 am]

BILLING CODE 4310–DN–P

## DEPARTMENT OF JUSTICE

**[OMB Number 1190–0018]**

### Agency Information Collection Activities: Proposed eCollection; eComments Requested: OSC Charge Form

**AGENCY:** Civil Rights Division, Department of Justice.

**ACTION:** 60-Day Notice.

**SUMMARY:** The Department of Justice (DOJ), Civil Rights Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

**DATES:** Comments are encouraged and will be accepted for ''sixty days'' until October 17, 2014.

**FOR FURTHER INFORMATION CONTACT:** If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Alberto Ruisanchez, Deputy Special Counsel, USDOJ–CRT–OSC, 950 Pennsylvania Avenue NW–NYA, Washington, DC 20530.

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* OSC Charge Form.

(3) *Agency form number:* [Form OSC–1].

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* General Public. Information is used to find jurisdiction to investigate the alleged discrimination, to seek whether a referral to another agency is necessary and to provide information needed to initiate investigation of the charge. Respondents are individuals.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 300 respondents will complete each form annually; each response will be completed in approximately 30 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There is an estimated 2,000 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Suite 3E.405B, Washington, DC 20530.

Dated: August 13, 2014.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2014–19551 Filed 8–15–14; 8:45 am]

BILLING CODE 4410–13–P

## DEPARTMENT OF JUSTICE

**[OMB Number 1121–0184]**

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of Existing Collection; School Crime Supplement (SCS) to the National Crime Victimization Survey (NCVS)

**AGENCY:** Bureau of Justice Statistics, Department of Justice.

**ACTION:** 30-day Notice.

**SUMMARY:** The Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Statistics (BJS) will submit the following information collection to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** Volume 79, Number 115, page 34358, on June 16, 2014, allowing a 60-day comment period.

**DATES:** Comments are encouraged and will be accepted for an additional ''thirty days'' until September 17, 2014.

**FOR FURTHER INFORMATION CONTACT:** If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Rachel Morgan, Statistician, Bureau of Justice Statistics, 810 Seventh St. NW., Washington, DC 20531 (email *Rachel.Morgan@usdoj.gov;* telephone 202–307–0765). Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or send to *OIRA_submissions@omb.eop.gov.*

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

–Evaluate whether the collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

–Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions use;

–Evaluate whether and if so how the quality, utility, and clarify of the information to be collected can be enhanced; and
–Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Revision of currently approved collection.

(2) *Title of the Form/Collection:* School Crime Supplement (SCS) to the National Crime Victimization Survey (NCVS).

(3) *Agency form number:* Forms: SCS–1. Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked to respond, as well as a brief abstract:* Primary: The survey will be administered to persons ages 12 to 18 in NCVS sampled households in the United States. The School Crime Supplement (SCS) to the National Crime Victimization Survey (NCVS) collects, analyzes, publishes, and disseminates statistics on the students' victimization, perceptions of school environment, and safety at school.

(5) *An estimate of the total number of respondents and the amount of time needed for an average respondent to respond:* Approximately 14,461 respondents between the ages of 12 and 18 will be eligible to complete an SCS interview. This is an increase of 4,909 respondents from the 2013 SCS data collection. Based on the 2013 SCS data collection, we expect that the SCS will take no longer than about 17.5 minutes to administer. The majority of respondents will complete the long SCS interview (entire SCS questionnaire) which will take an estimated 0.292 hours (17.52 minutes) to complete. Based on the 2013 SCS data collection, we expect the completion rate to be 51.7% for the long interview. The remainder of the respondents will complete the short interview (i.e. will be screened out for not being in school), which will take an estimated 0.047 hours (2.83 minutes) to complete. We expect the completion rate to be 8.2% for the short interview. This will amount to a total increase in burden response of 760 hours (((4,909*0.517)*0.292) + ((4,909*0.082)*0.047))). Due to the changes in the 2015 SCS instrument, we anticipate a total decrease in burden of 89 hours. This is a net increase of 671 (760–89) hours in respondent burden compared to the 2013 submitted total respondent burden estimate of 1,773 hours. The total respondent burden is approximately 2,444 (1,773 + 671) hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 2,444 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: August 12, 2014.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2014–19442 Filed 8–15–14; 8:45 am]

**BILLING CODE 4410–18–P**

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Bulk Manufacturer of Controlled Substances Application: Catalent CTS, LLC

**ACTION:** Notice of correction.

In **Federal Register** document (FR DOC) 2014–14123, on page 34551, third column, the second paragraph in the issue on Tuesday, June 17, 2014, make a correction by removing the following sentence from the paragraph:

In reference to drug code 7360, the company plans to import a synthetic cannabidiol.

Dated: August 11, 2014.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator.*

[FR Doc. 2014–19447 Filed 8–15–14; 8:45 am]

**BILLING CODE 4410–09–P**

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Importer of Controlled Substances Registration: Rhodes Technologies

**ACTION:** Notice of registration.

**SUMMARY:** Rhodes Technologies applied to be registered as an importer of certain basic classes of controlled substances. The DEA grants Rhodes Technologies registration as an importer of those controlled substances.

**SUPPLEMENTARY INFORMATION:** By notice dated May 28, 2014, and published in the **Federal Register** on June 4, 2014, 79 FR 32317, Rhodes Technologies, 498 Washington Street, Coventry, Rhode Island 02816, applied to be registered as an importer of certain basic classes of controlled substances. Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (January 25, 2007).

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Rhodes Technologies to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verified the company's compliance with state and local laws, and reviewed the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of the basic classes of narcotic or non-narcotic controlled substances listed:

| Controlled substance | Schedule |
|---|---|
| Opium, raw (9600) | II |
| Poppy Straw Concentrate (9670) | II |

The company plans to import the listed controlled substances in order to bulk manufacture controlled substances in Active Pharmaceutical Ingredient (API) form. The company distributes the manufactured APIs in bulk to its customers.

Dated: August 11, 2014.

**Joseph T. Rannazzisi,**

*Deputy Assistant Administrator.*

[FR Doc. 2014–19432 Filed 8–15–14; 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; National Longitudinal Survey of Youth 1979

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) proposal titled, ''National Longitudinal Survey of Youth 1979,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (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 September 17, 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=201403-1220-003* (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 (this is not a toll-free number) 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–BLS, 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 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

**Authority:** 44 U.S.C. 3507(a)(1)(D).

**SUPPLEMENTARY INFORMATION:** This ICR seeks PRA authority for the National Longitudinal Survey of Youth 1979 (NLSY79) information collection. The NLSY79 is a representative national sample of persons who were born in the years 1957 to 1964 and lived in the U.S. in 1978. These respondents were ages 14 to 22 when the first round of interviews began in 1979; they are ages 49 to 58 as of December 31, 2013. The NLSY79 was conducted annually from 1979 to 1994 and has been conducted biennially since 1994. The longitudinal focus of this survey requires information to be collected from the same individuals over many years in order to trace their education, training, work experience, fertility, income, and program participation. In addition to the main NLSY79, the biological children of female NLSY79 respondents have been surveyed since 1986. A battery of child cognitive, socio-emotional, and physiological assessments has been administered biennially since 1986 to NLSY79 mothers and their children. Starting in 1994, children who had reached age 15 by December 31, of the survey year (the Young Adults) were interviewed about their work experiences, training, schooling, health, fertility, self-esteem, and other topics. One DOL goal is to produce and disseminate timely, accurate, and relevant information about the U.S. labor force. The BLS contributes to this goal by gathering information about the labor force and labor market and disseminating it to policymakers and the public so that participants in those markets can make more informed, and thus more efficient, choices. Research based on the NLSY79 contributes to the formation of national policy in the areas of education, training, employment programs, and school-to-work transitions. Title 29 USC 1 and 2 authorize this information collection.

This proposed 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 if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on March 26, 2014 (79 FR 16828).

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 1220–0109. 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–BLS.

*Title of Collection:* National Longitudinal Survey of Youth 1979.

*OMB Control Number:* 1220–0109.

*Affected Public:* Individuals or households.

*Total Estimated Number of Respondents:* 13,445.

*Total Estimated Number of Responses:* 14,050.

*Total Estimated Annual Time Burden:* 13,453 hours.

*Total Estimated Annual Other Costs Burden:* $0.

Dated: August 11, 2014.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2014–19439 Filed 8–15–14; 8:45 am]

BILLING CODE 4510–24–P

## DEPARTMENT OF LABOR

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Reemployment of Unemployment Insurance Benefit Recipients

**AGENCY:** Department of Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Reemployment of Unemployment Insurance Benefit Recipients,'' 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 September 17, 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=201404-1205-006* (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–ETA, 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 Reemployment of Unemployment Insurance Benefit Recipients information collection. This information is collected at the State level, via electronic reporting Form ETA–9047 to determine the percentage of individuals who become reemployed in the calendar quarter subsequent to the quarter in which they received their first unemployment insurance (UI) payment. The data is used to measure performance under the Government Performance and Results Act of 1993, with the goal of facilitating reemployment of UI claimants. Social Security Act section 303(a)(6) authorizes this information collection. *See* 42 U.S.C. 503(a)(6).

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 1205–0452.

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 September 30, 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 March 20, 2014 (79 FR 15612).

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 1205–0452. 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–ETA.

*Title of Collection:* Reemployment of Unemployment Insurance Benefit Recipients.

*OMB Control Number:* 1205–0452.

*Affected Public:* State, Local, and Tribal Governments.

*Total Estimated Number of Respondents:* 53.

*Total Estimated Number of Responses:* 212.

*Total Estimated Annual Time Burden:* 2,120.

*Total Estimated Annual Other Costs Burden:* $0.

Dated: August 12, 2014.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2014–19523 Filed 8–15–14; 8:45 am]

**BILLING CODE 4510–FW–P**

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## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Sealing of Abandoned Areas Standard

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Sealing of Abandoned Areas 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 September 17, 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=201403-1219-008* (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–MSHA, 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 Sealing of Abandoned Areas Standard information collection related to the design and construction of any new seal and the maintenance and repair of all seals. The Standard includes reporting and recordkeeping requirements to help ensure the construction and maintenance of seals are done correctly; certified persons conducting sampling in sealed areas are adequately trained, and problems can be found and corrected. Federal Mine Safety and Health Act of 1977 sections 101(a) and 103(h) authorize this information collection. *See* 30 U.S.C. 811(a) and 813(h).

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 1219–0142.

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 August 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 April 8, 2014 (79 FR 19387).

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 1219–0142. 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–MSHA.

*Title of Collection:* Sealing of Abandoned Areas Standard.

*OMB Control Number:* 1219–0142.

*Affected Public:* Private Sector—businesses or other for-profits.

*Total Estimated Number of Respondents:* 301.

*Total Estimated Number of Responses:* 54,857.

*Total Estimated Annual Time Burden:* 6,380 hours.

*Total Estimated Annual Other Costs Burden:* $1,510,674.

Dated: August 11, 2014.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2014–19440 Filed 8–15–14; 8:45 am]

BILLING CODE 4510–43–P

## DEPARTMENT OF LABOR

### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Hazardous Energy Control Standard (Lockout/Tagout)

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Hazardous Energy Control Standard (Lockout/Tagout),'' 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 September 17, 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=201403-1218-004* (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 Hazardous Energy Control Standard (Lockout/Tagout) information collection requirements codified in regulations 29 CFR 1910.147. The Standard specifies several information collection requirements, including those related to documenting energy-control procedure; providing protective materials; and developing, maintaining, and disclosing periodic inspection, training, and communication records. Occupational Safety and Health Act sections 6(b)(7) and 8(c) authorize this information collection. *See* 29 U.S.C. 655(b)(7) and 657(c).

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 1218–0150.

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 August 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 April 2, 2014 (79 FR 18583).

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 1218–0150. 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:* Hazardous Energy Control Standard (Lockout/Tagout).

*OMB Control Number:* 1218–0150.

*Affected Public:* Private Sector—businesses or other for-profits.

*Total Estimated Number of Respondents:* 730,706.

*Total Estimated Number of Responses:* 72,337,270.

*Total Estimated Annual Time Burden:* 2,646,702 hours.

*Total Estimated Annual Other Costs Burden:* $1,426,421.

Dated: August 12, 2014.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2014–19487 Filed 8–15–14; 8:45 am]

**BILLING CODE 4510–26–P**

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## DEPARTMENT OF LABOR

### Office of the Secretary

### Agency Information Collection Activities: Proposed Collection; Comment Request; Equal Access to Justice Act

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Labor (DOL) is soliciting comments concerning the proposed extension of the information collection request (ICR) for applicants to obtain awards in administrative proceedings subject to the Equal Access to Justice Act.

**DATES:** Written comments must be submitted by October 17, 2014.

**ADDRESSES:** Comments may be submitted by mail to the U.S. Department of Labor/Office of the Solicitor Attn: Raymond E. Mitten, Jr., 200 Constitution Avenue NW., Room N–2420, Washington, DC 20210. Comments also may be sent by email to *DOL_PRA_Public@dol.gov.* Written comments limited to 10 pages or fewer may be transmitted by facsimile to (202) 693–5538 (this is not a toll-free number).

**FOR FURTHER INFORMATION CONTACT:** Contact Raymond E. Mitten, Jr., Counsel for FOIA Appeals, Paperwork Reduction Act, & Federal Records Act, Division of Management and Administrative Legal Services, Office of the Solicitor, 200 Constitution Ave. NW., Washington, DC 20210, telephone (202) 693–5523 (this is not a toll-free number). Copies of the referenced ICR are available in Room N–1301, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. A copy of the ICR, with applicable supporting documentation, may be obtained free of charge by calling the Michel Smyth at (202) 693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_Public@dol.gov.*

**SUPPLEMENTARY INFORMATION:**

*I. Background:* The Equal Access to Justice Act provides for the award of fees and expenses to certain parties involved in administrative proceedings with the United States. The statute requires, at 5 U.S.C. sec. 504(a)(2), that a party seeking an award of fees and other expenses in a covered administrative proceeding must submit to the agency an application which shows that the party is the prevailing party and is eligible to receive an award under the Act. DOL regulations implementing the Equal Access to Justice Act contain a subpart specifying the contents of applications for an award, 29 CFR part 16, subpart B. The DOL is currently proposing no changes to the information collection requirements.

*II. Desired Focus of Comments:* The DOL, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3505(c)(2)(A)). The program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of the collection requirements on respondents can be properly assessed. The DOL is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments submitted in response to this notice will become a matter of public record. They will also be summarized and included in the request for Office of Management and Budget (OMB) approval of the final information collection request that will be accessible through the Internet. The DOL encourages commenters not to include sensitive personal information (e.g., a social security number), confidential business data (e.g., a bank account number or trade secret), or other sensitive statements/information in any comments.

*III. Current Action:* This notice requests an extension of the current OMB approval of the paperwork requirements for the contents of applications for an award under the Equal Access to Justice Act.

*Type of Review:* Extension of a currently approved collection of information.

*Agency:* DOL–DM.

*Title:* Equal Access to Justice Act.

*OMB Control Number:* 1225–0013.

*Affected Public:* Individuals or Households; Private Sector—businesses or other for-profits, farms, and not-for-profit institutions; and State, Local, and Tribal Governments.

*Number of Respondents:* 10.

*Frequency:* On occasion.

*Total responses:* 10.

*Average time per response:* 5 hours.

*Estimated total burden hours:* 50 hours.

*Total annualized capital/startup costs:* $0.

*Total annualized costs (operation and maintenance):* $0.

Dated: August 11, 2014.

**Michel Smyth,**

*Departmental Clearance Office.*

[FR Doc. 2014–19441 Filed 8–15–14; 8:45 am]

BILLING CODE 4510–23–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Information for Stakeholder Engagement for the Workforce Innovation and Opportunity Act Implementation

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Announcement of meetings.

**SUMMARY:** The Employment and Training Administration (ETA) of the U.S. Department of Labor (Department or DOL) issues this notice to announce a series of Webinars to engage the public in implementation of the Workforce Innovation and Opportunity Act (the Workforce Act or the Act). Additionally, the Department has established a Resource Page that contains resource information on the Workforce Act, including implementation timelines and questions and answers.

**DATES:** The Webinar dates and topics are as follows. All webinars will begin at 2:00 p.m. eastern time and last for 1 hour.

• Thursday, August 21—Strengthening the One Stop System.

• Friday, August 22—Job-Driven Training for Adults and Dislocated Workers.

• Monday, August 25—Integrated Performance Reporting and the ETPL.

• Tuesday, August 26—Consultation with Consumers, Advocacy Groups, and Direct Service Providers on Services for Individuals with Disabilities.

• Thursday, August 28—The Migrant and Seasonal Farmworker Program.

• Tuesday, September 2—Services to Individuals with Disabilities.

• Friday, September 5—Services to Disconnected Youth.

• Thursday, September 11—Strategic Program Alignment and Unified Planning.

• Friday, September 12—WIOA and Registered Apprenticeship.

• Monday, September 15—The Indian and Native American Program.

**ADDRESSES:** To register to participate in one or more webinars, please visit *http://www.doleta.gov/WIOA.*

**FOR FURTHER INFORMATION CONTACT:** Dorjan Chaney, ETA, U.S. Department of Labor, 200 Constitution Avenue NW., Room, Washington, DC 20210; Telephone (202) 693–3656; email: *DOL.WIOA@dol.gov.* Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–(877)889–5627 (TTY/TDD).

**SUPPLEMENTARY INFORMATION:**

**Background:**

President Barack Obama signed the Workforce Innovation and Opportunity Act into law on July 22, 2014. The Act is designed to help job seekers access employment, education, training, and support services to succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy. Congress passed the Act by a wide bipartisan majority; it is the first legislative reform in 15 years of the public workforce system.

Every year the key programs that form the pillars of the Workforce Innovation and Opportunity Act help tens of millions of job seekers and workers to connect to good jobs and acquire the skills and credentials needed to obtain them. The enactment of this law provides opportunity for reforms to ensure the American Job Center system is job-driven—responding to the needs of employers and preparing workers for jobs that are available now and in the future.

The Workforce Innovation and Opportunity Act supersedes the Workforce Investment Act of 1998 and amends the Adult Education and Family Literacy Act, the Wagner-Peyser Act, and the Rehabilitation Act Amendments of 1998. In general, the Act takes effect on July 1, 2015, the first full program year after enactment, unless otherwise noted.

More information about the Workforce Innovation and Opportunity Act, key implementation timelines, and frequently asked questions can be found at *http://www.doleta.gov/WIOA.*

Input from state and local workforce leaders and practitioners, workforce system partners, customers, and other stakeholders, is critical to successful implementation of this new law. These Webinars provide an opportunity for the Department to hear your input on the following key implementation topics:

• Thursday, August 21—Strengthening the One Stop System.

• Friday, August 22—Job-Driven Training for Adults and Dislocated Workers.

• Monday, August 25—Integrated Performance Reporting and the ETPL.

• Tuesday, August 26—Consultation with Consumers, Advocacy Groups, and Direct. Service Providers on Services for Individuals with Disabilities.

• Thursday, August 28—The Migrant and Seasonal Farmworker Program.

• Tuesday, September 2—Services to Individuals with Disabilities.

• Friday, September 5—Services to Disconnected Youth.

• Thursday, September 11—Strategic Program Alignment and Unified Planning.

• Friday, September 12—WIOA and Registered Apprenticeship.

• Monday, September 15—The Indian and Native American Program.

Each webinar will follow a consistent format.

I. Welcome and Purpose
II. Brief Overview of the Act
III. Key Changes in the Law for the Topic Discussed
IV. Discussion Questions
V. Conclusion

The discussion questions for each webinar will be shared in advance on the webinar registration page at *http://www.doleta.gov/WIOA.*

Signed at Washington, DC, this 12th day of August 2014.

**Portia Wu,**

*Assistant Secretary for Employment and Training.*

[FR Doc. 2014–19484 Filed 8–15–14; 8:45 am]

BILLING CODE 4510–FM–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–82,972]**

### John Wiley and Sons, Inc. Composition Services Group, Information Technology Department, and Manufacturing Department Indianapolis, Indiana; 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 September 19, 2013, applicable to workers of John Wiley and Sons, Inc., Composition Services Group, Indianapolis, Indiana (TA–W–82,972). The Department's notice of determination was published in the **Federal Register** on October 24, 2013 (79 FR 63498).

The Department reviewed the certification for workers of the subject firm. New information from the company revealed that worker separations in the Information Technology Department and the Manufacturing Department are attributable to the same acquisition of services from a foreign country that contributed importantly to worker separations in the Composition Services Group.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by the firm's acquisition of services from a foreign country.

Based on these findings, the Department is amending this certification to include workers from the Information Technology Department and the Manufacturing Department at the Indianapolis, Indiana location of the subject firm.

The amended notice applicable to TA–W–82,972 is hereby issued as follows:

All workers of John Wiley and Sons, Inc., Composition Services Group, Information Technology Department, and Manufacturing Department, Indianapolis, Indiana, who became totally or partially separated from employment on or after August 9, 2012 through September 19, 2015, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, 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 25th day of July, 2014.

**Del Min Amy Chen,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2014–19509 Filed 8–15–14; 8:45 am]

BILLING CODE 4510–FN–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–82,374; TA–W–82,374A; TA–W–82,374B; TA–W–82,374C; TA–W–82,374D;]**

### Catholic Health Initiatives; Information Technology Services; ITS Technical Services; Working On-Site at St. Elizabeth Regional Medical Center; Including On-Site Leased Workers from TEKsystems; Lincoln, Nebraska; Catholic Health Initiatives; Information Technology Services; ITS Technical Services; Working On-Site at the Physician Network; Including On-Site Leased Workers from TEKsystems; Lincoln, Nebraska; Catholic Health Initiatives; Information Technology Services; ITS Technical Services; Working On-Site at Nebraska Heart Institute; Including On-Site Leased Workers from TEKsystems and Concentric; Lincoln, Nebraska Catholic Health Initiatives; Information Technology Services; ITS Technical Services; Working On-Site at Nebraska Heart Hospital; Including On-Site Leased Workers from TEKsystems; Lincoln, Nebraska; Catholic Health Initiatives; Information Technology Services; ITS Technical Services; Including On-Site Leased Workers from TEKsystems; Englewood, Colorado; 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 May 23, 2013, applicable to workers of Catholic Health Initiatives, Information Technology Services, ITS Technical Services, working on-site at St. Elizabeth Regional Medical Center, including on-site leased workers from TEKsystems, Lincoln, Nebraska (TA–W–82,374), Catholic Health Initiatives, Information Technology Services, ITS Technical Services, working on-site at The Physician Network, including on-site leased workers from TEKsystems, Lincoln, Nebraska (TA–W–82,374A), Catholic Health Initiatives, Information Technology Services, ITS Technical Services, working on-site at Nebraska Heart Institute, including on-site leased workers from TEKsystems and Concentric, Lincoln, Nebraska (TA–W–82,374B) and Catholic Health Initiatives, Information Technology Services, ITS Technical Services, working on-site at Nebraska Heart Hospital, including on-site leased workers from TEKsystems, Lincoln, Nebraska (TA–W–82,374C).

The workers are engaged in activities related to the supply of healthcare services. The worker group is engaged in activities related to the supply of information technology services, specifically desktop and computing services, data center and server management, and network management services. The notice was published in the **Federal Register** on June 10, 2013 (78 FR 34673).

The Department reviewed the certification for workers of the subject firm. New information from the company shows that worker separations at Catholic Health Initiatives, ITS, Englewood, Colorado were attributable to the same acquisition of services that led to the certification of workers at the other locations.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by the acquisition of information technology services.

Based on these findings, the Department is amending this certification to include workers from Catholic Health's, ITS, Englewood, Colorado location.

The amended notice applicable to TA–W–81,097 is hereby issued as follows:

All workers from Catholic Health Initiatives, Information Technology Services, ITS Technical Services, working on-site at St. Elizabeth Regional Medical Center, including on-site leased workers from TEKsystems, Lincoln, Nebraska (TA–W–82,374), Catholic Health Initiatives, Information Technology Services, ITS Technical Services, working on-site at The Physician Network, including on-site leased workers from TEKsystems, Lincoln, Nebraska (TA–W–82,374A), Catholic Health Initiatives, Information Technology Services, ITS Technical Services, working on-site at Nebraska Heart Institute, including on-site leased workers from TEKsystems and Concentric, Lincoln, Nebraska (TA–W–82,374B), Catholic Health Initiatives, Information Technology Services, ITS Technical Services, working on-site at Nebraska Heart Hospital, including on-site leased workers from TEKsystems, Lincoln, Nebraska (TA–W–82,374C), and Catholic Health Initiatives, Information Technology Services, ITS Technical Services, including on-site leased workers from TEKsystems, Englewood, Colorado (TA–W–82,374D) who became totally or partially separated from employment on or after January 28, 2012, through May 23, 2015, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1074, as amended.

Signed at Washington, DC this 25th day of July, 2014.

**Del Min Amy Chen,**

*Certifying Officer, Office of Trade Adjustment Assistance .*

[FR Doc. 2014–19508 Filed 8–15–14; 8:45 am]

BILLING CODE 4510–FN–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–83,034; TA–W–83,034A]**

### West Point Products Acquisition, a Subsidiary of Clover Technologies Group, LLC, Including On-Site Leased Workers From Kelly Services, Valley Grove, West Virginia; West Point Products Acquisition, a Subsidiary of Clover Technologies Group, LLC, Warehouse Division, Washington, Pennsylvania; 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 September 24, 2013, applicable to workers of West Point Products Acquisition, LLC, a subsidiary of Clover Technologies Group, LLC, including on-site leased workers from Kelly Services, Valley Grove, West Virginia. The Department's notice of determination was published in the **Federal Register** on November 6, 2014 (78 FR 26504).

In response to a petition (TA–W–85,198) filed on behalf of workers at West Point Products Acquisition, LLC, a subsidiary of Clover Technologies Group, LLC, Warehouse Division, Washington, Pennsylvania, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of laser print cartridges used in commercial and desktop printers.

The company reports that worker separations at West Point Products Acquisition, LLC, a subsidiary of Clover Technologies Group, LLC, Washington, Pennsylvania are attributable to the same shift in production that contributed importantly to worker separations at the Valley Grove, West Virginia location.

Based on these findings, the Department is amending this certification to include workers located at West Point Products Acquisition, LLC, a subsidiary of Clover Technologies Group, LLC, Warehouse Division, Washington, Pennsylvania.

The amended notice applicable to TA–W–83,034 is hereby issued as follows:

All workers of West Point Products Acquisition, LLC, a subsidiary of Clover Technologies Group, LLC, including on-site leased workers from Kelly Services, Valley Grove, West Virginia (TA–W–83,034) and West Point Products Acquisition, LLC, a subsidiary of Clover Technologies Group, LLC, Warehouse Division, Washington, Pennsylvania (TA–W–83,244A), who became totally or partially separated from employment on or after August 28, 2012 through September 24, 2015, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, 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 25th day of July 2014.

**Del Min Amy Chen,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2014–19510 Filed 8–15–14; 8:45 am]

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## 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 August 28, 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 August 28, 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 6th day of August 2014.

**Del Min Amy Chen,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

## Appendix

16 TAA petitions instituted between 7/28/14 and 8/1/14

| TA–W | Subject firm (petitioners) | Location | Date of institution | Date of petition |
|---|---|---|---|---|
| 85444 | Napa Valley Register (Workers) | Napa, CA | 07/28/14 | 07/25/14 |
| 85445 | AccMED Innovative Technologies LLC (State/One-Stop) | Buffalo, NY | 07/28/14 | 07/24/14 |
| 85446 | JP Morgan Chase (Workers) | Florence, SC | 07/28/14 | 07/27/14 |
| 85447 | Borg Warner Torque Transfer System (Workers) | Longview, TX | 07/29/14 | 07/28/14 |
| 85448 | United HealthOne (State/One-Stop) | Indianapolis, IN | 07/29/14 | 07/28/14 |
| 85449 | Nilfisk-Advance, Inc. (State/One-Stop) | Springdale, AR | 07/29/14 | 07/28/14 |
| 85450 | QBR Brake, Inc. (State/One-Stop) | Stockton, CA | 07/29/14 | 07/28/14 |
| 85451 | Fifth Third Bank (Workers) | Cincinnati, OH | 07/29/14 | 07/25/14 |
| 85452 | International Paper—Courtland Mill (Workers) | Courtland, AL | 07/29/14 | 07/16/14 |
| 85453 | Carefusion Resources, LLC (State/One-Stop) | Totowa, NJ | 07/31/14 | 07/29/14 |
| 85454 | Fusion Paperboard (Company) | Versailles, CT | 07/31/14 | 07/30/14 |
| 85455 | Coastal Vision, U.S., Inc (State/One-Stop) | Blaine, WA | 07/31/14 | 07/28/14 |
| 85456 | Microsoft Corporation (State/One-Stop) | Redmond, WA | 07/31/14 | 07/28/14 |
| 85457 | Avago Technologies (Workers) | Fort Collins, CO | 07/31/14 | 07/22/14 |
| 85458 | Teleflex, Inc. (State/One-Stop) | Lumberton, NJ | 08/01/14 | 07/31/14 |
| 85459 | Superior Industries International, Inc. (State/One-Stop) | Rogers, AR | 08/01/14 | 07/31/14 |

[FR Doc. 2014–19511 Filed 8–15–14; 8:45 am]

**BILLING CODE 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 *July 28, 2014 through August 1, 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 of 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.

*85,256, Novelis Corporation, Terre Haute, Indiana. April 21, 2013.*

*85,378, Silvex, Inc., Westbrook, Maine. June 16, 2013.*

*85,432, Dentsply International, Inc., Elgin, Illinois. July 17, 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.

*85,288, Automated Solutions, Inc., Knoxville, Arizona.*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*85,355, Chevron Mining, Inc., Questa, New Mexico.*

**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 petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

*85,401, CitiMortgage, Inc., Fort Mill, South Carolina.*

I hereby certify that the aforementioned determinations were issued during the period of *July 28, 2014 through August 1, 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, D.C. this 6th day of August 2014.

**Del Min Amy Chen,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2014–19512 Filed 8–15–14; 8:45 am]

BILLING CODE 4510–FN–P

## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

**AGENCY:** National Science Foundation.

**ACTION:** Notice of Permit Modification Request Received under the Antarctic Conservation Act of 1978, Pub. Law 95–541.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 part 670 of the Code of Federal Regulations. This is the required notice of a requested permit modification.

**DATES:** Interested parties are invited to submit written data, comments, or views with respect to this permit application by September 17, 2014. Permit applications may be inspected by interested parties at the Permit Office, address below.

**ADDRESSES:** Comments should be addressed to Permit Office, Room 755, Division of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

**FOR FURTHER INFORMATION CONTACT:** Li Ling Hamady, ACA Permit Officer, at the above address or *ACApermits@nsf.gov* or (703) 292–7149.

**SUPPLEMENTARY INFORMATION:** The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Description of Permit Modification Requested: The Foundation issued a waste permit (ACA 2014–007) to Daniel McGrath from Earth Vision Trust/Lindblad Expeditions on October 23, 2013. The issued permit allows the applicant, Earth Vision Trust, to install a maximum of 10 cameras distributed between 5 sites that are often visited by tourists. No more than 2 cameras are installed at any one site. Cameras are placed in such a way so as to not disrupt wildlife. Cameras are secured using 6–8 rock bolts drilled into rock outcrops. Each camera is powered by a 10w solar panel and a sealed 12 volt 55 AH gel battery. The batteries are housed in a leak proof plastic case. The cameras will remain deployed for 5 years total and will be completely removed (including bolts and power sources) at the conclusion of the project. Each camera is visited every 1–2 years to retrieve data, make necessary repairs, and remove non-functioning equipment. The cameras are used to measure ice velocity and monitor the calving front of numerous outlet glaciers. The data will help advance scientific knowledge on the mechanics and pace of glacial retreat. Images gained from the cameras will also be used in global outreach campaigns to educate the public about

the speed of climate change's impact on the earth.

Now the applicant proposes a modification to his permit to deploy two more cameras at one site on Amsler Island, proximal to Palmer Station, accessed by zodiacs launched from Lindblad Expeditions' *National Geographic Explorer* ship.

Location: Amsler Island, Antarctic Peninsula.

DATES:

November 1, 2014 to March 21, 2017.

**Nadene G. Kennedy,**

*Polar Coordination Specialist, Division of Polar Programs.*

[FR Doc. 2014–19565 Filed 8–15–14; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2014–0001]**

### Sunshine Act Meeting Notice

**DATES:** Weeks of August 18, 25, September 1, 8, 15, 22, 2014.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**Week of August 18, 2014**

There are no meetings scheduled for the week of August 18, 2014.

**Week of August 25, 2014—Tentative**

*Tuesday, August 26, 2014*

10:00 a.m. Affirmation Session (Public Meeting) (Tentative)

a. Final Rule: Continued Storage of Spent Nuclear Fuel (RIN 3150–AJ20) (Tentative)

b. Direct Final Rule: Safeguards Information—Modified Handling Categorization Change for Materials Facilities (RIN 3150–AJ18) (Tentative)

**Week of September 1, 2014—Tentative**

There are no meetings scheduled for the week of September 1, 2014.

**Week of September 8, 2014—Tentative**

*Tuesday, September 9, 2014*

9:30 a.m. Briefing on NRC International Activities (Closed—Ex. 1 & 9)

*Wednesday, September 10, 2014*

9:30 a.m. Strategic Programmatic Overview of the New Reactors Business Line (Public Meeting) (Contact: Donna Williams, 301–415–1322)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

**Week of September 15, 2014—Tentative**

*Monday, September 15, 2014*

1:30 p.m. NRC All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, 5701 Marinelli Road, Rockville, MD 20852

*Tuesday, September 16, 2014*

9:30 a.m. Briefing on Project Aim 2020 (Closed—Ex. 2)

10:30 a.m. Discussion of Management and Personnel Issues (Closed—Ex. 2 and 6)

*Thursday, September 18, 2014*

9:30 a.m. Briefing on Management of Low-Level Waste, High-Level Waste, and Spent Nuclear Fuel (Public Meeting), (Contact: Cinthya I. Román, 301–287–9091)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

**Week of September 22, 2014—Tentative**

There are no meetings scheduled for the week of September 22, 2014.

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The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Patricia.Jimenez@nrc.gov* or *Brenda.Akstulewicz@nrc.gov.*

Dated: August 13, 2014.

**Rochelle C. Bavol,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2014–19566 Filed 8–14–14; 11:15 am]

**BILLING CODE 7590–01–P**

## POSTAL REGULATORY COMMISSION

**[Docket Nos. CP2014–65; Order No. 2149]**

### New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning an addition of Global Expedited Package Services 3 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* August 19, 2014.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

**I. Introduction**

On August 8, 2014, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

**II. Notice of Commission Action**

The Commission establishes Docket No. CP2014–65 for consideration of matters raised by the Notice.

[1] Notice of the United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, August 8, 2014 (Notice).

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than August 19, 2014. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to serve as Public Representative in this docket.

### III. Ordering Paragraphs

*It is ordered:*

1. The Commission establishes Docket No. CP2014–65 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than August 19, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Shoshana M. Grove,**

*Secretary.*

[FR Doc. 2014–19422 Filed 8–15–14; 8:45 am]

**BILLING CODE 7710–FW–P**

## POSTAL REGULATORY COMMISSION

**[Docket No. CP2014–40; Order No. 2150]**

## New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing concerning a modification to a Global Plus 1C contract previously added to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* August 19, 2014.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

### I. Introduction

On August 8, 2014, the Postal Service filed notice that it has agreed to a modification to the existing Global Plus 1C negotiated service agreement modification approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Modification and a certification of compliance with 39 U.S.C. 3633(a), as required by 39 CFR 3015.5.

The Postal Service also filed the unredacted Modification and supporting financial information under seal. The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. *Id.* at 2.

The Modification changes the wording of Article 7 paragraph 3(h) of the agreement and replaces Annex 1. *Id.* at 1.

The Postal Service asserts that the Modification will not impair the ability of the contract to comply with 39 U.S.C. 3633. Notice, Attachment 2.

### II. Notice of Filings

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than August 19, 2014. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to represent the interests of the general public (Public Representative) in this docket.

### III. Ordering Paragraphs

*It is ordered:*

1. The Commission reopens Docket No. CP2014–40 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Kenneth R. Moeller to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments are due no later than August 19, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

[1] Notice of the United States Postal Service of Filing Modification to Global Plus 1C Negotiated Service Agreement, August 8, 2014 (Notice).

By the Commission.

**Shoshana M. Grove,**

*Secretary.*

[FR Doc. 2014–19423 Filed 8–15–14; 8:45 am]

**BILLING CODE 7710–FW–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72826; File No. SR–OPRA–2014–06]**

## Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Proposed Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information To Amend OPRA's Fee Schedule

August 12, 2014.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 608 thereunder,[2] notice is hereby given that on July 2, 2014, the Options Price Reporting Authority (''OPRA'') submitted to the Securities and Exchange Commission (''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan'').[3] The amendment proposes to eliminate a category of fees for access to OPRA data during periods of after-hours operations and amend certain fees for calendar year 2015. The Commission is publishing this notice to solicit comments from interested persons on the proposed OPRA Plan amendment.

### I. Description and Purpose of the Plan Amendment

The purpose of the proposed amendment is to amend the OPRA Fee Schedule in two respects: first, to eliminate fees specifically for access to data that OPRA disseminates as a result of trading on the markets of one or more

[1] 15 U.S.C. 78k-1.

[2] 17 CFR 242.608.

[3] The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder (formerly Rule 11Aa3–2). *See* Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The full text of the OPRA Plan is available at *http://www.opradata.com.* The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The twelve participants to the OPRA Plan are BATS Exchange, Inc., BOX Options Exchange, LLC, Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, International Securities Exchange, LLC, Miami International Securities Exchange, LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, NASDAQ Stock Market LLC, NYSE MKT LLC, NYSE Arca, Inc., and the Topaz Exchange, LLC (d/b/a ISE Gemini).

OPRA member exchanges during hours outside of OPRA's regular hours of operations (these hours are sometimes referred to in this filing as ''after-hours''); and, second, to establish OPRA's Professional Subscriber Device-Based Fee for calendar year 2015 and make conforming changes in OPRA's Enterprise Rate Professional Subscriber Fee.

As described in a recent filing—File No. OPRA–2014–04—one of OPRA's member exchanges has indicated that it is planning to initiate trading during hours outside of OPRA's regular hours of operations and to request OPRA to operate during the after-hours period when its market is open for trading. No exchange has previously made such a request, and as a result OPRA currently does not operate outside of its regular hours of operations.

OPRA proposed in File No. OPRA–2014–04 to establish fees specifically for receipt of OPRA information disseminated during after-hours operations. The fees established in that filing were based on the premise that OPRA Vendors and Professional Subscribers receiving only regular-hours OPRA data would continue to pay fees only for that data, that OPRA Vendors and Professional Subscribers receiving only after-hours OPRA data would pay fees only for that data, and that OPRA Vendors and Professional Subscribers receiving both regular-hours OPRA data and after-hours OPRA data would pay fees for both data streams. In particular, File No. OPRA–2014–04 provided for an after-hours Professional Subscriber Device-Based Fee of $5.00 per month, with that fee applicable only to devices [4] that are entitled for after-hours data.

Several OPRA Vendors and Professional Subscribers have subsequently advised OPRA that it is impractical for them to administer separate entitlements and fees for regular-hours OPRA data and after-hours OPRA data, and that if the Fee Schedule proposed in File No. OPRA–2014–04 were to be implemented they would need to apply the fees for both data streams to all of their data distribution activities. This would mean that the after-hours Professional Subscriber Device-Based Fee would in effect be a $5.00 per month increase for all devices, and that the other fees established in File No. OPRA–2014–04 for after-hours OPRA data would also be applicable to all OPRA data recipients.

OPRA is therefore revising its Fee Schedule to eliminate the fees specifically for access to after-hours OPRA data, and is also revising its Professional Subscriber Device-Based Fee to specify that the fee during year 2015 will be $28.50 per month, an increase of $1.50 from the fee during 2014. For the years 2008–2014, OPRA has implemented incremental $1.00 per month increases in its Professional Subscriber Device-Based Fee.[5] In effect, for 2015 OPRA is implementing the same $1.00 per month increase that it has implemented in past years plus an additional $0.50 per month as a result of dissemination of the after-hours data. OPRA is also proposing to make conforming changes in its Enterprise Rate for 2015 so that it continues in 2015 to be the monthly Professional Subscriber Device-Based Fee times the number of a Professional Subscriber's U.S.-based registered representatives, subject to a minimum rate that is also determined by reference to the monthly Professional Subscriber Device-Based Fee.

The proposed increases in the Professional Subscriber Device-Based Fee and in the Enterprise Rate are intended to generate revenues for OPRA and its member exchanges that are needed to cover actual and anticipated increases in the costs of collecting, consolidating, processing and disseminating options market information and assuring the reliability and integrity of that information, as well as increases in OPRA's administrative costs. These costs include the enhancements to the OPRA system and related exchange systems that are needed in order to enable OPRA and its participant exchanges to handle the continually increasing volume of market information as a result of the continuing expansion of listed options trading, to accommodate the dissemination of after-hours data and to provide a greater degree of redundancy and security in the OPRA system. Assuming that the number of fee-liable devices and registered persons remains the same,[6] the effect of the increases in these fees would be to increase revenues derived from these fees by approximately 5.6% in the year 2015.

The text of the proposed amendment to the OPRA Plan is available at OPRA, the Commission's Public Reference Room, *http://opradata.com,* and on the Commission's Web site at *www.sec.gov.*

## II. Implementation of the OPRA Plan Amendment

Pursuant to paragraph (b)(3)(i) of Rule 608 of Regulation NMS under the Act, OPRA designated this amendment as establishing or changing fees or other charges collected on behalf of all of the OPRA participant exchanges in connection with access to or use of OPRA facilities. OPRA proposes to put the elimination of the fees specifically for access to after-hours OPRA data into effect immediately,[7] and proposes to put the change in the Professional Subscriber Device-Based Fee into effect as of January 1, 2015. Implementation of the change in this fee on January 1 is consistent with OPRA's prior practice with respect to changes in its Professional Subscriber Device-Based Fee, and will provide ample opportunity to give persons subject to these fees advance notice of the change.

The Commission may summarily abrogate the amendment within sixty days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 608(b)(2) under the Act [8] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment is consistent with the

[4] OPRA permits the counting of ''User IDs'' as a surrogate for counting ''devices'' for purposes of the Professional Subscriber Device-based Fees. *See* footnote 2 in the OPRA Fee Schedule and OPRA's ''Policies with respect to Device-based Fees,'' which are available on the OPRA Web site under the ''Policies'' tab.

[5] OPRA's practice in the recent past has been to establish the Professional Subscriber Device-Based Fee for several years at a time. Most recently, OPRA established the Professional Subscriber Device-Based Fee at $24.00 per month for the year 2011, $25.00 per month for the year 2012, $26.00 per month for the year 2013 and $27.00 per month for the year 2014. *See* File No. OPRA–2010–03, Release No. 34–63273 (November 8, 2010). In this filing, OPRA is establishing the Professional Subscriber Device-Based Fee only for the year 2015, since the introduction of after-hours trading makes the forecasting of future OPRA revenues particularly uncertain at this time.

[6] This assumption may be too optimistic, unless the introduction of after-hours trading results in the dissemination of OPRA data to additional devices and registered persons. Over the past ten years, the number of devices with access to OPRA data has decreased by approximately 32%.

[7] OPRA stated in File No. OPRA–2014–04 that it would put the revised Fee Schedule into effect as of the first day of a calendar month after one or more of OPRA's member exchanges had initiated after-hours trading. Since no OPRA member exchange is planning to provide after-hours trading before October 2014, OPRA has not charged, and will not be charging, fees on the basis of the revised Fee Schedule described in File No. OPRA–2014–04.

[8] 17 CFR 242.608(b)(2).

Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–OPRA–2014–06 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–OPRA–2014–06. 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 plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment 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 OPRA. 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–OPRA–2014–06 and should be submitted on or before September 4, 2014.

By the Commission.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–19482 Filed 8–15–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72820; File No. SR–OPRA–2013–03]**

## Options Price Reporting Authority; Notice of Filing of Proposed Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information To Amend Sections 5.4 and 7.1 of the OPRA Plan

August 12, 2014.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 608 thereunder,[2] notice is hereby given that on October 21, 2013, the Options Price Reporting Authority, LLC (''OPRA'') submitted to the Securities and Exchange Commission (''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan'').[3] The proposed amendment would modify Sections 5.4 and 7.1 of the OPRA Plan as they pertain to operations of OPRA outside of its regular hours of operations. The Commission is publishing this notice to solicit comments from interested persons on the proposed OPRA Plan amendment.

### I. Description and Purpose of the Plan Amendment

The purpose of the proposed amendment is to amend the OPRA Plan so that it provides for the aggregation of costs for operations of OPRA outside of its regular hours of operations (''after-hours operations'') with costs for operations of OPRA during its regular hours of operations (''regular-hours operations'') and states expressly that OPRA may establish separate fees for access to OPRA data during periods of after-hours operations.

One of OPRA's member exchanges has indicated that it is planning to initiate after-hours trading and to request OPRA to operate during the after-hours period when its market is open for trading.[4] No exchange has previously made such a request, and as a result OPRA currently does not operate outside of its regular hours of operations.

Currently, the OPRA Plan provides that the costs of OPRA's after-hour operations are to be allocated separately from the costs of OPRA's regular-hour operations and in a somewhat different manner. In essence, the Plan currently provides that the costs of OPRA's regular-hour operations below a specified ceiling [5] and OPRA's revenues from regular-hour operations are both to be allocated among the OPRA member exchanges on the basis of the relative number of compared trades in options contracts traded on each of the OPRA member exchanges.[6]

The current provisions of the Plan state that, if the OPRA System operates outside of OPRA's regular hours, any costs attributable to such operation will be allocated to the exchange or exchanges that are actually operating during the after-hours period. The Plan does not make any special provision for the allocation of revenues resulting from fees for access to OPRA data generated in the course of after-hours operations, and the Plan therefore provides that

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder (formerly Rule 11Aa3–2). *See* Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The full text of the OPRA Plan is available at *http://www.opradata.com.* The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The twelve participants to the OPRA Plan are BATS Exchange, Inc., BOX Options Exchange, LLC, Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, International Securities Exchange, LLC, Miami International Securities Exchange, LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, NASDAQ Stock Market LLC, NYSE MKT LLC, NYSE Arca, Inc., and the Topaz Exchange, LLC (d/b/a ISE Gemini).

[4] The OPRA Plan provides that the OPRA System will operate outside of its regular hours of operation at the request of any one or more of its member exchanges. *See* Section 5.3 of the OPRA Plan (available on the OPRA Web site, *www.opradata.com,* under the ''OPRA Plan'' tab). OPRA is not proposing to amend Section 5.3 of the OPRA Plan.

[5] Clause 7.1(a)(iii)(2) of the Plan provides that costs above a ''specified ceiling'' are to be allocated in accordance with OPRA's Capacity Guidelines. (OPRA's Capacity Guidelines are available on the OPRA Web site, also under the ''OPRA Plan'' tab.) The ''ceiling'' is described in Guideline 7 of the Capacity Guidelines. OPRA is not proposing any change in the allocation of costs that is described in the Capacity Guidelines.

[6] Section 7.1 of the Plan provides for three ''accounting centers'': The foreign currency option or ''FCO'' accounting center, the index option accounting center and the ''basic'' accounting center—the accounting center for all options other than foreign currency and index options. Section 7.1 describes the allocation of revenues and expenses associated with OPRA's regular-hour operations first *among* these three accounting centers and then *within* each of these accounting centers. OPRA does not currently incur costs specifically attributable to either the FCO accounting center or the index option accounting center, and does not allocate revenues to either of these accounting centers. Both the allocation of costs *among* the accounting centers and the allocation of costs *within* each accounting center are therefore on the basis of the relative number of compared trades in options contracts traded on each of the OPRA member exchanges. *See, e.g.,* Section 7.1(a)(iii)(B) of the Plan.

these revenues will be allocated among the OPRA member exchanges in the same way that revenues derived from regular-hours operations are allocated. The result is that the Plan currently provides for the allocation of costs of after-hours trading only to the exchange or exchanges that are actually operating during the after-hours period, but for the allocation of revenues resulting from fees for access to quotation and last sale information generated in the course of after-hours operations to all of the OPRA member exchanges on the basis of the relative number of compared trades in options contracts traded on each of the OPRA member exchanges in trading during both regular hours and outside of regular hours.

OPRA is therefore proposing to revise the Plan to provide that the costs of after-hours operations will be aggregated with the costs of operating the OPRA System during regular hours of operation. The consequence of the revision would be that the aggregated costs of operating the System during all hours of operation would be allocated among all of OPRA's member exchanges, regardless of whether any particular exchange operates its market outside of regular hours. OPRA believes that this amendment will better align the provisions of the Plan relating to the allocation of costs of after-hours operations with the provisions of the Plan relating to the allocation of revenues derived from after-hours trading.

OPRA's Fee Schedule does not currently provide for fees specifically for access to OPRA data during periods of after-hours operations. OPRA believes that, in order to fairly allocate the burden of funding OPRA's after-hours operations to those persons who choose to have access to OPRA information during periods of after-hours operations, it will be appropriate to establish such fees rather than increase its current fees, and OPRA is proposing to add a sentence in Section 5.4(d) to state expressly that it may establish such fees.[7] However, OPRA is not proposing in this filing to amend its Fee Schedule to establish fees for access to data generated in after-hours trading.

The text of the proposed amendment to the OPRA Plan is available at OPRA, the Commission's Public Reference Room, *http://opradata.com,* and on the Commission's Web site at *www.sec.gov.*

[7] OPRA is also proposing in this filing to make a non-substantive change to Section 5.4(d) to reflect that the OPRA Fee Schedule is no longer identified as ''Exhibit B'' to the OPRA Plan but is publicly available on the OPRA Web site under the ''Fees'' tab.

## II. Implementation of the OPRA Plan Amendment

OPRA will implement the proposed amendment to the OPRA Plan after this filing has been approved by the Commission in accordance with paragraph (b)(1) of Rule 608 of Regulation NMS under the Act.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–OPRA–2013–03 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–OPRA–2013–03. 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 plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment 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 OPRA. 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–OPRA–2013–03 and should be submitted on or before September 8, 2014.

By the Commission.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–19476 Filed 8–15–14; 8:45 am]

**BILLING CODE 8011–01–P**

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72824; File No. SR–OPRA–2014–03]**

## Options Price Reporting Authority; Notice of Filing of Proposed Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information To Amend OPRA's Definition of the Term ''Nonprofessional''

August 12, 2014.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 608 thereunder,[2] notice is hereby given that on March 11, 2014, the Options Price Reporting Authority (''OPRA'') submitted to the Securities and Exchange Commission (''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan'').[3] The proposed amendment revises definition of the term ''Nonprofessional.'' The Commission is publishing this notice to solicit comments from interested persons on the proposed OPRA Plan amendment.

## I. Description and Purpose of the Plan Amendment

The purpose of the proposed amendment is to revise OPRA's definition of the term ''Nonprofessional.''

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder (formerly Rule 11Aa3–2). *See* Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The full text of the OPRA Plan is available at *http://www.opradata.com.* The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The twelve participants to the OPRA Plan are BATS Exchange, Inc., BOX Options Exchange, LLC, Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, International Securities Exchange, LLC, Miami International Securities Exchange, LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, NASDAQ Stock Market LLC, NYSE MKT LLC, NYSE Arca, Inc., and the Topaz Exchange, LLC (d/b/a ISE Gemini).

A person may become an OPRA ''Subscriber'' in one of two ways.[4] The first way is that the person may sign a ''Professional Subscriber Agreement'' directly with OPRA. In this case, the person pays fees directly to OPRA on the basis of the number of the person's ''devices'' and/or ''UserIDs.''

The second way is that the person may enter into a ''Subscriber Agreement,'' not directly with OPRA, but with an OPRA ''Vendor''—an entity that has entered into a ''Vendor Agreement'' with OPRA authorizing the entity to redistribute OPRA Data to third persons. In this case, OPRA collects fees from the Vendor with respect to the receipt of the OPRA Data by the person entering into the Subscriber Agreement. If the person qualifies as a ''Nonprofessional Subscriber,'' OPRA caps the fee that it charges the Vendor, and the fees that the person is required to pay to the Vendor may be less than they would be if the person is classified as a ''Professional Subscriber.''[5]

OPRA's definition of the term ''Nonprofessional'' is set out in an ''Addendum for Nonprofessionals'' that is attached to its Electronic Form of Subscriber Agreement and its Hardcopy Form of Subscriber Agreement. These two forms, in turn, are Attachments B–1 and B–2 to OPRA's form of Vendor Agreement.[6]

Paragraph (c) of OPRA's current definition of the term ''Nonprofessional'' specifies that to qualify as a ''Nonprofessional'' a person must not be: ''(i) Registered or qualified with the Securities and Exchange Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange/association, or any commodities/futures contract market/association, (ii) engaged as an ''investment adviser,'' as that term is defined in the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under Federal and/or state securities laws to perform functions that would require you to be so registered or qualified if you were to perform such functions for an organization not so exempt.'' A narrow literal reading of this language could lead to the conclusion that a person who works outside of the United States as (for example) a securities broker could qualify as a ''Nonprofessional,'' because the person is not literally described by clauses (i), (ii) or (iii) of Paragraph (c).

OPRA is not aware of any instances in which an OPRA Vendor has determined that Subscribers who work outside the United States qualify to be Nonprofessional Subscribers on the basis of reading the definition of the term ''Nonprofessional'' in this manner.[7] However, OPRA believes that it is appropriate to modify the language to prevent this reading. OPRA proposes to accomplish this, essentially, by adding a phrase at the beginning of Paragraph (c) to say that the current language is applicable to persons who work in the United States and adding a sentence to Paragraph (c) to say that ''For a natural person who works outside of the United States, a 'Professional' is a natural person who performs the same functions as someone who would be considered a 'Professional' in the United States.'' OPRA believes that the changes that it is proposing in its definition of the term ''Nonprofessional'' will add clarity to the definition and make clear that it is intended to generate equivalent results both inside and outside the United States.

The text of the proposed amendment to the OPRA Plan is available at OPRA, the Commission's Public Reference Room, *http://opradata.com,* and on the Commission's Web site at *www.sec.gov.*

## II. Implementation of the OPRA Plan Amendment

OPRA is proposing to post revised versions of its Electronic Form of Subscriber Agreement and its Hardcopy Form of Subscriber Agreement on its Web site, and to require Vendors to use the revised versions on a going-forward basis, as soon as this filing has been approved by the Commission in accordance with paragraph (b)(1) of Rule 608 of Regulation NMS under the Securities Exchange Act of 1934. If OPRA becomes aware that a Vendor has been misclassifying Subscribers who work outside the United States as Nonprofessional Subscribers on the basis of a literal reading of the current language of the Addendum for Nonprofessionals, OPRA will bring the matter to the attention of the Vendor and require the Vendor to use the revised Subscriber Agreements and to reclassify the affected Subscribers.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–OPRA–2014–03 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–OPRA–2014–03. 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 plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment 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 OPRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only

[4] OPRA defines a ''Subscriber,'' in general, as an entity or person that receives OPRA Data for the person's own use.

[5] OPRA's Fee Schedule provides that a Vendor may determine the fee that it pays with respect to its distribution of current OPRA data to a Nonprofessional Subscriber in one of two ways: Either the Vendor may pay OPRA's flat monthly Nonprofessional Subscriber Fee (currently $1.25/month), or the Vendor may count the Nonprofessional Subscriber's queries for OPRA data and pay Usage-based Vendor Fees based on the actual usage of OPRA data by the Nonprofessional Subscriber, subject to a cap that OPRA has always set at the amount of the flat Nonprofessional Subscriber Fee.

[6] These forms are posted on OPRA's Web site, *www.opradata.com.* OPRA most recently amended its Electronic Form of Subscriber Agreement and its Hardcopy Form of Subscriber Agreement in File No. SR–OPRA–2012–03; Release No. 34–67589 (August 2, 2012).

[7] OPRA is aware that the definition of the term ''Nonprofessional Subscriber'' used by the Consolidated Tape Association (''CTA''), which is substantively identical to OPRA's definition in almost all respects, prevents a similar literal reading of its definition.

information that you wish to make available publicly. All submissions should refer to File Number SR–OPRA–2014–03 and should be submitted on or before September 8, 2014.

By the Commission.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–19480 Filed 8–15–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72825; File No. SR–OPRA–2014–04]**

## Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Proposed Amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information To Amend OPRA's Fee Schedule To Establish Fees for After-Hours Operations

August 12, 2014.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 608 thereunder,[2] notice is hereby given that on April 3, 2014, the Options Price Reporting Authority (''OPRA'') submitted to the Securities and Exchange Commission (''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan'').[3] The proposed amendment establishes a category of fees for access to OPRA data during periods of after-hours operations. The Commission is publishing this notice to solicit comments from interested persons on the proposed OPRA Plan amendment.

### I. Description and Purpose of the Plan Amendment

The purpose of the proposed amendment is to amend the OPRA Fee Schedule to include fees for access to data that OPRA disseminates as a result of trading on the markets of one or more OPRA member exchanges during hours outside of OPRA's regular hours of operations (''after-hours'' operations). One of OPRA's member exchanges has indicated that it is planning to initiate trading during hours outside of OPRA's regular hours of operations and to request OPRA to operate during the after-hours period when its market is open for trading. No exchange has previously made such a request, and as a result OPRA currently does not operate outside of its regular hours of operations.

OPRA's Fee Schedule does not currently provide for fees specifically for access to OPRA data during periods of after-hours operations. OPRA believes that, in order to fairly allocate the burden of funding OPRA's after-hours operations to those persons who choose to have access to OPRA information during periods of after-hours operations, it is appropriate, rather than to increase its current fees, to establish fees specifically for receipt of OPRA information disseminated during after-hours operations.

The after-hours service fees that OPRA is proposing are shown in Exhibit I. In general, with the exception of the Usage-based Vendor Fee and the Voice-Synthesized Market Data Service Fee—which are described below—the proposed after-hours service fees are established at approximately twenty percent of their counterparts for regular hours. For example, the after-hours Professional Subscriber Device-Based Fee is proposed to be $5.00 per device, compared to $27.00 per device for the regular hours Professional Subscriber Device-Based Fee, and the after-hours Nonprofessional Subscriber Fee is proposed to be $0.25 per nonprofessional, compared to $1.25 per nonprofessional for the regular hours Nonprofessional Subscriber Fee.

The proposed after-hours Usage-based Vendor Fees are the same as the Usage-based Vendor Fees during regular hours. The Usage-based Vendor Fees are on a ''per quote'' basis for either ''quote packets'' or ''options chains,'' and a quote packet or options chain disseminated during after-hours operations would include the same amount of information as one disseminated during regular hours. Footnote 8 to the Fee Schedule is amended to apply the same ''cap'' concept to after-hours Usage-based Vendor Fees that currently applies during regular hours, so that these fees are capped at $5.00 per device for Professional Subscribers and at $.25 for nonprofessional subscribers. Footnote 5 to the Fee Schedule is revised to state an ''Enterprise Rate Nonprofessional Subscriber Fee'' for after-hours service of $75,000 per month.

The Voice-Synthesized Market Data Service Fee for after-hours service is proposed at the same rate as the Usage-based Vendor Fee, as is the case for regular hours service.

OPRA is not proposing an ''Enterprise Fee'' alternative at this time for the after-hours Non-Display Application Fee. OPRA believes that Professional Subscribers are unlikely to be interested in an Enterprise Rate alternative for the after-hours Non-Display Application Fee. However, OPRA is prepared to implement an Enterprise Fee alternative for this fee if it becomes apparent that there is any interest in it.

Footnote 12 to the OPRA Fee Schedule provides an example to illustrate the statement in the ''Description'' of the Non-Display Application Fee that the fee ''includes device-based fees with respect to the servers or other devices that comprise the trading engine, up to the amount'' of the Non-Display Application Fee. OPRA is proposing to revise the example so that it utilizes the 2014 regular hours Professional Subscriber Device-based Fee of $27.00 (instead of the now-obsolete 2012 Professional Subscriber Device-based Fee of $25.00), and provides a parallel example for the after-hours fee using the after-hours ''per installation'' fee and the proposed after-hours Professional Subscriber Device-based Fee of $5.00.

OPRA is not establishing an after-hours Control Service Fee or a Television Fee at this time. OPRA does not currently have any authorized control service providers, and believes that the control service provider program is not likely to be of interest during after-hours operations. Similarly, OPRA does not anticipate that any Vendor is likely to be interested in providing television display of after-hours OPRA information. In each case, however, OPRA is prepared to make the service available if it becomes apparent that there is any interest in it.

Similarly, OPRA believes that Vendors are unlikely to be interested in an after-hours Enterprise Fee for the Hosted Solution Fee. However, OPRA is prepared to implement an Enterprise Fee alternative for this fee if it becomes apparent that there is any interest in it.

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder (formerly Rule 11Aa3–2). *See* Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The full text of the OPRA Plan is available at *http://www.opradata.com.* The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The twelve participants to the OPRA Plan are BATS Exchange, Inc., BOX Options Exchange, LLC, Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, International Securities Exchange, LLC, Miami International Securities Exchange, LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, NASDAQ Stock Market LLC, NYSE MKT LLC, NYSE Arca, Inc., and the Topaz Exchange, LLC (d/b/a ISE Gemini).

It is not possible to estimate with any precision the revenues that these fees may generate. OPRA's best guess is that these fees may generate up to $100,000 in gross revenues per month a few months after they are first implemented. OPRA and the participant exchanges will incur additional costs associated with OPRA's after-hours operations, and OPRA believes that these fees will represent an appropriate contribution to covering the overall costs of OPRA and its member exchanges to which these fees may properly be applied.

The text of the proposed amendment to the OPRA Plan is available at OPRA, the Commission's Public Reference Room, *http://opradata.com,* and on the Commission's Web site at *www.sec.gov.*

## II. Implementation of the OPRA Plan Amendment

Pursuant to paragraph (b)(3)(i) of Rule 608 of Regulation NMS under the Act, OPRA designated this amendment as establishing or changing fees or other charges collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities. In order to give persons subject to these fees advance notice of the changes, OPRA proposes to provide notice of the changes to OPRA Vendors at least two months before the date on which one or more of OPRA's member exchanges plans to initiate trading during hours outside of OPRA's regular hours of operation, and to put the changes into effect as of the first day of a calendar month after one or more of OPRA's member exchanges has initiated trading during hours outside of OPRA's regular hours of operation, but no sooner than July 1, 2014.

The Commission may summarily abrogate the amendment within sixty days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 608(b)(2) under the Act [4] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–OPRA–2014–04 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OPRA–2014–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed plan amendment that are filed with the Commission, and all written communications relating to the proposed plan amendment 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 OPRA. 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–OPRA–2014–04 and should be submitted on or before September 8, 2014.

By the Commission.

**Kevin M. O'Neill,**

*Deputy Secretary.*

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[4] 17 CFR 242.608(b)(2).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72815; File No. SR–NYSEMKT–2014–65]**

## Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 935NY and Rule 964NY To Delete Obsolete References to Tracking Orders and Make Other Non-Substantive, Technical Changes to the Exchange Rules

August 12, 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 July 31, 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 and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 935NY (Order Exposure Requirements) and Rule 964NY (Display, Priority and Order Allocation—Trading Systems) to delete obsolete references to Tracking Orders and make other non-substantive, technical changes to the Exchange rules. 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.

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange recently filed and received approval of a rule change amending rules governing Exchange order types, which included the deletion of Tracking Orders, an order type which had been deemed obsolete due to a lack of demand by market participants.[3] When the Exchange eliminated Tracking Orders, references to Tracking Orders were inadvertently left in Rule 935NY and Rule 964NY. This filing is intended to correct that oversight by deleting the references to Tracking Orders that are no longer relevant.

First, the Exchange is proposing to delete Commentary .05 to Rule 935NY to eliminate reference to Tracking Orders, which as noted are no longer valid for use on the Exchange, and to designate Commentary .05 as Reserved.

Similarly, the Exchange is proposing to delete section (F) from Rule 964NY(b)(2) to delete reference to Tracking Orders. In addition, the Exchange proposes to amend Rule 964NY(c)(2)(E) by combining subsections (ii) and (iii), in doing so the Exchange would eliminate reference to Tracking Orders and would update the subsequent rule text in that section to accurately describe the functionality now that Tracking Orders are no longer valid. In light of the foregoing change, the Exchange believes it is also appropriate to amend the paragraph following former subsection Rule 964NY(c)(2)(E)(iii) by deleting the clause bracketed below, as the Exchange believes that it is rendered superfluous by the proposed change:

> If [neither of the conditions specified in subsections (i) or (ii) apply, and] the order is no longer marketable, or, if an order has been designated as an order type that is not eligible to be routed away, the order either will be placed in the Consolidated Book or cancelled if such order would lock or cross the NBBO.

The Exchange believes the proposed deletion of this clause is appropriate because the order is either going to be executed at the next available price (Rule 964NY(c)(2)(E)(i)) or, if it locks or crosses the NBBO, the Exchange will route it out (proposed Rule 964NY(c)(2)(E)(ii), which incorporates language from current subsection (iii). Finally, the Exchange also proposes to delete the reference to Tracking Orders as contained in Rule 964NY(c)(3)(C) because it is an obsolete reference.

The above mentioned rule changes are non-substantive and technical in nature and simply designed to remove references to an obsolete order type.

Separately, the Exchange is also proposing to update an obsolete reference in Rule 964NY(d) (Prohibited Conduct Relating to Crossing Orders). In 2009, the Exchange filed and received approval of a rule change that reduced the exposure time during which Amex Users may not execute as principal against orders they represent as agent from three seconds to one second as found in Rule 935NY.[4] However, Rule 964NY(d)(1), which references the exposure time, was never adjusted to reflect the change. The Exchange now proposes to remove the outdated reference to the three-second exposure requirement found in Rule 964NY(d)(1). The Exchange also proposes to add a reference to Rule 935NY, in lieu of including the actual exposure time in Rule 964NY(d)(1). The Exchange believes changing the rule text in Rule 964NY(d)(1) to reference to Rule 935NY would ensure consistency and transparency in Exchange rules, as any future changes to Rule 935NY would automatically be taken into account by Rule 964NY(d)(1), and would reduce any confusion among market participants.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[5] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[6] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. Specifically, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanisms of a free and open market and add transparency and clarity to the Exchange's rules. The Exchange further believes that eliminating references to an obsolete order type and updating an outmoded reference promotes just and equitable principles of trade, fosters cooperation and coordination among persons engaged in facilitating securities transactions, and removes impediments to and perfects the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the order types available for trading on the Exchange.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather to revise obsolete or inaccurate rule text and to remove language pertaining to unavailable functionality in the Exchange's rulebook, thereby reducing confusion and making the Exchange's rules easier to understand and navigate. The Exchange believes that the proposed rule change will serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

*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[7] and Rule 19b–4(f)(6) thereunder.[8] 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)

[3] *See* Securities and Exchange Release 71630 (February 27, 2014), 79 FR 12553 (March 5, 2014) (SR–NYSEMKT–2014–05).

[4] *See* Securities and Exchange Release No. 59956 (May 21, 2009), 74 FR 25782, (May 29, 2009) (NYSEAmex–2009–15).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [9] 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–2014–65 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–2014–65. 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 Section, 100 F Street NE., Washington, DC 20549–1090. Copies of the filing will also be available for Web site viewing and printing at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–2014–65 and should be submitted on or before September 8, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–19473 Filed 8–15–14; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(2)(B).

[10] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72823; File No. SR–C2–2014–016]**

## Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule

August 12, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 1, 2014, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.c2exchange.com/Legal/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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 Exchange currently charges firms a fee of $350 per month for the first 10 Trading Permit Holder workstations (''TPH Workstations'') and $100 per month for all subsequent TPH Workstations. TPHs may also make a workstation available to their customers, which may include non-broker dealer public customers and non-TPH broker dealers (referred to herein as ''non-TPH Workstations''). For such non-TPH workstations, the Exchange currently charges a fee of $350 per month per workstation.[3] In addition, the Exchange waives the monthly workstation fees for the first month for the first new user of a TPH or non-TPH using a PULSe workstation.[4]

The purpose of this proposed rule change is to modify the limited fee waiver available to new users of a TPH or non-TPH Workstation. Specifically, in order to give new users time to become familiar with and fully acclimated to the PULSe workstation functionality, the Exchange proposes to waive the monthly workstation fees for the first two months for all new users [5]

[3] In instances where two or more TPHs wish to make a PULSe workstation available to the same non-TPH customer, a fee reduction applies. Under the reduction, if two or more TPHs make the PULSe workstation available to the same non-TPH customer, then the monthly fee is reduced from $350 to $250 per workstation per TPH.

[4] A TPH or non-TPH Workstation is utilized by a ''user'' with a specific user login. When a firm with an existing workstation, either TPH or non-TPH, adds another workstation another user login is generated. Currently, the firm receives a one month fee waiver for the workstation utilized by the new user login, but continues to pay the fee for the previous workstation.

[5] A firm that is currently utilizing a TPH or non-TPH Workstation but seeks to add another workstation is adding a new user. The proposal allows for a fee waiver for all new users between August 1, 2014 and December 31, 2014. For

Continued

between August 1, 2014 and December 31, 2014.[6] In addition, the fee for August 2014 is waived for any users that became new users in July 2014. After December 31, 2014, the PULSe workstation fee will revert to its current form, which provides that the fee is waived for the first month for the first new user of a TPH or non-TPH workstation. The proposed fee waivers are based on CBOE's [sic] billing period, which is based on a calendar month (*i.e.,* begins on the first day of each month and ends on the last day of each month). For example, if a firm has a new user that begins using a PULSe workstation on August 15th, the firm's workstation fees for the new user would be waived from August 15th–September 30th (*i.e.,* their August and September bills would not have a charge for the new user's workstation) or if a firm has a new user that begins using a PULSe workstation on September 25th, the firm's workstation fees for the new user would be waived from September 25th–October 31st (*i.e.,* their September and October bills would not have a charge for the new user's workstation).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[10] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

In particular, the Exchange believes the fee waiver is reasonable because the fee waivers will serve as an incentive for TPHs and their sponsored user customers to use the PULSe workstation as an additional trading tool on their trading desks. In addition, it is an incentive for firms that had new users in July 2014 to remain users of their workstation. The Exchange believes that it is equitable and not unfairly discriminatory because all firms with new users after August 1, 2014 and prior to December 31, 2014, are eligible for the fee waiver. In addition, allowing firms with new users in July 2014 to receive a fee waiver for August 2014 is not retroactive because under the current rules the firms are already receiving a fee waiver for July. Although firms that were already utilizing PULSe prior to July 2014 only received a one month fee waiver, which may be perceived as unfair discrimination, they too may have new users in the coming months and will benefit from the two month fee waiver for new users.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

C2 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.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and paragraph (f) of Rule 19b–4[12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings 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–C2–2014–016 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–C2–2014–016. 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

example, if a firm has one workstation and adds three more in August, the firm will get a fee waiver for the three new workstations for two months (i.e., their August and December [sic] bill will not have a charge for the three new workstations). A firm that is not currently utilizing a TPH or non-TPH Workstation may also add any number of workstations from August 1, 2014 and December 31, 2014, and receive the same two month fee waiver.

[6] If a firm has a new user in December, the firm will receive a fee waiver for that user for December 2014 and January 2015.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2014–016 and should be submitted on or before September 8, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–19479 Filed 8–15–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72813; File No. SR–NASDAQ–2014–053]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of the Shares of the iShares Commodities Strategy ETF of iShares U.S. ETF Trust

August 12, 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 July 31, 2014, The NASDAQ Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in in Items I and II below, which Items have been prepared by Nasdaq. 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

Nasdaq proposes to list and trade the shares of the iShares Commodities Strategy ETF (the ''Fund'') of iShares U.S. ETF Trust (the ''Trust'') under Nasdaq Rule 5735 (''Managed Fund Shares''), under Nasdaq Rule 5735 (''Managed Fund Shares''). The shares of the Fund are collectively referred to herein as the ''Shares.''

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at Nasdaq's principal office, and at the Commission's Public Reference Room.

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq 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 Exchange proposes to list and trade the Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares[3] on the Exchange.[4] The Fund will be an actively managed exchange-traded fund (''ETF''). The Shares will be offered by the Trust, which was established as a Delaware statutory trust on June 21, 2011.[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 is a series of the Trust. With respect to the futures contracts held indirectly through a wholly-owned subsidiary controlled by the Fund and organized under the laws of the Cayman Islands (referred to herein as the ''Subsidiary''), not more than 10% of the weight[7] of such futures contracts in the aggregate shall consist of instruments whose principal trading 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.

BlackRock Fund Advisors will be the investment adviser (''Adviser'') to the Fund. BlackRock Investments, LLC (''Distributor'') will be the principal underwriter and distributor of the Fund's Shares. State Street Bank and Trust Company will act as the administrator, accounting agent, custodian (''Custodian'') and transfer agent to the Fund.

Paragraph (g) of Rule 5735 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.[8] In addition,

[3] 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) (the ''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 Index Fund Shares, listed and traded on the Exchange under Nasdaq Rule 5705, 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.

[4] The Commission approved Nasdaq Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR-NASDAQ–2008–039). The Fund would not be the first actively-managed fund listed on the Exchange; *see* Securities Exchange Act Release No. 66489 (February 29, 2012), 77 FR 13379 (March 6, 2012) (SR–NASDAQ–2012–004) (order approving listing and trading of WisdomTree Emerging Markets Corporate Bond Fund). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

[5] The Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act (the ''Exemptive Order''). *See* Investment Company Act Release No. 29571 (January 24, 2011) (File No. 812–13601). In compliance with Nasdaq Rule 5735(b)(5), which applies to Managed Fund Shares based on an international or global portfolio, the Trust's application for exemptive relief under the 1940 Act states that the Fund will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933 (15 U.S.C. 77a).

[6] *See* Registration Statement on Form N–1A for the Trust, dated January 24, 2014 (File Nos. 333–179904 and 811–22649). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement.

[7] To be calculated as the value of the contract divided by the total absolute notional value of the Subsidiary's futures contracts.

[8] 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 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

Continued

paragraph (g) 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, non-public information regarding the open-end fund's portfolio. Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(i); however, paragraph (g) in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a broker-dealer, although it is affiliated with the Distributor, a broker-dealer. The Adviser has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's (including the Subsidiary's) portfolio. In the event (a) the Adviser becomes newly affiliated with a broker-dealer or registers as 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, if 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. The Fund does not currently intend to use a sub-adviser.

iShares Commodities Strategy ETF

The Fund's investment objective is to seek total return by providing investors with broad commodity exposure.

Principal Investments

Fund's Investments

The Fund will be an actively managed ETF that seeks to achieve its investment objective by investing in a combination of exchange-traded commodity futures contracts, exchange-traded options on futures contracts and exchange-cleared swaps (together and as further described below, ''Commodity-Linked Investments'') and exchange-traded commodity-related equities (''Commodity-Related Equities''), thereby obtaining exposure to the commodities markets.

Commodity-Linked Investments will be comprised of exchange-traded futures contracts on the 22 commodities that comprise the S&P GSCI Index and index futures linked to commodities. Although the Fund generally holds the same futures contracts as the S&P GSCI Index, the Fund is not obligated to invest in such futures contracts and does not seek to track the performance of the S&P GSCI Index. Commodity-Linked Investments will also be comprised of exchange-cleared swaps on commodities, and exchange-traded options on futures that provide exposure to the investment returns of the commodities markets, without investing directly in physical commodities.

Commodity-Related Equities will be comprised of exchange-traded common stocks of companies that operate in commodities, natural resources and energy businesses, and in associated businesses, as well as companies that provide services or have exposure to such businesses.

The Fund will invest directly in Commodity-Related Equities and will seek to gain exposure to Commodity-Linked Investments through investments in the Subsidiary. The Fund's investment in the Subsidiary may not exceed 25% of the Fund's total assets. The remainder of the Fund's assets will be invested, either directly by the Fund or through the Subsidiary, in: (1) Short-term investment grade fixed income securities that include U.S. government and agency securities,[9] treasury inflation-protected securities, sovereign debt obligations of non-U.S. countries, and repurchase agreements; (2) money market instruments; [10] and (3) cash and other cash equivalents. The Fund will use such instruments as investments and to collateralize the Subsidiary's Commodity-Linked Investments exposure on a day-to-day basis.

The Fund will not invest directly in physical commodities. The Fund may invest directly in exchange-traded notes (''ETNs''),[11] commodity-linked notes,[12] ETFs [13] and other investment companies, including exchange-traded closed-end funds that provide exposure to commodities, equity securities and fixed income securities to the extent permitted under the 1940 Act.[14]

The Fund's investment in the Subsidiary will be designed to help the Fund achieve exposure to commodity returns in a manner consistent with the federal tax requirements applicable to the Fund and other regulated investment companies.

Subsidiary's Investments

The Subsidiary will seek to make investments generally in Commodity-Linked Investments. The Adviser will use its discretion to determine the percentage of the Fund's assets allocated to the Commodity-Linked Investments held by the Subsidiary and the Commodity-Related Equities portion of the Fund's portfolio. Generally, the Adviser will take various factors into account on a periodic basis in allocating the assets of the Fund, including, but not limited to the results of proprietary models developed by the Adviser, the performance of index benchmarks for the Commodity-Linked Investments and Commodity-Related Equities relative to each other, relative price differentials for a range of commodity futures for current delivery as compared to similar commodity futures for future delivery,

implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[9] Such securities will include securities that are issued or guaranteed by the U.S. Treasury, by various agencies of the U.S. government, or by various instrumentalities, which have been established or sponsored by the U.S. government. U.S. Treasury obligations are backed by the ''full faith and credit'' of the U.S. government. Securities issued or guaranteed by federal agencies and U.S. government-sponsored instrumentalities may or may not be backed by the full faith and credit of the U.S. government.

[10] For the Fund's purposes, money market instruments will include: short-term, high-quality securities issued or guaranteed by non-U.S. governments, agencies and instrumentalities; non-convertible corporate debt securities with remaining maturities of not more than 397 days that satisfy ratings requirements under Rule 2a–7 of the 1940 Act; money market mutual funds; and deposits and other obligations of U.S. and non-U.S. banks and financial institutions. As a related matter, according to the Registration Statement, the Fund may invest in shares of money market mutual funds to the extent permitted by the 1940 Act.

[11] As would be listed under Nasdaq Rule 5710.

[12] Such commodity-linked notes will not be exchange-traded. The Fund's investments in such commodity-linked notes will generally be limited to circumstances in which the Fund reaches position limits, accountability levels or price limits on one or more exchange-traded futures contracts or index futures in which the Fund invests.

[13] 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. The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depositary Receipts (as described in Nasdaq Rule 5705), and Managed Fund Shares (as described in Nasdaq Rule 5735).

[14] Not more than 10% of the equity securities (including shares of ETFs and closed-end funds) and ETNs in which the Fund may invest will be invested in securities that trade in markets that are not members of the ISG, which includes all U.S. national securities exchanges, or are not parties to a comprehensive surveillance sharing agreement with the Exchange.

and other market conditions. The weightings of the Fund's portfolio will be reviewed and updated at least annually.

The Subsidiary will be advised by the Adviser.[15] The Fund's investment in the Subsidiary is intended to provide the Fund with exposure to commodity markets within the limits of current federal income tax laws applicable to investment companies such as the Fund, which limit the ability of investment companies to invest directly in the derivative instruments. The Subsidiary will have the same investment objective as the Fund, but unlike the Fund, it may invest without limitation in Commodity-Linked Investments. The Subsidiary's investments will provide the Fund with exposure to domestic and international markets.

The Subsidiary will initially consider investing in futures contracts set forth in the following table. The table also provides each instrument's trading hours, exchange and ticker symbol. The table is subject to change.

| Contract ticker (Bloomberg generic) | Exchange code (Bloomberg) [16] | Exchange name [17] | Commodity contract | Trading hours (ET) |
|---|---|---|---|---|
| CO1 | ICE | ICE Futures Europe | BRENT CRUDE FUTR | 20:00–18:00. |
| BZA1 | NYM | New York Mercantile Exchange | Brent Fin Last Da | 18:00–17:15 & 09:00–14:30. |
| BH1 | NYM | New York Mercantile Exchange | Brt Crude Pen Fin | 18:00–17:15 & 09:00–14:30. |
| V61 | CME | Chicago Mercantile Exchange | BUTTER CASH FUTR | 18:00–17:00. |
| FC1 | CME | Chicago Mercantile Exchange | CATTLE FEEDER FUT | 18:00–17:00 & 10:05–14:00. |
| CC1 | NYB | ICE Futures US Softs | COCOA FUTURE | 05:45–13:30. |
| KC1 | NYB | ICE Futures US Softs | COFFEE 'C' FUTURE | 05:15–13:30. |
| BQ1 | CMX | Commodity Exchange, Inc. | COMEX miNY GOLD | 18:00–17:15. |
| ID1 | CMX | Commodity Exchange, Inc. | COMEX miNY SILVER | 18:00–17:15. |
| C 1 | CBT | Chicago Board of Trade | CORN FUTURE | 20:00–14:15 & 09:30–14:15. |
| ICR1 | NYB | ICE Futures US Softs | Corn Futures (ICE) | 20:00–14:30. |
| CT1 | NYB | ICE Futures US Softs | COTTON NO.2 FUTR | 21:00–14:20. |
| AG1 | NYM | New York Mercantile Exchange | CRUDE OIL FINANCL | 18:00–17:15 & 09:00–14:30. |
| EC1 | NYM | New York Mercantile Exchange | E–MINI CRUDE OIL | 18:00–17:15 & 09:00–14:30. |
| JO1 | NYB | ICE Futures US Softs | FCOJ–A FUTURE | 08:00–14:00. |
| QS1 | ICE | ICE Futures Europe | GAS OIL FUT (ICE) | 20:00–18:00. |
| XB1 | NYM | New York Mercantile Exchange | GASOLINE RBOB FUT | 18:00–17:15 & 09:00–14:30. |
| YZ1 | NYM | New York Mercantile Exchange | GLOBEX HEAT OIL | 18:00–17:15. |
| UL1 | NYM | New York Mercantile Exchange | GLOBEX RBOB GASLN | 18:00–17:15 & 09:00–14:30. |
| GC1 | CMX | Commodity Exchange, Inc | GOLD 100 OZ FUTR | 18:00–17:15 & 08:20–13:30. |
| NV1 | ICE | ICE Futures Europe | HEATING OIL FUT | 20:00–18:00. |
| KW1 | CBT | Chicago Board of Trade | KC HRW WHEAT FUT | 20:00–14:15 & 09:30–14:15. |
| LH1 | CME | Chicago Mercantile Exchange | LEAN HOGS FUTURE | 18:00–17:00 & 10:05–14:00. |
| LC1 | CME | Chicago Mercantile Exchange | LIVE CATTLE FUTR | 18:00–17:00 & 10:05–14:00. |
| LP1 | LME | London Metal Exchange | LME COPPER FUTURE | 16:00–15:45. |
| LL1 | LME | London Metal Exchange | LME LEAD FUTURE | 16:00–15:45. |
| LN1 | LME | London Metal Exchange | LME NICKEL FUTURE | 16:00–15:45. |
| LA1 | LME | London Metal Exchange | LME PRI ALUM FUTR | 16:00–15:45. |
| LT1 | LME | London Metal Exchange | LME TIN FUTURE | 16:00–15:45. |
| LX1 | LME | London Metal Exchange | LME ZINC FUTURE | 16:00–15:45. |
| SII1 | CMX | Commodity Exchange, Inc | Mini Silver Futur | 18:00–17:15. |
| IW1 | NYM | New York Mercantile Exchange | NAT GAS LAST DAY | 18:00–17:15 & 09:00–14:30. |
| NG1 | NYM | New York Mercantile Exchange | NATURAL GAS FUTR | 18:00–17:15 & 09:00–14:30. |
| NR1 | NYM | New York Mercantile Exchange | NATURAL GAS SWAP | 18:00–17:15 & 09:00–14:30. |
| HO1 | NYM | New York Mercantile Exchange | NY Harb ULSD Fut | 18:00–17:15 & 09:00–14:30. |
| TR1 | NYM | New York Mercantile Exchange | NYH ULSD Asia Op | 18:00–17:15 & 09:00–14:30. |
| FCO1 | NYM | New York Mercantile Exchange | NYMEX Cocoa Fut | 18:00–17:15. |
| FCC1 | NYM | New York Mercantile Exchange | NYMEX Coffee Fut | 18:00–17:15. |
| FSB1 | NYM | New York Mercantile Exchange | NYMEX Sugar 11 Fu | 18:00–17:15. |
| PL1 | NYM | New York Mercantile Exchange | PLATINUM FUTURE | 18:00–17:15 & 08:20–13:05. |
| PG1 | ICE | ICE Futures Europe | RBOB GASOLINE FT | 20:00–18:00. |
| SI1 | CMX | Commodity Exchange, Inc | SILVER FUTURE | 18:00–17:15 & 08:25–13:25. |
| ISB1 | NYB | ICE Futures US Softs | Soybean Fut (ICE) | 20:00–14:30. |
| S 1 | CBT | Chicago Board of Trade | SOYBEAN FUTURE | 20:00–14:15 & 09:30–14:15. |
| SM1 | CBT | Chicago Board of Trade | SOYBEAN MEAL FUTR | 20:00–14:15 & 09:30–14:15. |
| ISL1 | NYB | ICE Futures US Softs | Soybean Meal(ICE) | 20:00–14:30. |
| BO1 | CBT | Chicago Board of Trade | SOYBEAN OIL FUTR | 20:00–14:15 & 09:30–14:15. |
| IBO1 | NYB | ICE Futures US Softs | Soybean Oil(ICE) | 20:00–14:30. |
| SB1 | NYB | ICE Futures US Softs | SUGAR #11 (WORLD) | 04:30–13:00. |
| W 1 | CBT | Chicago Board of Trade | WHEAT FUTURE(CBT) | 20:00–14:15 & 09:30–14:15. |
| IWT1 | NYB | ICE Futures US Softs | Wheat Future(ICE) | 20:00–14:30. |
| EN1 | ICE | ICE Futures Europe | WTI CRUDE FUTURE | 20:00–18:00. |

[15] The Subsidiary will not be registered under the 1940 Act and will not be directly subject to its investor protections, except as noted in the Registration Statement. However, the Subsidiary will be wholly-owned and controlled by the Fund and will be advised by the Adviser. Therefore, the Fund's ownership and control of the Subsidiary will prevent the Subsidiary from taking action contrary to the interests of the Fund or its shareholders. The Trust's board (''Board'') will have oversight responsibility for the investment activities of the Fund, including its expected investment in the Subsidiary, and the Fund's role as the sole shareholder of the Subsidiary. The Adviser will receive no additional compensation for managing the assets of the Subsidiary. The Subsidiary will also enter into separate contracts for the provision of custody, transfer agency, and accounting agent services with the same or with affiliates of the same service providers that provide those services to the Fund.

| Contract ticker (Bloomberg generic) | Exchange code (Bloomberg) [16] | Exchange name [17] | Commodity contract | Trading hours (ET) |
|---|---|---|---|---|
| CL1 ..... | NYM ..... | New York Mercantile Exchange ..... | WTI CRUDE FUTURE ..... | 18:00–17:15 & 09:00–14:30. |

As U.S. and London exchanges list additional contracts, as currently listed contracts on those exchanges gain sufficient liquidity or as other exchanges list sufficiently liquid contracts, the Adviser will include those contracts in the list of possible investments of the Subsidiary. The list of commodities futures and commodities markets considered for investment can and will change over time.

Commodities Regulation

The Commodity Futures Trading Commission (''CFTC'') has recently adopted substantial amendments to CFTC Rule 4.5 relating to the permissible exemptions and conditions for reliance on exemptions from registration as a commodity pool operator. As a result of the instruments that will be indirectly held by the Fund, the Adviser has registered as a commodity pool operator [18] and is also a member of the National Futures Association (''NFA''). The Fund and the Subsidiary are subject to regulation by the CFTC and NFA and additional disclosure, reporting and recordkeeping rules imposed upon commodity pools.

Investment Restrictions

The Fund may not invest more than 25% of the value of its total assets in securities of issuers in any one industry or group of industries other than certain industries described in the Registration Statement. This restriction will not apply to obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities, or securities of other investment companies.[19]

The Subsidiary's shares will be offered only to the Fund and the Fund will not sell shares of the Subsidiary to other investors. The Fund will not purchase securities of open-end or closed-end investment companies except in compliance with the 1940 Act.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment).[20] 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. 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.[21]

The Fund intends to qualify for and to elect to be treated as a separate regulated investment company under SubChapter M of the Internal Revenue Code.[22]

Under the 1940 Act, the Fund's investment in investment companies will be limited to, subject to certain exceptions: (i) 3% of the total outstanding voting stock of any one investment company, (ii) 5% of the Fund's total assets with respect to any one investment company, and (iii) 10% of the Fund's total assets with respect to investment companies in the aggregate.

The Fund's and the Subsidiary's investments will be consistent with the Fund's investment objective and although certain investments will have a leveraging effect on the Fund, the Fund will not seek leveraged returns (*e.g.,* 2X or –3X).

Net Asset Value

The Fund's net asset value (''NAV'') will be determined once each business day, generally as of the regularly scheduled close of business of the New York Stock Exchange (''NYSE'') (normally 4:00 p.m., Eastern time) on each day that the NYSE is open for trading, based on prices at the time of closing provided that any Fund assets or liabilities denominated in currencies other than the U.S. dollar will converted into U.S. dollars at the prevailing rates of exchange at such times as may be determined by the Fund from time to time. The NAV may be determined prior to 4:00 p.m. Eastern time on each business day, as described in the Registration Statement. The NAV of the Fund will be calculated by dividing the value of the net assets of the Fund (i.e. the value of its total assets less total liabilities) by the total number of outstanding Shares of the Fund, generally rounded to the nearest cent. The value of the securities and other assets held by the Fund, and its liabilities, will be determined pursuant to valuation policies and procedures approved by the Trust's Board.

The Fund's assets and liabilities will be valued primarily on the basis of market quotations, when readily available. Equity securities and debt securities, including ETNs, traded on a recognized securities exchange will be valued at market value, which is generally determined using the last

[16] The exchange codes listed are Bloomberg shorthand codes for the corresponding exchanges. The New York Board of Trade is currently owned by the ICE Futures Exchange; Bloomberg continues to use NYB as its shorthand code for certain contracts formerly traded on the New York Board of Trade.

[17] All of the exchanges are ISG members except for the London Metal Exchange (''LME''). The LME falls under the jurisdiction of the United Kingdom Financial Conduct Authority (''FCA''). The FCA is responsible for ensuring the financial stability of the exchange members' businesses, whereas the LME is largely responsible for the oversight of day-to-day exchange activity, including conducting the arbitration proceedings under the LME arbitration regulations.

[18] As defined in Section 1a(11) of the Commodity Exchange Act.

[19] *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).

[20] In reaching liquidity decisions, the Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and 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).

[21] 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), FN 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 of 1933).

[22] 26 U.S.C. 851.

reported official closing price or last trading price on the exchange or other market on which the security is primarily traded at the time of valuation. Fixed income securities, including money market securities and U.S. government securities, for which market quotations are readily available are generally valued using such securities' most recent bid prices provided directly from one or more broker-dealers, market makers, or independent third-party pricing services, each of whom may use matrix pricing and valuation models, as well as recent market transactions. Short-term investments that mature in less than 60 days when purchased will be valued at amortized cost.

Exchange-traded futures contracts, options on futures contracts, and index futures will be valued at their settle price as of the close of such exchanges. Exchange-cleared swap agreements and commodity-linked notes are generally valued daily based on quotations from market makers or by a pricing service in accordance with valuation procedures adopted by the Board.

Shares of underlying ETFs and other investment companies, including closed-end funds, will be valued at their most recent closing price on the exchange on which they are traded. Shares of underlying money market funds will be valued at their NAV.

When market quotations are not readily available or are believed by the Adviser to be unreliable, a Fund's investments will be valued at fair value. Fair value determinations are made by the Adviser in accordance with policies and procedures approved by the Trust's Board and in accordance with the 1940 Act. The Adviser may conclude that a market quotation is not readily available or is unreliable if a security or other asset or liability does not have a price source due to its lack of liquidity, if a market quotation differs significantly from recent price quotations or otherwise no longer appears to reflect fair value, where the security or other asset or liability is thinly traded, or where there is a significant event subsequent to the most recent market quotation. A ''significant event'' is an event that, in the judgment of the Adviser, is likely to cause a material change to the closing market price of the asset or liability held by a Fund. Non-U.S. securities whose values are affected by volatility that occurs in U.S. markets on a trading day after the close of foreign securities markets may be fair valued.[23]

[23] Fair value represents a good faith approximation of the value of an asset or liability. The fair value of an asset or liability held by a Fund is the amount a Fund might reasonably expect to receive from the current sale of that asset or the cost to extinguish that liability in an arm's-length transaction. Valuing a Fund's investments using fair value pricing will result in prices that may differ from current market valuations and that may not be the price at which those investments could have been sold during the period in which the particular fair values were used.

Creation and Redemption of Shares

The Trust will issue and sell Shares of the Fund only in Creation Unit aggregations on a continuous basis through the Distributor, without a sales load, at a price based on the Fund's NAV next determined after receipt, on any business day, of an order in proper form.

The consideration for purchase of Creation Units generally will consist of the in-kind deposit of a designated portfolio of securities (including any portion of such securities for which cash may be substituted) that represents the portion of the Fund's investments in Commodity-Related Equities *(i.e.,* the Deposit Securities) and the Cash Component computed (as described below) that represents the portion of the Fund's investments in Commodity-Related Investments, including investments by the Subsidiary, as well as investments in instruments used to collateralize the Subsidiary's Commodity-Linked Investments exposure. Together, the Deposit Securities and the Cash Component constitute the ''Fund Deposit,'' which will be applicable (subject to possible amendment or correction) to creation requests received in proper form. The Fund Deposit represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund.

The Cash Component will be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the ''Deposit Amount,'' which is an amount equal to the market value of the Deposit Securities, and serves to compensate for the difference between the NAV per Creation Unit and the Deposit Amount, including the portion of the NAV per Creation Unit attributable to the Fund's investments in Commodity-Linked Investments and instruments used to collateralize such investments.

The Fund may accept cash in substitution for the Deposit Securities it might otherwise accept as in-kind consideration for the purchase of Creation Units. Although the Trust does not ordinarily permit partial or full cash purchases of Creation Units of iShares funds, when partial or full cash purchases of Creation Units are available or specified, as is the case with the Fund, they will be effected in essentially the same manner as in-kind purchases thereof. In the case of a partial or full cash purchase, the ''Authorized Participant'' (a Depository Trust Company (''DTC'') participant that has entered into an Authorized Participant agreement with the Distributor) must pay the cash equivalent of the Deposit Securities it would otherwise be required to provide through an in-kind purchase, plus the same Cash Component required to be paid by an in-kind purchaser.[24]

The Adviser, through the National Securities Clearing Corporation (''NSCC''), will make available on each business day, prior to the opening of business of the NYSE (currently 9:30 a.m., E.T.), the list of the names and the required number of each Deposit Security and the amount of the Cash Component to be included in the current Fund Deposit (based on information at the end of the previous business day). Such Fund Deposit will be applicable, subject to any adjustments as described below, in order to effect creations of Creation Unit aggregations of the Fund until such time as the next-announced composition of the Fund Deposit is made available.

The identity and number of the Deposit Securities may change pursuant to changes in the composition of the Fund's portfolio and as rebalancing adjustments and corporate actions events are reflected from time to time by the Adviser with a view to the investment objective of the Fund. The composition of the Deposit Securities may also change in response to adjustments to the weighting or composition of the component securities constituting the Fund's portfolio.

The portfolio of securities required for purchase of a Creation Unit may not be identical to the portfolio of securities a Fund will deliver upon redemption of Fund Shares. The Deposit Securities and Fund Securities (as defined below), as the case may be, in connection with a purchase or redemption of a Creation Unit, generally will correspond *pro rata* to the securities held by such Fund.

The Fund reserves the right to permit or require the substitution of a ''cash in lieu'' amount to be added to the Cash Component to replace any Deposit Security that may not be available in sufficient quantity for delivery or that may not be eligible for transfer through

[24] The Adviser represents that, to the extent the Trust effects the redemption of Shares of a Fund in cash, such transactions will be effected in the same manner, or in an equitable manner, for all Authorized Participants, subject to the best interests of the Fund.

the DTC. The Fund also reserves the right to permit or require a ''cash in lieu'' amount in certain circumstances, including circumstances in which (i) the delivery of the Deposit Security by the Authorized Participant would be restricted under applicable securities or other local laws or (ii) the delivery of the Deposit Security to the Authorized Participant would result in the disposition of the Deposit Security by the Authorized Participant becoming restricted under applicable securities or other local laws, or in certain other situations.

Creation Units may be purchased only by or through an Authorized Participant. Except as noted below, all creation orders must be placed for one or more Creation Units and must be received by the Distributor in proper form no later than the closing time of the regular market session[25] of the Exchange (normally 4:00 p.m., Eastern time), or earlier as described in the Registration Statement, in each case on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of Shares of the Fund as next determined on such date after receipt of the order in proper form. Orders requesting substitution of a ''cash in lieu'' amount generally must be received by the Distributor no later than 4:00 p.m., Eastern time, or earlier as described in the Registration Statement. On days when the exchange or other markets close earlier than normal, a Fund may require orders to create Creation Units to be placed earlier in the day. A standard creation transaction fee will be imposed to offset the transfer and other transaction costs associated with the issuance of Creation Units.

Shares of the Fund may be redeemed by Authorized Participants only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor or its agent and only on a business day. The Funds will not redeem shares in amounts less than Creation Units. Each Fund generally will redeem Creation Units for Fund Securities, a designated portfolio of securities, plus the Cash Amount, which is an amount equal to the difference between the net asset value of the shares being redeemed, as next determined after the receipt of a redemption request in proper form, and the value of Fund Securities, less a redemption transaction fee. Unless cash redemptions are available or specified for the Fund, the redemption proceeds for a Creation Unit generally will consist of Fund Securities plus the Cash Amount.

A standard redemption transaction fee will be imposed to offset transfer and other transaction costs that may be incurred by a Fund.

Redemption requests for Creation Units of a Fund must be submitted to the Distributor by or through an Authorized Participant no later than 4:00 p.m. Eastern time, or earlier as described in the Registration Statement, on any business day, in order to receive that day's NAV. The Authorized Participant must transmit the request for redemption in the form required by a Fund to the Distributor in accordance with procedures set forth in the Authorized Participant agreement.

Availability of Information

The Fund's Web site (*www.ishares.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's Web site will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior business day's reported NAV and closing price, mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price'')[26] 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 Regular Market Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio as defined in Nasdaq Rule 5735(c)(2) that will form the basis for the Fund's calculation of NAV at the end of the business day.[27]

On a daily basis, the Fund will disclose for each portfolio security and other asset of the Fund, including those held by the Subsidiary, the following information on the Funds' Web site (if applicable): 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 holdings in the 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 quantities required to be delivered in exchange for each Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the Exchange via NSCC. The basket represents one Creation Unit of the Fund.

In addition, for the Fund, an Indicative Optimized Portfolio Value (''IOPV'')[28], defined in Rule 5735(c)(3) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of the Fund's portfolio (including the Subsidiary's portfolio), will be disseminated. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service[29] will be based upon the current value for the components of the Disclosed Portfolio

[25] *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. E.T.; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m. E.T.; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m. E.T.).

[26] The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[27] Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Notwithstanding the foregoing, portfolio trades that are executed prior to the opening of the Exchange on any business day may be booked and reflected in NAV on such business day. Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[28] The IOPV will be based on the current value of the securities and other assets held by the Fund and the Subsidiary using market data converted into U.S. dollars at the current currency rates. The IOPV price 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 IOPV and the market price may occur. The IOPV will not necessarily reflect the precise composition of the current portfolio of securities and assets held by a Fund at a particular point in time or the best possible valuation of the current portfolio. Therefore, the IOPV should not be viewed as a ''real-time'' update of a Fund's NAV, which will be calculated only once a day. The quotations of certain Fund holdings may not be updated during U.S. trading hours if such holdings do not trade in the United States.

[29] 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.

and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

Intra-day, executable price quotations on the exchange-traded assets held by the Fund and the Subsidiary, including the Commodity-Related Equities, futures contracts, options on futures contracts, index futures, ETNs, ETFs and other investment companies, including closed-end funds, will be available on the exchange on which they are traded. Intra-day, executable price quotations on swaps, money market instruments, and commodity-linked notes, and fixed-income instruments will be available from major broker-dealer firms. Intra-day price information will also be available through subscription services, such as Bloomberg and Reuters. Additionally, the Trade Reporting and Compliance Engine (''TRACE'') of the Financial Industry Regulatory Authority (''FINRA'') will be a source of price information for certain fixed income securities held by the Fund.

Investors will also be able to obtain the Fund's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and its Form N–CSR and Form N–SAR, filed twice a year. The Fund's SAI and Shareholder Reports will be available free upon request from the Fund, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. 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 Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares. Quotation and last sale information for any underlying exchange-traded equity will also be available via the quote and trade service of their respective primary exchanges, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans. Quotation and last sale information for any underlying exchange-traded options will also be available via the quote and trade service of their respective primary exchanges. Quotation and last sale information for any underlying exchange-traded futures contracts will be available via the quote and trade service of their respective primary exchanges.

Information on the S&P GSCI Index will be available on the S&P Dow Jones Indices Web site (*http://us.spindices.com*).

Initial and Continued Listing

The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund and the Subsidiary must be in compliance with Rule 10A–3 [30] under the Act. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. 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.

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 the Fund. 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 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 other assets constituting the Disclosed Portfolio of the Fund and the Subsidiary; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities. Nasdaq will allow trading in the Shares from 4:00 a.m. until 8:00 p.m. E.T. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Nasdaq Rule 5735(b)(3), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[31] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading information it can obtain relating to the Shares, other exchange-traded securities and other assets held by the Fund and the Subsidiary, which include exchange-traded Commodity-Related Equities, exchange-traded or exchange-cleared Commodity-Linked Investments (with the exception of exchange-cleared swaps), ETNs, ETFs and other exchange-traded investment companies, with other markets and other entities that are members of the ISG [32] and FINRA may obtain trading information regarding trading in the Shares, other exchange-traded securities and other assets held by the Fund and the Subsidiary from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, other exchange-traded securities and other assets held by the Fund and the Subsidiary from

[30] *See* 17 CFR 240.10A–3.

[31] 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.

[32] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

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.

In addition, with respect to the exchange-traded futures contracts and options on futures contracts held indirectly through the Subsidiary, not more than 10% of the weight [33] of such futures contracts and options on futures contracts in the aggregate shall consist of instruments whose principal trading market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Not more than 10% of the equity securities (including shares of ETFs and closed-end funds) and ETNs in which the Fund may invest will be invested in securities that trade in markets that are not members of the ISG or are not parties to a comprehensive surveillance sharing agreement with the Exchange. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Circular

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: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how and by whom the information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (4) 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; (5) the requirement that members 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 Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

Additionally, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV calculation time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's Web site.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Act in general and Section 6(b)(5) of the Act in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and 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 Nasdaq Rule 5735. 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. The Adviser is affiliated with a broker-dealer and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio. In addition, paragraph (g) of Nasdaq Rule 5735 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, non-public information regarding the open-end fund's portfolio.

The Fund's and the Subsidiary's investments will be consistent with the Fund's investment objective and although certain investments will have a leveraging effect on the Fund, the Fund will not seek leveraged returns. FINRA may obtain information via ISG from other exchanges that are members of ISG. In addition, the Exchange may obtain information regarding trading in the Shares, other exchange-traded securities and other assets held by the Fund and the Subsidiary 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. With respect to the futures contracts held indirectly through the Subsidiary, not more than 10% of the weight [34] of such futures contracts in the aggregate shall consist of instruments whose principal trading market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Not more than 10% of the equity securities (including shares of ETFs and closed-end funds) and ETNs in which the Fund may invest will be invested in securities that trade in markets that not members of the ISG or are not parties to a comprehensive surveillance sharing agreement with the Exchange. The Fund will invest up to 25% of its total assets in the Subsidiary. The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment). The Fund will use the fixed-income securities as investments and to collateralize the Subsidiary's commodity exposure on a day-to-day basis. The Fund may also invest directly in ETFs and other investment companies, including exchange-traded closed-end funds, that provide exposure to commodities, equity securities and fixed income securities to the extent permitted under the 1940 Act.

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

[33] To be calculated as the value of the contract divided by the total absolute notional value of the Subsidiary's futures contracts.

[34] To be calculated as the value of the contract divided by the total absolute notional value of the Subsidiary's futures contracts.

participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Regular Market Session. 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 Disclosed Portfolio of the Fund and the Subsidiary that will form the basis for the 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 for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares. Intra-day price information will be available through subscription services, such as Bloomberg and Reuters.

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. Trading in Shares of the Fund will be halted under the conditions specified in Nasdaq Rules 4120 and 4121 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 Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, 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 an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, FINRA, on behalf of the Exchange, will communicate as needed regarding trading information it can obtain relating to the Shares, other exchange-traded securities and other assets held by the Fund and the Subsidiary with other markets and other entities that are members of the ISG and FINRA may obtain trading information regarding trading in the Shares, other exchange-traded securities and other assets held by the Fund and the Subsidiary from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, other exchange-traded securities and other assets held by the Fund and the Subsidiary 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. Additionally, FINRA's TRACE will be a source of price information for certain fixed income securities held by the Fund. Furthermore, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded fund that will enhance competition 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*

Written comments were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove 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–NASDAQ–2014–053 on the subject line.*

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2014–053. 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–NASDAQ–2014–053 and should be submitted on or before September 8, 2014.

[35] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–19471 Filed 8–15–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72814; File No. SR–EDGX–2014–22]**

## Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

August 12, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 31, 2014, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposes to amend its fees and rebates applicable to Members [3] of the Exchange pursuant to EDGX Rule 15.1(a) and (c) (''Fee Schedule'') to harmonize the definitions of Average Daily Trading Volume (''ADV'') and Total Consolidated Volume (''TCV'') with those contained in the BATS Exchange, Inc. (''BATS'') and BATS–Y Exchange, Inc. (''BYX'') fee schedules.

The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

On January 31, 2014, Direct Edge Holdings LLC (''DE Holdings''), the former parent company of the Exchange, completed its business combination with BATS Global Markets, Inc., the parent company of BATS and BYX.[4] As part of its effort to reduce regulatory duplication and relieve firms that are members of the Exchange, BATS, and BYX of conflicting or unnecessary regulatory burdens, the Exchange is now engaged in the process of reviewing and amending certain Exchange, BATS, and BYX Rules. To conform to comparable BATS and BYX rules for purposes of its harmonization efforts due to its business combination, the Exchange proposes to amend the definitions of ADV and TCV to make each definition similar to those contained in the BATS and BYX fee schedules.

Currently, the Exchange determines the liquidity adding rebate that it will provide to Members based on the Exchange's tiered pricing structure based on the calculation of ADV,[5] and/or average daily TCV.[6] Like BATS and BYX, the Exchange currently excludes from is definition of ADV and TCV days where its system experiences a disruption that lasts for more than 60 minutes during Regular Trading Hours,[7] and the last Friday in June (the ''Russell Reconstitution Day''). BATS and BYX also exclude from its definitions of ADV and TCV days with a scheduled early market close.[8] Similarly, the General Notes section of the Exchange's Fee Schedule states that trading activity on days when the market closes early are not counted toward volume tiers.[9] To harmonize the definitions of ADV and TCV with BATS and BYX, the Exchange proposes relocate this exclusion from the General Notes section of the Fee Schedule and include it the definitions of ADV and TCV. The Exchange notes that it is not proposing to modify any of the existing rebates or the percentage thresholds at which a Member may qualify for certain rebates pursuant to the tiered pricing structure. The Exchange proposes to implement these amendments to its Fee Schedule on August 1, 2014.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[10] in general, and furthers the objectives of Section 6(b)(4),[11] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the proposed rule change will provide greater harmonization between similar Exchange, BATS and BYX rules, resulting in greater uniformity and less burdensome and more consistent standards for common members. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[4] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGX–2013–43). Upon completion of the combination, DE Holdings and BATS Global Markets, Inc. each became intermediate holding companies, held under a single new holding company. The new holding company, formerly named ''BATS Global Markets Holdings, Inc.,'' changed its name to ''BATS Global Markets, Inc.''

[5] As provided in the Fee Schedule, ''ADV'' is currently defined as ''the average daily volume of shares that a Member executed on the Exchange for the month in which the fees are calculated. ADV is calculated on a monthly basis, excluding shares on any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during Regular Trading Hours (''Exchange System Disruption'') and on the last Friday in June (the ''Russell Reconstitution Day''). With prior notice to the Exchange, a Member may aggregate ADV with other Members that control, are controlled by, or are under common control with such Member (as evidenced on such Member's Form BD).''

[6] As provided in the Fee Schedule, ''TCV'' is currently defined as ''the volume reported by all exchanges and trade reporting facilities to the consolidated transaction reporting plans for Tapes A, B and C securities for the month in which the fees are calculated, excluding volume on any day that the Exchange experiences an Exchange System Disruption'') or the Russell Reconstitution Day.''

[7] ''Regular Trading Hours'' is defined as ''the time between 9:30 a.m. and 4:00 p.m. Eastern Time.'' *See* Exchange Rule 1.5(y).

[8] *See* Securities Exchange Act Release Nos. 72590 (July 10, 2014), 79 FR 41605 (July 16, 2014) (SR–BYX–2014–009); and 72589 (July 10, 2014), 79 FR 41618 (July 16, 2014) (SR–BATS–2014–025).

[9] Days with a scheduled early market close are December 24, 2014, the trading day after Thanksgiving, and the trading day before July 4th.

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange is not proposing to amend the thresholds a Member must achieve to become eligible for, or the dollar value associated with, the tiered fees. The Exchange currently excludes trading activity on days where the market closes early and is simply proposing to relocate this provision from the General Notes section of its Fee Schedule to the definitions of ADV and TCV. Doing so would enable the Exchange to maintain definitions of ADV and TCV similar to those of BATS and BYX. Lastly, the Exchange believes that the proposed change is non-discriminatory because it applies uniformly to all Members.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes its proposed amendments to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather to provide greater harmonization among similar Exchange and BATS and BYX rules, resulting in less burdensome and more efficient and consistent standards for common members. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(2) [13] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGX–2014–22 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGX–2014–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2014–22, and should be submitted on or before September 8, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**Kevin M. O'Neill,**

*Deputy Secretary.*

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[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72833; File No. SR–CME–2014–31]**

## Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing of Proposed Rule Change Related to Clearing of Certain iTraxx Europe Index Untranched CDS Contracts on Indices Administered by Markit

August 13, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 11, 2014, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by CME. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The purpose of the proposed changes to CME's clearing rules (the ''CDS Product Rules'') is to enable CME to offer clearing of certain iTraxx Europe index untranched CDS contracts on indices administered by Markit (''iTraxx Contracts''). All capitalized terms not defined herein shall have the meaning given to them in the CDS Product Rules.

CME is submitting the proposed amendments to the iTraxx Chapters (as defined in Item II, paragraph 2 below) to become effective on September 22, 2014, subject to receiving all regulatory approvals. The effectiveness of the 2014 iTraxx Chapters (also as defined in Item II, paragraph 2 below) is intended to coincide with the date on which the credit derivatives market transitions to the 2014 Credit Derivatives Definitions published by ISDA (the ''2014 ISDA Definitions''), which is currently anticipated to be September 22, 2014. As such, CME is submitting the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed amendments to the 2014 iTraxx Chapters to become effective on September 22, 2014, subject to receiving all regulatory approvals, or on such later date that CME otherwise determines. To the extent that the credit derivatives market does not transition to the 2014 ISDA Definitions, the proposed 2014 iTraxx Chapters may not become effective.

The text of the proposed change is also available at the CME's Web site at *http://www.cmegroup.com,* at the principal office of CME, 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, CME included statements concerning the purpose 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. CME 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. Description of the Current CDS Product Rules

CME is registered as a DCO with the Commodity Futures Trading Commission (''CFTC'') and offers clearing services for many different futures and swaps products, including certain CDS index products. Currently, CME offers clearing of (i) the Markit CDX North American Investment Grade Index Series 8 and forward and (ii) the Markit CDX North American High Yield Index Series 13 and forward ((i) and (ii) collectively, the ''CDX Contracts'').

The primary purpose and effect of the proposed changes to the CDS Product Rules is to enable CME to offer clearing of iTraxx Contracts under CME's authority to act as a DCO. iTraxx Contracts have similar terms to CDX Contracts currently cleared by CME. Accordingly, the proposed rules largely mirror the CME rules for CDX Contracts, with certain modifications that reflect the differing underlying reference entities, different standard currencies and other logistical differences in how the markets and documentation for iTraxx Contracts operate. The iTraxx Contracts reference the iTraxx Europe index, the current series of which consists of 125 European corporate reference entities. The credit protection offered by iTraxx Contracts and any Restructuring European Single Name CDS Contract consistent with market convention and widely used standard terms documentation, can be triggered by credit events, including failure to pay, bankruptcy, restructuring and, in respect of transactions that will reference the 2014 ISDA Definitions (such transactions, ''2014 Definitions Transactions'') governmental intervention. iTraxx Contracts will be denominated in Euro.

CME notes that upon the occurrence of a restructuring credit event with respect to a reference entity that is a component of an iTraxx Contract, such reference entity will be ''spun out'' and maintained as a separate single-name CDS contract (a ''Restructuring European Single Name CDS Contract'') until settlement. If neither of the counterparties elects to trigger settlement, the positions in the Restructuring European Single Name CDS Contract will be maintained at CME until maturity of the index or the occurrence of a subsequent credit event for the same reference entity. However, CME will not permit market participants to increase, close out (other than due to the occurrence of a credit event) or otherwise affect the size of a position in a Restructuring European Single Name CDS Contract and CME has included language in its proposed rule change to this effect. CME notes that it may impose an increase or decrease in the position of a Restructuring European Single Name CDS Contract through its PQA process or its default management process.

To the extent that a Restructuring European Single Name CDS Contract is created, CME will either (i) obtain any relief needed to permit a clearing member to maintain customer money, securities, and property received by the clearing member to margin, guarantee, or secure customer positions in cleared CDS Contracts, which include both swaps and security-based swaps, in a segregated account established and maintained in accordance with Section 4d(f) of the Commodity Exchange Act (''CEA'') and the rules thereunder for the purpose of clearing such positions under a program to comingle and portfolio margin CDS, or (ii) will hold customer positions in Restructuring European Single Name CDS Contracts and any margin in connection with such Restructuring European Single Name CDS Contracts in segregated accounts or take any other action required in order to comply with the provisions of the Exchange Act or any order or relief thereunder.

2. Description of the Proposed Changes to the CDS Product Rules

CME is proposing to amend its CDS Product Rules by amending Chapter 801 and adding new Chapters 800: Part B, 804: Part B, 805: Part C, 806: Part B and Appendix 805: Part B (collectively, the ''iTraxx Chapters''). CME is also proposing to add new Chapters 805: Part B, 806: Part A and Appendix 805: Part A (together, the ''2014 iTraxx Chapters''). CME also proposes to make corresponding changes to its CDS Manual of Operations to provide for the clearance of iTraxx Contracts.

CME will update its list of products eligible for clearing which is available on its Web site at *http://www.cmegroup.com/trading/cds/cleared-cds-product-specs.xls,* to incorporate the additional cleared products. Upon Commission approval, CME intends to provide for the clearance of the following European Indices: Markit iTraxx Europe Main 3Y: Series 17 and all subsequent Series, up to and including the current on-the-run Series, Markit iTraxx Europe Main 5Y: Series 17 and all subsequent Series, up to and including the current on-the-run Series, Markit iTraxx Europe Main 7Y: Series 17 and all subsequent Series, up to and including the current on-the-run Series, Markit iTraxx Europe Main 10Y: Series 17 and all subsequent Series, up to and including the current on-the-run Series, and Markit iTraxx Europe Crossover 5Y: Series 17 and all subsequent Series, up to and including the current on-the-run Series.

Certain iTraxx Contracts which CME proposes to clear will, following the implementation date of the 2014 ISDA Definitions, be bifurcated such that certain component transactions will continue to reference the 2003 Credit Derivatives Definitions published by ISDA, as supplemented in 2009 (the ''2003 ISDA Definitions'') (such transactions, ''2003 Definitions Transactions''), and certain other component transactions will be 2014 Definitions Transactions. As a result of the abovementioned bifurcation, CME proposes to split Chapters 800, 804 and 805 of its current rules into separate sub-parts and to introduce a new Chapter 806 and a new Appendix to Chapter 805 (each of which will also be split into sub-parts) to allow for the separate treatment of iTraxx component transactions depending on whether such transactions are 2014 Definitions Transactions or 2003 Definitions Transactions.

2.1 Chapter 800 (Credit Default Swaps: Part B)

CME proposes to add a sub-part to Chapter 800 entitled ''Credit Default Swaps: Part B.'' Chapter 800: Part B provides the meanings of capitalized terms that are used but not defined within the proposed rules and the location of the meanings of any terms used in the proposed rules but not defined within Chapter 800: Part B. In addition, CME has included CME Rule 80002.B (Interpretation) which provides for the interpretation of certain contractual terms used within the proposed rules and CME Rule 80003.B (Notices and Clearing House System Failures) which provides for how notices are to be provided by, or to, CME and also for the extension of applicable deadlines for the delivery of notices if CME, or any of its clearing members, is unable to deliver or receive notices due to a failure of the relevant CME internal system. CME notes that CME Rule 80002.B and CME Rule 80003.B (each as described in the aforementioned sentence) are substantially similar to CME Rule 80002 and CME Rule 80003, respectively, that are provided in the currently published Chapter 800.

2.2 Chapter 801 (CDS Contracts)

CME proposes to amend Chapter 801 (CDS Contracts) to include in CME Rule 80103.C. (Eligible CDS) an additional provision which describes when an iTraxx Contract will be eligible for clearing and other conforming, clarification changes and drafting improvements.

2.3 Chapter 804 (CME CDS Risk Committee: Part B)

CME proposes to add a sub-part to Chapter 804 entitled ''CME CDS Risk Committee: Part B'' to apply only in connection with 2003 Definitions Transactions. Chapter 804: Part B will not contain any iTraxx specific provisions, but will be created in anticipation of the currently published Chapter 804 being updated to operate in conjunction with the 2014 ISDA Definitions. Chapter 804: Part B is substantially similar to the currently published Chapter 804 with the exception that Chapter 804: Part B grants an additional authority to the CDS RC to determine matters of contractual interpretation relevant to market standard documentation incorporated into the terms of a CDS Contract. In addition, modifications have been made in order to ensure alignment of the CDS Product Rules with the current market practices (as proposed by ISDA) to clarify the circumstances under which the CDS RC may make such determinations to avoid determinations that are inconsistent with DC determinations, and other conforming, clarification changes and drafting improvements.

2.4 Chapter 805 (CME CDS Physical Settlement: Part B), Chapter 805 (CME CDS Physical Settlement: Part C) and CDS Participant Provisions Appendix

CME proposes to add two sub-parts to Chapter 805 entitled ''CME CDS Physical Settlement: Part B'' and ''CME CDS Physical Settlement: Part C.'' CME notes that it is anticipated that the currently published Chapter 805 will be amended and referred to as ''Part A'' as part of CME's amendments to its CDS Product Rules to incorporate the 2014 ISDA Definitions, but that such amendments will not take into account the required iTraxx specific changes that would need to be made to Chapter 805 in order for CME to clear iTraxx Contracts. Chapter 805: Part B will apply only in connection with 2014 Definitions Transactions and Chapter 805: Part C will apply only in connection with 2003 Definitions Transactions. In general, both Chapter 805: Part B and Chapter 805: Part C provide for the physical settlement process that will apply as the fallback settlement method with respect to iTraxx Contracts and Restructuring European Single Name CDS Contracts in circumstances where auction settlement does not apply. The substance of the new provisions is based on the fallback physical settlement provisions that apply for CDX Contracts, with some additional features addressing the product terms particular to iTraxx Contracts and some further clarification and detail in light of the increased likelihood of physical settlement being applicable to iTraxx Contracts and Restructuring European Single Name CDS Contracts. These additional features are described in further detail below.

CME Rules 80502.B.A and 80502.C.A (Matched Pair Notice) provide additional detail in relation to the matching process. The additions do not substantively alter the CDS Product Rules but rather, seek to provide greater clarity with respect to the current matching process and how such process will work in respect of iTraxx Contracts.

CME Rules 80502.B.C and 80502.C.D (Notices) have been updated to provide additional detail around the notice procedures in light of the more complex notice requirements following a restructuring credit event with respect to an iTraxx Component Transaction or a Restructuring European Single Name CDS Contract. As a result of the more complex notice requirements, CME proposes to insert in CME Rule 80502.B.D and 80502.C.E (Disputes as to Notices) a more comprehensive dispute process in relation to the effective delivery of notices to preserve more accurately the economic effect of the delivery of certain notices.

CME Rule 80503.B and 80503.C (Physical Settlement of Non DVP Obligations) provide greater clarity with respect to the timing of the delivery of Non DVP Obligations and payment of the related portion of the Physical Settlement Amount. In addition, the allocation of any expenses incurred in connection with physical settlement is now expressly contemplated.

CME Rule 80507.B and 80507.C (Clearing House Guarantee of Matched Pair CDS Contracts) and CME Rule 80508.B and 80508.C (Failure to Perform Under Matched Pair CDS Contracts) have been updated to align the matching process with the general physical settlement provisions of CME as set out in Chapter 7 (Delivery Facilities and Procedures).

CME also proposes to add an Appendix to Chapter 805 which will be split into two sub-parts. Appendix: Part A will apply only in connection with 2014 Definitions Transactions and Appendix: Part B will apply only in connection with 2003 Definitions Transactions. The Appendix primarily sets out provisions dealing with physical settlement and the delivery of notices between clearing members and their customers. The provisions are intended to facilitate the delivery of notices and physical settlement. The Appendix is intended to apply to all CDS contracts; however, the provisions are for the convenience of the clearing members and their customers and will not bind CME. The Appendix includes provisions addressing (i) the timing of the delivery of physical notices in a chain of transactions between the clearing house, the clearing members and their customers, (ii) when notices, requests or instructions between a clearing member and its customer are effective, (iii) the delivery of deliverable obligations between a clearing member and its customer, (iv) circumstances where a fallback to cash settlement will be deemed to apply, (v) buy-in of bonds not delivered and the circumstances around the effective delivery of a buy-in notice, and (vi) alternative procedures relating to loans not delivered and the circumstances around the effective delivery of an alternative loan buyer notice. The Appendix will only be relevant to CME CDS Physical

Settlement, and not when auction settlement applies and is therefore unlikely to be applicable to settlement in most cases.

2.5 Chapter 806 (iTraxx Europe Index Untranched CDS Contracts: Part A) and Chapter 806 (iTraxx Europe Index Untranched CDS Contracts: Part B)

CME proposes to add Chapter 806 which will be split into two sub-parts entitled ''iTraxx Europe Index Untranched CDS Contracts: Part A'' and Chapter 806 ''iTraxx Europe Index Untranched CDS Contracts: Part B.'' Chapter 806: Part A will apply only in connection with 2014 Definitions Transactions and Chapter 806: Part B will apply only in connection with 2003 Definitions Transactions.

CME Rules 80601.A and 80601.B (Scope of Chapter) set forth the applicable standard terms relevant for iTraxx Component Transactions and where the terms and conditions for Restructuring European Single Name CDS Contracts are set out. Further, it is clarified that unless a restructuring credit event occurs, no iTraxx Component Transaction will be fungible with a European single name CDS contract.

CME Rules 80602.A and 80602.B (Contract Terms) reflect or incorporate the basic contract specifications for iTraxx Contracts and Restructuring European Single Name CDS Contracts and are substantially similar to under CME Rule 80202 (Contract Terms) for CDX Contracts. Similarly CME Rules 80603.A and 80603.B (Contract Modifications) are substantially similar to under CME Rule 80203 (Contract Modifications) for CDX Contracts, except for conforming changes.

In addition, CME Rule 80604.A and 80604.B (Restructuring) have been added to reflect the fact that restructuring is a credit event for iTraxx Contracts and Restructuring European Single Name CDS Contracts, that governmental intervention is a credit event for certain 2014 Definitions Transactions, and that Restructuring European Single Name CDS Contracts may be created. In addition, CME has inserted (i) a notice delivery procedure to address the delivery of restructuring credit event notices and notices to exercise movement options, (ii) a process to separate any matched restructuring pairs following an announcement that a restructuring credit event did not in fact occur, (iii) provisions relating to the identification of the reference obligation for a Restructuring European Single Name CDS Contract, (iv) a comprehensive dispute process in relation to the effective delivery of restructuring credit event notices and notices to exercise movement options that are delivered directly (not via DTCC), and (v) a procedure for CME to communicate certain information received from DTCC, or from its clearing members, as applicable, to the relevant clearing members via reports.

3. CDS Risk Model

CME has submitted to the Commission a proposed rule change to enhance its risk model for CDS, File Number SR–CME–2014–28 (the ''CDS Risk Model'') for the purposes of enabling CME to offer clearing of additional CDS instruments, including iTraxx Contracts, within the CDS Risk Model. CDS Risk Model enhancements applicable to clearing iTraxx Contracts include, in particular, changes to address self-referencing risk and foreign exchange risk. Such filing is currently pending regulatory approval by the Commission. CME will not implement the proposed rule change in this filing and will not begin to clear iTraxx Contracts until it has received receipt of regulatory approval of the proposed rule change in File Number SR–CME–2014–28.

4. 2014 ISDA Credit Derivatives Definitions

CME has submitted to the Commission a proposed rule change to amend its CDS Product Rules to incorporate references to the 2014 ISDA Definitions, File Number SR–CME–2014–30 (the ''2014 Filing''). Implementation of the 2014 iTraxx Chapters is dependent on the approval and implementation of the proposed rule change contained in the 2014 Filing. As a result, the text of the proposed rule change to the 2014 iTraxx Chapters contained in Exhibit 5 should be read in conjunction with the text of the proposed rule change in Exhibit 5 to the 2014 Filing. CME will not implement the 2014 iTraxx Chapters until it has received receipt of regulatory approval of the proposed rule change contained in the 2014 Filing.

CME has identified iTraxx Contracts as products that have become increasingly important for market participants to manage risk with respect to European corporate and financial entities' credit risk. CME believes the proposed changes to its CDS Product Rules are consistent with the requirements of the Exchange Act, including Section 17A of the Exchange Act.[3] The proposed changes which will facilitate CME's clearance of iTraxx Contracts would expand CME's CDS index product offering and would therefore provide investors with an expanded range of derivatives products for clearing. CME notes that the facilitation of clearance of iTraxx Contracts is of particular importance as the CFTC has determined that iTraxx Contracts that are subject to a 5Y or 10Y tenor are subject to mandatory clearing under Section 2(h) of the Commodity Exchange Act (''CEA'').[4] As such, the proposed changes are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Exchange Act.[5]

*B. Self-Regulatory Organization's Statement on Burden on Competition*

CME does not believe that the proposed rule change would have any impact, or impose any burden, on competition. On the contrary, the clearance of iTraxx Contracts will promote competition since some of CME's competitors, including ICE Clear Credit LLC, ICE Clear Europe Limited and LCH.Clearnet S.A., already offer clearing of iTraxx Contracts. CME will therefore be able to provide market participants with an expanded choice for clearing iTraxx Contracts.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments relating to the CDS Product Rules have not been solicited, or received. CME will notify the Commission of any written comments received by CME.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

[3] 15 U.S.C. 78q–1.

[4] 7 U.S.C. 2(h).

[5] 15 U.S.C. 78q–1(b)(3)(F).

(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 No. SR–CME–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–CME–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 or 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 CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

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–CME–2014–31 and should be submitted on or before September 8, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

**Kevin M. O'Neill,**

*Deputy Secretary .*

[FR Doc. 2014–19526 Filed 8–15–14; 8:45 am]

BILLING CODE 8011–01–P

[6] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72817; File No. SR–ISE–2014–39]**

## Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

August 12, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 1, 2014, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit 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 ISE is proposing to amend the Schedule of Fees as described in more detail below. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this proposed rule change is to amend the Schedule of Fees to lower the Crossing Fee Cap,[3] waive cancellation fees, adjust complex order fees and rebates, and modify fees and rebates for orders that trade against complex orders legging into the regular order book. Each of these proposed changes is described in more detail below. The Exchange's Schedule of Fees has separate tables for fees and rebates applicable to Standard Options and Mini Options. The Exchange notes that while the discussion below relates to fees and rebates for Standard Options, the fees and rebates for Mini Options, which are not discussed below, are and shall continue to be 1/10th of the fees and rebates for Standard Options.

### I. Crossing Fee Cap

The Exchange currently has a Crossing Fee Cap of $75,000 per month which applies to Firm Proprietary[4] and Non-ISE Market Maker[5] transactions that are part of the originating or contra side of a Crossing Order[6] executed by a member or its affiliate, provided there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A.[7] Once a member has reached the Crossing Fee Cap, the Exchange charges a service fee of $0.01 per side in lieu of regular transaction fees. This service fee applies to Firm Proprietary and Non-ISE market Maker orders in all ISE products for all crossing transactions above the fee cap. The Exchange now proposes to lower the Firm Fee Cap to $65,000 per month and waive the service fee.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Crossing Fee Cap is currently called the ''Firm'' Fee Cap. The Exchange proposes to change this to Crossing Fee Cap as the cap applies to both Firm Proprietary and Non-ISE Market Maker transactions as described in Section I below.

[4] A ''Firm Proprietary'' order is an order submitted by a member for its own proprietary account.

[5] A Non-ISE Market Maker, or Far Away Market Maker (''FARMM''), is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934 registered in the same options class on another options exchange.

[6] Crossing Orders are contracts that are submitted as part of a Facilitation, Solicitation, PIM, Block or QCC order.

[7] Fees for Responses to Crossing Orders, surcharge fees for licensed products, and the related service fee, which is only charged to members that have reached the fee cap, are not included in the calculation of the monthly fee cap.

**II. Cancellation Fees**

The Exchange currently has a cancellation fee of $2.00 per order that applies to Electronic Access Members (''EAMs'') that cancelled at least 500 Priority Customer options orders in a month for itself or for an introducing broker. The cancellation fee applies to each order cancellation in excess of the total number of orders executed for the EAM or introducing broker that month,[8] except for the cancellation of options orders that improve ISE's disseminated quotes at the time the orders were entered. The Exchange now proposes to waive the cancellation fee.

**III. Priority Customer Complex Order Rebates**

The Exchange currently provides volume-based tiered rebates for Priority Customer complex orders when these orders trade with non-Priority Customer orders in the complex order book, or trade with quotes and orders on the regular order book. These complex order rebates are provided to Members in six tiers based on the Member's average daily volume (''ADV'') in Priority Customer complex contracts as shown in the tables below:

PRIORITY CUSTOMER REBATE FOR ORDERS THAT TRADE WITH NON-PRIORITY CUSTOMER ORDERS IN THE COMPLEX ORDER BOOK

| Priority customer complex ADV | Select symbols (excluding SPY) | SPY | Non-Select symbols |
|---|---|---|---|
| Tier 1; 0–29,999 | ($0.33) | ($0.36) | ($0.66) |
| Tier 2; 30,000–74,999 | ($0.37) | ($0.40) | ($0.75) |
| Tier 3; 75,000–124,999 | ($0.39) | ($0.41) | ($0.78) |
| Tier 4; 125,000–224,999 | ($0.41) | ($0.42) | ($0.80) |
| Tier 5; 225,000–299,999 | ($0.43) | ($0.44) | ($0.83) |
| Tier 6; 300,000+ | ($0.44) | ($0.45) | ($0.84) |

PRIORITY CUSTOMER REBATE FOR ORDERS THAT TRADE WITH QUOTES AND ORDERS ON THE REGULAR ORDER BOOK

| Priority customer complex ADV | All symbols (excluding SPY) | SPY |
|---|---|---|
| Tier 1; 0–29,999 | ($0.06) | ($0.07) |
| Tier 2; 30,000–74,999 | ($0.14) | ($0.15) |
| Tier 3; 75,000–124,999 | ($0.15) | ($0.16) |
| Tier 4; 125,000–224,999 | ($0.19) | ($0.20) |
| Tier 5; 225,000–299,999 | ($0.21) | ($0.22) |
| Tier 6; 300,000+ | ($0.22) | ($0.23) |

The Exchange now proposes to adopt new Priority Customer complex order rebates that are the same regardless of whether the order trades with non-Priority Customer orders in the complex order book, or trades with quotes and orders in the regular order book. In Select Symbols (including SPY),[9] the proposed rebate is $0.30 per contract for Tier 1, $0.35 per contract for Tier 2, $0.39 per contract for Tier 3, $0.41 per contract for Tier 4, $0.43 per contract for Tier 5, and $0.45 per contract for Tier 6. In Non-Select Symbols, the proposed rebate is $0.63 per contract for Tier 1, $0.71 per contract for Tier 2, $0.75 per contract for Tier 3, $0.80 per contract for Tier 4, $0.82 per contract for Tier 5, and $0.83 per contract for Tier 6.

**IV. Complex Order Maker/Taker Fees in Select Symbols**

The Exchange is proposing to adjust fees charged to non-Priority Customer complex orders in Select Symbols.[10] In particular, the Exchange proposes to adjust the maker fees charged for trading against Priority Customer complex orders,[11] and taker fees charged for trading against all client categories (collectively, ''maker/taker fees''). Currently, the Exchange charges Market Maker [12] orders maker/taker fees of $0.42 per contract in Select Symbols (excluding SPY), and $0.43 per contract for SPY, subject to a discount of $0.02 per contract for trading against Priority Customer complex orders that are preferenced to the Market Maker. For Non-ISE Market Maker, Firm Proprietary/Broker Dealer,[13] and Professional Customer [14] orders the Exchange charges maker/taker fees of $0.44 per contract for Select Symbols (excluding SPY), and $0.45 per contract for SPY. The Exchange now proposes to adjust its fees such that the maker/taker fees in all Select Symbols (including SPY) [15] will be $0.43 per contract for Market Maker orders (subject to the preference discount described above), and $0.44 for Non-ISE Market Maker, Firm Proprietary/Broker Dealer, and Professional Customer orders. As is the case today, Priority Customers complex orders will not pay any maker/taker fees, and will instead receive rebates as described in Section III above. In addition, the Exchange currently charges a separate fee for Non-Priority Customer complex orders that add liquidity in Complex Quoting Symbols, i.e., symbols in which Market Makers can enter quotes in the complex order

[8] Priority Customer options orders executed in the same underlying symbol at the same price within a 300 second period are aggregated and counted as one executed order for purposes of the fee.

[9] The Exchange is eliminating the special rebates currently provided for SPY.

[10] The Exchange is not proposing to change the fees for non-Select Symbols.

[11] The Exchange separately charges maker fees for non-Priority Customer complex orders that do not trade against Priority Customer complex orders. These fees are not discussed in this filing.

[12] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* ISE Rule 100(a)(25).

[13] A Broker-Dealer order is an order submitted by a Member for a non-Member broker-dealer account.

[14] A Professional Customer is a person who is not a broker/dealer and is not a Priority Customer.

[15] With the proposed change, there will no longer be separate maker/taker fees charged for SPY, which will now be subject to the same maker/taker fees as other Select Symbols.

book, which today is $0.42 per contract. The Exchange proposes to raise this fee to $0.43 per contract in line with the changes to maker/taker fees for Market Maker orders described above.

**V. Market Maker Plus Trading With Complex Orders in Select Symbols**

The Exchange is proposing to adjust fees and rebates for Market Maker Plus [16] orders in Select Symbols when trading against complex orders that leg in to the regular order book. Currently, Market Makers qualifying for Market Maker Plus pay no fee and receive no rebate when providing liquidity to a Priority Customer complex order that legs in to the regular order book. In addition, a Market Maker that has achieved Market Maker Plus is entitled to a rebate of $0.20 per contract in Select Symbols when providing liquidity to orders entered in the regular order book or non-Priority Customer orders that leg in from the complex order book. The Exchange also pays a higher rebate of $0.22 per contract to Market Makers that meet the quoting requirements for Market Maker Plus and are affiliated with an EAM that executes a total affiliated Priority Customer ADV of 200,000 contracts or more in a calendar month, and $0.25 per contract in BAC, SPY, and IWM if at the time of the trade the Market Maker's displayed quantity, in the traded series, is at least 1,000 contracts. The Exchange now proposes to charge a fee of $0.10 per contract for all Market Maker Plus orders that trade against Priority Customer complex orders that leg into the regular order book. The Exchange will neither charge a fee nor offer a rebate for Market Maker Plus orders that trade against non-Priority Customer complex orders that leg into the regular order book.

*2. Statutory Basis*

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[17] in general, and Section 6(b)(4) of the Act,[18] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

**I. Firm Fee Cap**

The Exchange believes that it is reasonable and equitable to lower the Crossing Fee Cap [19] and eliminate the service fee because these proposed changes will potentially lower transaction fees for members executing Crossing Orders on the ISE. In the current lower volume environment it is more difficult for members to reach the cap at its current level. The Exchange believes the proposed fee change will benefit market participants by potentially lowering their fees while allowing the Exchange to remain competitive with other exchanges that offer similar fee cap programs.[20] The Exchange further believes that the proposed fee change is not unfairly discriminatory because it would uniformly apply to all members engaged in proprietary trading in option classes traded on the ISE.

**II. Cancellation Fees**

The Exchange believes that it is reasonable and equitable to waive the cancellation fee. The cancellation fee was originally introduced in response to capacity concerns stemming from members generating significant order traffic that did not result in executed trades due to orders being cancelled at high rates. In the time since the cancellation fee was adopted, the fee has become less important in reducing overuse of ISE infrastructure due to the Exchange adopting a designation for Professional Customer orders, which are now no longer lumped together with Priority Customer orders. As such, the Exchange believes that this fee, which may inadvertently discourage some legitimate Priority Customer orders entered using a member's algorithm, may no longer be necessary. The Exchange does not believe that the proposed change is unfairly discriminatory as it applies equally to all ISE members, who will no longer be subject to any cancellation fees.

**III. Priority Customer Complex Order Rebates**

The Exchange believes that the proposed changes to Priority Customer complex order rebates are reasonable and equitable as they are designed to attract additional order flow to the ISE by offering an attractive set of rebates to members. Although the Exchange is proposing a small reduction in the rebate provided to some Priority Customer complex orders that trade in the complex order book, Priority Customer complex orders that trade on the regular order book will now receive rebates that are significantly higher than their current rates.[21] The Exchange expects that the overall effect of the changes to complex order rebates will be to increase rebates provided to Priority Customer complex orders, and thereby attract this order flow to the ISE. With respect to the elimination of special rebates for SPY, the Exchange notes that SPY, which is a Select Symbol, will now receive the same rebates as other Select Symbols. In addition, since the applicable rebate will no longer depend on whether the order happens to leg in to the regular order book, the Exchange believes that members will now benefit from greater certainty with respect to the rebates provided for sending Priority Customer complex orders to the ISE. The Exchange also continues to believe that it is not unfairly discriminatory to offer rebates to Priority Customer complex orders for members that bring a specified volume of Priority Customer contracts to the ISE. The Exchange already has volume-based rebates for Priority Customer complex orders, and is merely adjusting rebate amounts and simplifying how these rebates are provided. All members can receive the proposed Priority Customer rebates by executing the required volume of Priority Customer complex orders on the Exchange.

**IV. Complex Order Maker/Taker Fees in Select Symbols**

The Exchange believes that the proposed changes to the complex order maker/taker fees are reasonable and equitable as the ISE is simplifying its fees by eliminating the special fees charged for SPY. The proposed fees are generally consistent with the prior level of fees charged on the Exchange for these products. The proposed maker/taker fee changes are also not unfairly discriminatory as all market participants

[16] A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer at least 80% of the time for series trading between $0.03 and $3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $3.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium in each of the front two expiration months. A Market Maker's single best and single worst quoting days each month based on the front two expiration months, on a per symbol basis, will be excluded in calculating whether a Market Maker qualifies for this rebate, if doing so will qualify a Market Maker for the rebate.

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(4).

[19] The Exchange notes that the name change to Crossing Fee Cap is a non-substantive change intended to increase clarity for members and investors.

[20] For example, the Miami International Securities Exchange LLC (''MIAX'') recently adopted a monthly firm fee cap of $60,000 with no applicable service fee. *See* Securities Exchange Act Release No. 72583 (July 10, 2014), 79 FR 41612 (July 16, 2014) (SR–MIAX–2014–37).

[21] The proposed rebates can be as much as $0.61 per contract higher than the current rate for Priority Customer complex orders that trade with quotes and orders on the regular order book.

in the same client category will pay the same fees. With the proposed changes, Priority Customers will continue to pay no maker/taker fees,[22] and Market Makers will continue to receive a small discount compared to other market participants.

**V. Market Maker Plus Trading With Complex Orders in Select Symbols**

The Exchange believes that the proposed Market Maker Plus fees for orders that provide liquidity to complex orders that leg in from the complex order book are reasonable and equitable as these changes are designed to offset rebates associated with Priority Customer complex orders on the other side of these trades. Without these changes, the Exchange could end up paying significant rebates not offset by fees on the other side of the trade when Market Makers that achieve Market Maker Plus trade against complex orders that leg in to the regular order book. For example, a complex order in a Select Symbol executed for a Priority Customer would receive a rebate of up to $0.45 per contract for the highest tier, which would be paid entirely by the Exchange as there is no corresponding fee charged to the Market Maker that executes this order. The proposed Market Maker Plus changes reduce but do not eliminate the negative economics associated with Priority Customer complex orders that leg in to the regular market and trade with Market Maker Plus orders. The Exchange does not believe that the proposed Market Maker Plus changes are unfairly discriminatory as the proposed fees for trading against legged in orders from Priority and non-Priority Customers remain lower than or equal to the fees charged to other Market Makers on the Exchange, who pay a maker fee of $0.10 per contract for providing liquidity in Select Symbols.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[23] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed fee changes are pro-competitive as they are intended to attract additional order flow to the ISE. While the Exchange is increasing certain fees and decreasing others, the ISE believes that the proposed changes are overall more favorable to members, and will allow the ISE to compete effectively with other options markets. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[24] and subparagraph (f)(2) of Rule 19b–4 thereunder,[25] because it establishes a due, fee, or other charge imposed by ISE.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2014–39 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2014–39. 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–ISE–2014–39, and should be submitted on or before September 8, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–19475 Filed 8–15–14; 8:45 am]

**BILLING CODE 8011–01–P**

[22] Priority Customer complex orders receive rebates as described in Section III above.

[23] 15 U.S.C. 78f(b)(8).

[24] 15 U.S.C. 78s(b)(3)(A)(ii).

[25] 17 CFR 240.19b–4(f)(2).

[26] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72834; File No. SR–CME–2014–28]**

## Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing of Proposed Rule Change Related to Enhancements to Its Risk Model for Credit Default Swaps

August 13, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 8, 2014, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by CME. The Commission is publishing this notice to solicit comments on the proposed rule change for interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed change relating to the Risk Model for Credit Default Swaps (''CDS'') (the ''CDS Risk Model'') (such enhanced model, the ''Proposed CDS Risk Model'') will apply only to broad-based index CDS products cleared by CME and will not apply to security-based swaps. CME will file separate proposed rule changes with the Commission in the future to implement any CDS risk model applicable to the clearing of security-based swaps.

CME is proposing to change its current CDS Margin Model as follows (such new model, the ''Proposed CDS Margin Model''):

- Replacing the current multiple market risk factors with a single market risk component calculated by reference to scenarios obtained within a statistical framework that addresses relevant market risk factors affecting a given CDS portfolio;
- Enhancing the Idiosyncratic Risk Component with a more systematic approach that avoids double counting of risk with other elements of the Proposed CDS Margin Model;
- Enhancing the Liquidity/Concentration Risk Component to incorporate reference entity or index series and maturity-specific liquidity features and to address liquidation risk for highly concentrated positions with a progressively increasing margin requirement;
- Adding a risk component for interest rate/discount curve risk; and
- Addressing foreign exchange (''F/X'') related risk that may result from CDS portfolios that include CDS positions denominated in multiple currencies.

CME is additionally proposing to add a new CDS Guaranty Fund charge to CDS Clearing Members that clear CDS Products that reference themselves or their affiliates and delete the current threshold based approach.

Further, CME proposes to amend its CDS Stress Test Methodology to align with the Proposed CDS Margin Model framework. The CDS Guaranty Fund will continue to be sized so that CME's financial resources are sufficient to meet its financial obligations to its CDS Clearing Members notwithstanding a default by the two CDS Clearing Members creating the largest loss in extreme but plausible market conditions based upon the results of the new CDS Stress Test Methodology. In addition, CME proposes to add a new risk component to its CDS Stress Test Methodology to capture self-referencing risk arising from contracts that include component transactions for which the reference entity is a clearing member or one of its affiliates. In addition, CME proposes to add a new stress exposure calculation to size the self-referencing risk discussed above.

The text of the proposed change is also available at the CME's Web site at *http://www.cmegroup.com,* at the principal office of CME, 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, CME included statements concerning the purpose 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. CME 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*

a. Purpose

1. Description of the Proposed Changes to the CDS Margin Model

CME is proposing to make changes to the existing CDS Margin Model by changing the current Market Risk Factor, the Idiosyncratic Risk Factor and the Liquidity/Concentration Risk Factor as well as adding a new Interest Rate Sensitivity Component, and a methodology for addressing new F/X related risks for CDS portfolios denominated in multiple currencies. The Proposed CDS Margin Model aims to holistically model the risk of a CDS portfolio comprised of a variety of index and single-name CDS products using statistically derived scenarios.

1.1 Proposed Changes for Market Risk Component

To reflect the variations in market value of a CDS portfolio, which may be comprised of positions in different index and single-name CDS products with different maturities, CME is proposing to use a scenario-based approach which relies on a statistical model, for the Market Risk Component. The statistical model is designed to generate scenarios that aim to reproduce the salient characteristics of marginal and joint movement of credit spreads across different index series or reference entity and maturity combinations.

The scenarios used for the modeling of the Market Risk Component are based on the log changes in:

- Par-spreads for ''run-rank'' (on-the-run (''OTR''), OTR–1, OTR–2, . . .) index CDS at standard maturities (1, 3, 5, 7 and 10 years); and
- Par-spreads for single-name CDS at standard maturities (1, 3, 5, 7 and 10 years).

A joint probability distribution for the 5-day log changes in par spreads is estimated using historical data on daily log changes in par spreads, which are the driving risk factors of the Proposed CDS Margin Model. The distributional characteristics of these risk factors are represented through time-varying autocorrelations, volatilities and tail risk parameters.

The volatility of each risk factor is an exponentially weighted moving average floored at an equal-weighted long-run average. The dependence across risk factors is modeled by historical and stressed correlation matrices combined with a copula function to model tail-risk dependence. The new statistical model allows CME to generate extreme but plausible spread scenarios across different index series and/or reference entities and maturities. Both the volatility floor and stressed correlation matrices add counter-cyclical features to the Market Risk Component.

CME will employ a Monte Carlo simulation approach to generate spread scenarios for computing the Market Risk Component as further described below. The proposed Market Risk Component

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''MR'') is represented by the following formula:

$MR = BMR + DR$

Where

- the Base Market Risk Component (''BMR'') is determined as the Value-at-Risk (''VaR'') at a 99% confidence level for the CDS portfolio's theoretical changes in value over 5 days. This corresponds to the 1% greatest negative change in the CDS portfolio value based on spread scenarios generated by Monte Carlo simulation by reference to historical correlation matrix estimate; and
- the Dependence Risk Component (''DR'') is determined by computing the VaR at a 99% confidence level under stressed correlation scenarios for the CDS portfolio's theoretical changes in value over 5 days. A low and high correlation VaR is estimated through the 1% greatest negative change in the CDS portfolio value based on spread scenarios generated by Monte Carlo simulation by reference to stressed low and high correlation matrices, respectively. DR is computed as the excess of the greater of the low and high correlation VaR over BMR, multiplied by a risk-aversion coefficient.[3]

The proposed Market Risk Component aims to more accurately capture different sources of market risk through a holistic and theoretically coherent scenario-based approach that is driven by conservative statistical assumptions. CME notes that the current CDS Margin Model relies on separate add-on factors which are modeled and calibrated in isolation and gives rise to the potential for double counting. Varying degrees of volatility and tail risks across par spreads of different index series or reference entities at different maturities are not represented in the current CDS Margin Model. Historical correlations, tail dependence and correlation risk are not explicitly and consistently accounted for within the current CDS Margin Model. In contrast, spread volatility and tail risks are modeled precisely and consistently in the Proposed CDS Margin Model. The effects of historical correlations, tail dependence and correlation risk on the co-movement of spreads of CDS products are explicitly addressed in the Proposed CDS Margin Model.

The risk factors of the current CDS Margin Model such as curve, sector and convergence/divergence are replaced by a scenario-based approach which incorporates historical correlation matrices into the market risk computation. The Market Risk Component also aims to capture correlation risk that might arise from relying exclusively on historically-estimated correlations which can change under extreme market conditions. The correlation risk is addressed by employing two extreme correlation scenarios (high correlations and low correlations) to compute DR which addresses the risk of long-short or diversified portfolios driven by correlation uncertainty.

Additionally, the proposed Market Risk Component incorporates counter-cyclical features for calibration and modeling of volatilities, autocorrelations and correlations.

In comparison to the existing model, the proposed change to the manner in which the market risk is assessed may, in isolation, result in a reduction in the margin requirement for market risk. CME believes that this margin reduction does not come at the expense of adding more risk to the CME Clearing House since the statistical model and its different components were shown to appropriately cover the risk of a wide range of theoretical and production portfolios under extreme but plausible market conditions and in historical back testing, going back to 2008.

1.2 Proposed Idiosyncratic Risk Component

The Idiosyncratic Risk Component is intended to address CME's potential exposure to possible ''jump-to-default'' (''JTD'') risk due to default of a reference entity as well as ''jump to health'' (''JTH'') risk where a reference entity benefits from an extreme drop in credit spreads (due to an improvement in credit quality) (in each case, beyond what is covered by the Market Risk Component). JTD risk of a reference entity is driven by the exposure to a scenario which reduces the price of the reference entity to a stressed recovery rate. JTH risk of a reference entity is driven by the exposure to a scenario which is a drastic improvement in credit quality of the entity. In addition to the price differential under current market and idiosyncratic scenarios, both JTD and JTH margin requirements take into account the risk concentration to a reference entity through dependence on position size. Within the Proposed CDS Margin Model, only the marginal risk contribution of idiosyncratic events will be reflected in the risk component. This is accomplished by coherent modeling of the associated market and idiosyncratic risks. Both JTD and JTH margin requirements are estimated by the difference between the pure market risk of the portfolio and the sum of the idiosyncratic risk and the market risk of the portfolio, excluding positions in the reference entity which drives the Idiosyncratic Risk Component.

1.3 New Interest Rate Sensitivity Component

CME is proposing to introduce a new Interest Rate Sensitivity Component to capture the effect of changes in interest rates (relevant to the underlying discount curve) on the market value of CDS portfolios. The calculation of the Interest Rate Sensitivity Component relies on applying parallel up and down shocks to the discount curve relevant to the index series or reference entity.

1.4 Proposed Change to the Liquidity/Concentration Risk Component

The Liquidity/Concentration Risk Component is designed to reflect CME's costs during the liquidation of a CDS portfolio following a CDS Clearing Member default, resulting from widening bid/ask spreads and/or increasing liquidation times due to the size of the CDS portfolio and/or event-driven liquidity squeezes. The proposed changes to the Liquidity/Concentration Risk Component are intended to add granularity to the modeling of liquidity/concentration risk by taking into account varying liquidity profiles across index series or reference entities and relevant maturities. The different liquidity characteristics of various index families/series and reference entities are modeled using trading volume data on the specific index series or reference entities. The dependence on trading volume data enables the model to more sensitively react to changes in trading activity. The modeling of relative liquidity of instruments at different maturities relies on an analysis of bid/ask spreads across maturities for both index and single-name CDS products. Concentration risk is addressed by a progressively increasing super-linear dependence on position size relative to the trading volume of the underlying reference entity or index series and relevant maturity.

The enhancements in the proposed Liquidity/Concentration Risk Component result in higher liquidity risk margin requirements for off-the-run indices, which are generally in line with the change in observed trading activity when a series becomes off-the-run. For single-name CDS, the proposed Liquidity/Concentration Risk Component results in higher liquidity risk margin requirements for reference entities with relatively low trading volume. Furthermore, the proposed Liquidity/Concentration Risk Component generally yields higher liquidity risk margin requirements for short and long dated contracts.

An analysis of proposed Liquidity/Concentration Risk Component on an

[3] The risk-aversion coefficient was determined by back testing a collection of theoretical and production portfolios.

indicative set of CDS portfolios reveals that the proposed Liquidity/Concentration Risk Component responds as expected to concentration, diversification and hedging. The overall effect of the enhancements made to the Liquidity/Concentration Risk Component is to reduce risk to the CME Clearing House by conservatively increasing margin requirements for positions which are expected to be more difficult to close out.

1.5 New F/X Related Risk Component

CME is proposing to address F/X related risks associated with the inclusion of non-USD denominated CDS positions in CDS portfolios (each a ''Non-USD CDS Positions''). As proposed above, CME will allow for correlation based risk offsets with respect to both Market Risk Components and Idiosyncratic Risk Components of the Proposed CDS Margin Model. The calculation of such risk offsets will require that the Market Risk Components and Idiosyncratic Risk Components be calculated in USD (or other such common/base currency as may be chosen from time to time). In order to calculate the USD requirements, profit and loss due to market and idiosyncratic factors (''P&L'') will be converted into their USD equivalents based on conservative F/X rates. The USD equivalent requirements for the Market Risk Component and the Idiosyncratic Risk Component will then be apportioned into each currency specific sub-portfolio based on its Market Risk Component and Idiosyncratic Risk Component requirements.

With respect to the Interest Rate Sensitivity Component and the Liquidity Risk/Concentration Component of the Proposed CDS Margin Model, where CME does not propose to offer risk or diversification offsets, only currency specific margin requirements are computed.

The overall risk requirement for each specific currency is then calculated as the sum of (a) the currency specific Liquidity/Concentration Risk Component requirement, (b) the currency specific Interest Rate Sensitivity Component requirement, and (c) the sum of the Market Risk Component and the Idiosyncratic Risk Component requirement (apportioned to each specific currency). Under the Proposed CDS Margin Model, CME will inform clearing members of their margin requirements with respect to their multi-currency CDS positions in amounts that are required to be posted for each denominated currency in their portfolios.

2. Description of the Proposed Changes to Stress Test Methodology

2.1 Proposed Changes to CDS Stress Test Methodology for Sizing and Allocation of CDS Financial Resources

CME currently utilizes a stressed extension of its margin model to size the CDS Guaranty Fund and CDS Assessments (as defined in the CME Rules). The ''potential residual loss'' used to size and allocate the CDS Guaranty Fund and CDS Assessments is determined as the excess of the stressed exposure for CDS products over the margin deposited for CDS products. CME is proposing changes to the CDS Stress Test Methodology in order to align it with the Proposed CDS Margin Model. The proposed CDS Stress Test Methodology will rely on more extreme and counter-cyclical scenarios for the calculation of the different risk components compared to the scenarios used in the Proposed CDS Margin Model.

2.2 New Self-Referencing Risk Component

Although CME does not permit a CDS Clearing Member or a customer to enter into or maintain a single-name CDS position referencing the clearing member or an affiliate, a self-referencing CDS position may arise where the CDS Clearing Member or its affiliate is the Reference Entity in respect of a component transaction within the index referenced in a CDS position. For example, such a situation may arise in the context of index CDS contracts which reference CDS Clearing Members or their affiliates. In such cases, the CDS Clearing Member (a ''CDS SR Clearing Member''), either through its own account or that of a customer, has exposure to a CDS Product that references itself or its affiliate (each an ''SR Transaction''). CME proposes to address this potential exposure to self-referencing risk by allocating an additional JTD risk for each CDS SR Clearing Member under its Stress Test Methodology. CME considers a CDS Clearing Member default to be an extreme tail risk event which is subject to the CDS financial safeguards, including mutualization across all other CDS Clearing Members via the CDS Guaranty Fund.

Currently, CDS SR Clearing Members, clearing self-referencing indices for itself or its customers, are required to collateralize the self-referencing exposure in an amount specified in the CME Rules. CME is now proposing to adopt a risk based approach without reference to any preset threshold, to capture this self-referencing risk. The additional risk associated with CDS SR Clearing Members will be added to the stress scenarios used to size the CDS Guaranty Fund and CME will require each CDS SR Clearing Member to make an additional CDS Guaranty Fund Deposit to address this risk (such additional deposit, the ''CDS SR Deposit''). The net theoretical self-referencing exposure of each CDS Clearing Member is computed as the additional theoretical self-referencing ''potential residual loss'' to CME in extreme but plausible market conditions using the stress testing methodology determined by the CDS Risk Committee. The aggregate amount of CDS SR Deposits will be sized to cover the sum of the net theoretical self-referencing exposures of two CDS SR Clearing Members which would create the two largest net theoretical self-referencing exposures.[4] The required CDS SR Deposit will then be allocated to each CDS SR Clearing Member in proportion to each such CDS SR Clearing Member's net self-referencing exposure.

A new CME Rule 8H06 (CDS SR Deposit) has been added to accurately reflect these proposed changes to the CDS Guaranty Fund in the CME Rules, and CME Rule 8H802.B (Satisfaction of Clearing House Obligations) has been amended to reflect the introduction of the CDS SR Deposit. In addition, provisions in CME Rule 80104.A (Clearing Through Clearing Member's House (or Proprietary) Account) and CME Rule 80104.B (Clearing Through Clearing Members Customer Account) that relate to the requirement by clearing members that clear self-referencing indices for themselves or their customers to collateralize the self-referencing exposure in an amount specified in the CME Rules have been deleted.

A CDS Clearing Member default may result in contagion among financial institutions, widening spreads and exposing portfolios consisting of index CDS that reference financial entities to potential wrong-way risk. For example, the default of a CDS Clearing Member based in the United States, which is not referenced in an index referencing European names, could lead to overall widening of the credit spreads among financial institutions worldwide, leading to widening of spreads in non-US indices. This may lead to variations in correlations between such non-US indices and other North American indices, potentially adversely impacting

[4] For purposes of determining the two largest potential residual losses, the self-referencing exposure of a CDS SR Clearing Member will be aggregated with that of any affiliated CDS SR Clearing Member.

certain portfolios which are sensitive to such correlations. This increase in potential exposure caused by contagion is addressed in the CME Proposed CDS Risk Model and Stress Test Methodology via incorporation of stressed correlation scenarios.

2.3 Portfolio Margining Implications

The Proposed CDS Margin Model relies on a statistical model to support a scenario-based approach in line with the joint probability distribution characteristics of par spreads of index series or reference entities across standard maturities. The Market Risk Component of the Proposed CDS Margin Model provides risk offsets between single-name CDS positions and index CDS positions. Such risk offsets are driven by the dependence structure across spread scenarios imposed by historical and counter-cyclical stressed correlations.

The Interest Rate Sensitivity Component for a portfolio containing index and single-name CDS products is designed as an aggregate risk component across index and single-name CDS positions.

Under the Proposed CDS Margin Model, the JTD component of the margin is computed by aggregating the exposure to the default of a reference entity in both single-name CDS positions and index CDS positions. CME relies on a decomposition model to compute the JTD component of the margin requirement for a CDS portfolio containing index and single-name CDS products.

The Liquidity/Concentration Risk Component of the Proposed CDS Margin Model is driven by an expected liquidation process in which the market risk exposure of the portfolio is first hedged with the most liquid CDS instrument and then the resulting basis (hedged) portfolio is liquidated. The margin requirements of the Liquidity/Concentration Risk Component that are driven by market risk hedging costs are calculated by aggregating the market risk exposure of the index and single-name CDS positions. Index and single-name CDS positions are handled separately for the calculation of the basis risk margin requirement (due to unwinding of hedged positions) of the Liquidity/Concentration Risk Component and also for the modeling of the concentration margin requirement as a function of position size.

b. Statutory Basis

CME believes the proposed rule change is consistent with the requirements of the Exchange Act, including Section 17A of the Exchange Act,[5] and the applicable regulations thereunder. The proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Exchange Act.[6]

The proposed rule change accomplishes these objectives because it is intended to more accurately capture different sources of risk through a holistic and theoretically coherent scenario-based approach that is driven by conservative statistical assumptions, which in turn allows CME to appropriately cover the risk of a wide range of theoretical and production portfolios under extreme but plausible market conditions and in historical back testing, going back to 2008. In particular, the amendments will enhance CME's margin methodology by more accurately addressing F/X risk and self-referencing risk presented by clearing index CDS contracts.

CME will also promote the efficient use of margin for the clearinghouse and its Clearing Members and their customers by enabling CME to provide appropriate portfolio margining treatment between index and single-name CDS positions and as such contribute to the safeguarding of securities and funds in CME's custody or control or for which CME is responsible and the protection of investors.[7]

CME also believes the proposed rule change is consistent with the requirements of Rule 17Ad-22 of the Exchange Act.[8] In particular, in terms of financial resources, CME believes that the proposed rule change will continue to ensure sufficient margin to cover its credit exposure to its clearing members, consistent with the requirements of Rule 17Ad–22(b)(2)[9] and Rule 17Ad–22(d)(14)[10] and that the CDS Guaranty Fund contributions and required margin, both as modified by the proposed rule change, will provide sufficient financial resources to withstand a default by the two participant families to which it has the largest exposures in extreme but plausible market conditions consistent with the requirements of Rule 17Ad–22(b)(3).[11] In addition, CME believes that the proposed rule change is consistent with CME's requirement to limit its exposures to potential losses from defaults by its participants under normal market conditions pursuant to 17Ad–22(b)(1).[12] CME also believes that the proposed rule change will continue to allow for it to take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of clearing member insolvencies or defaults, in accordance with Rule 17Ad–22(d)(11).[13]

*B. Self-Regulatory Organization's Statement on Burden on Competition*

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition. The proposed rule change reflects enhancements to CME's CDS Risk Model. CME does not believe that any increase in margin or CDS Guaranty Fund contributions, would significantly affect the ability of Clearing Members or other market participants to continue to clear CDS, consistent with the risk management requirements of CME, or otherwise limit market participants' choices for selecting clearing services. For the foregoing reasons, the Proposed CDS Risk Model does not, in CME's view, impose any unnecessary or inappropriate burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments relating to the Proposed CDS Risk Model have not been solicited or received. CME will notify the Commission of any written comments received by CME.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] Id.

[8] 17 CFR 240.19b–4.

[9] 17 CFR 240.17Ad–22(b)(2).

[10] 17 CFR 240.17Ad–22(d)(14).

[11] 17 CFR 240.17Ad–22(b)(3).

[12] 17 CFR 240.17Ad–22(b)(1).

[13] 17 CFR 240.17Ad–22(d)(11).

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*), or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–CME–2014–28 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC, 20549–1090.

All submissions should refer to File Number SR–CME–2014–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours or 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 CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

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–CME–2014–28 and should be submitted on or before September 8, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–19527 Filed 8–15–14; 8:45 am]

**BILLING CODE 8011–01–P**

[14] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72821; File No. SR–BATS–2014–031]**

## Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Reflect Changes to the Means of Achieving the Investment Objective Applicable to the iShares Short Maturity Bond Fund

August 12, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 4, 2014, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to reflect changes to the means of achieving the investment objective applicable to the iShares Short Maturity Bond Fund (the ''Fund''). The shares of the Fund are currently listed and traded on the Exchange under BATS Rule 14.11(i).

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.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 parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Commission has approved listing and trading on the Exchange of shares of the Fund (''Shares''), which are offered by the iShares U.S. ETF Trust (the ''Trust''),[3] under BATS Rule 14.11(i), which governs the listing of Managed Fund Shares. The Shares are currently listed and traded on the Exchange under BATS Rule 14.11(i).

The Shares are offered by the Trust, which was established as a Delaware statutory trust on June 21, 2011. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N–1A (''Registration Statement'') with the Commission.[4] BlackRock Fund Advisors is the investment adviser (''BFA'' or ''Adviser'') to the Fund.[5] BlackRock Financial Management, Inc. serves as sub-adviser for the Fund (''Sub-Adviser'').[6] State Street Bank and Trust Company is the administrator, custodian, and transfer agent for the Trust. BlackRock Investments, LLC (''Distributor'') serves as the distributor for the Trust.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67894 (September 20, 2012), 77 FR 59227 (September 26, 2012) (SR–BATS–2012–033 Amendment No. 1) (the ''Prior Filing'').

[4] *See* Registration Statement on Form N–1A for the Trust, dated March 1, 2014 (File Nos. 333–179904 and 811–22649). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Company under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') (the ''Exemptive Order''). *See* Investment Company Act Release No. 29571 (January 24, 2011) (File No. 812–13601).

[5] BlackRock Fund Advisors is an indirect wholly owned subsidiary of BlackRock, Inc.

[6] The Adviser manages the Fund's investments and its business operations subject to the oversight of the Board of Trustees of the Trust (the ''Board''). While BFA is ultimately responsible for the management of the Fund, it is able to draw upon the trading, research and expertise of its asset management affiliates for portfolio decisions and management with respect to portfolio securities. The Adviser also has ongoing oversight responsibility. The Sub-Adviser, subject to the supervision and oversight of the Adviser and the Board, is responsible for day-to-day management of the Fund and, as such, typically makes all decisions with respect to portfolio holdings.

The Exchange proposes to make the following change, described below, to the investment strategy the Sub-Adviser will use to obtain the Fund's investment objective (the ''Proposed Amendment'').[7] The Prior Filing stated that the Fund will not invest in swap agreements, futures contracts, or option contracts (''Derivatives''), pursuant to the Exemptive Order. However, on December 6, 2012, the Office of Exemptive Applications/Office of Investment Company Regulation, Division of Investment Management, issued an announcement stating that they would not recommend enforcement action to the Commission if actively-managed ETFs such as the Fund invested in swap agreements, futures contracts, or option contracts. Consequently, going forward, while the Fund will continue to invest in the manner described in the Prior Filing, the Fund is proposing to also be allowed to invest in Derivatives. Specifically, the Fund proposes that it may, to a limited extent (under normal circumstances, less than 20% of the Fund's net assets), engage in transactions in futures contracts and swaps.[8]

The Exchange notes that the Commission has approved similar representations relating to issues of Managed Fund Shares proposed to be listed and traded both on the Exchange and on other Exchanges.[9]

The value of the securities and other assets held by the Fund will be determined pursuant to valuation policies and procedures approved by the Board. Futures contracts, including U.S. Treasury futures contracts, will be valued at their last sale price or settlement price as of the close of such exchange. Interest rate swaps are generally valued by pricing services by calculating the new present value of future cash flows according to the terms of the swap agreement. The future cash flows are based on the difference between the agreed fixed rate and estimated level of a defined floating rate on the specified reset date.

Intraday price quotations in swaps of the type proposed to be held by the Fund are available from major broker-dealer firms and from third-parties. Intraday, executable price quotations on futures are available directly from the applicable listing exchange. All such intraday price information is also available through subscription services, such as Bloomberg, Thomson Reuters and International Data Corporation, which can be accessed by authorized participants and other investors.

The Adviser represents that there is no change to the Fund's investment objective. The Fund will continue to comply with all initial and continued listing requirements under BATS Rule 14.11(i). Except for the changes noted above, all other representations made in the Prior Filing remain unchanged. The Fund's investments will be in compliance with the 1940 Act and consistent with the Fund's investment objective, and will not be used to enhance leverage.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[10] in general and Section 6(b)(5) of the Act[11] 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.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will continue to be listed and traded on the Exchange pursuant to the initial and continued listing criteria in BATS Rule 14.11(i). With respect to the proposal to invest in Derivatives, the Exchange notes that the Commission has approved similar representations relating to issues of Managed Fund Shares proposed to be listed and traded on the Exchange.[12] The Adviser represents that Derivatives are not a principal investment strategy of the Fund and that any Derivatives held by the Fund will be exchange traded and/or centrally cleared, and they will be collateralized. The Fund may hold Derivatives that include interest rate futures (and may reference interest rates or prices of Eurodollars, US federal funds, or Treasury bonds or notes) and fixed-for-floating interest rate swaps to manage the Fund's interest rate exposure. The value of the securities and other assets held by the Fund will be determined pursuant to valuation policies and procedures approved by the Board. Futures contracts, including U.S. Treasury futures contracts, will be valued at their last sale price or settle price as of the close of such exchange. Interest rate swaps are generally valued by pricing services by calculating the new present value of future cash flows according to the terms of the swap agreement. The future cash flows are based on the difference between the agreed fixed rate and estimated level of a defined floating rate on the specified reset date. Intraday price quotations in swaps of the type proposed to be held by the Fund are available from major broker-dealer firms and from third-parties. Intraday, executable price quotations on futures are available directly from the applicable listing exchange. All such intraday price information is also available through subscription services, such as Bloomberg, Thomson Reuters and International Data Corporation, which can be accessed by authorized participants and other investors.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Adviser represents that there is no change to the Fund's investment objective. The Fund will continue to comply with all initial and continued listing requirements under BATS Rule 14.11(i). The Adviser represents that the purpose of this change is to provide additional flexibility to the Adviser to meet the Fund's investment objective, as discussed above.

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

[7] The Proposed Amendment described herein will be effective upon filing with the Commission of an amendment to the Trust's Registration Statement or supplement thereto. *See supra* note 4. The Adviser represents that the Adviser and the Sub-Adviser have managed and will continue to manage the Fund in the manner described in the Prior Filing and the Fund will not implement the Proposed Amendment described herein until the instant proposed rule change is operative.

[8] Derivatives might be included in the Fund's investments to serve the investment objectives of the Fund. The Fund proposes to invest in interest rate futures (and may reference interest rates or prices of Eurodollars, US federal funds, or Treasury bonds or notes) and fixed-for-floating interest rate swaps, in each case, to manage the Fund's interest rate exposure. The Fund will invest only in futures contracts that are traded on an exchange that is a member of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Derivatives will be exchange traded and/or centrally cleared, and they will be collateralized. Derivatives are not a principal investment strategy of the Fund.

[9] *See, e.g.,* Securities Exchange Act Release Nos. 70986 (December 4, 2013), 78 FR 74212 (December 10, 2013) (SR–BATS–2013–051) (order approving listing and trading on the Exchange of the iShares Liquidity Income Fund); 70773 (October 30, 2013), 78 FR 66409 (November 5, 2013) (SR–NYSEArca-2013–86) (order approving listing and trading on NYSE Arca, Inc. of the Franklin Short Duration U.S. Government ETF); and 70282 (August 29, 2013), 78 FR 54700 (September 5, 2013) (SR–NYSEArca–2013–70) (order approving listing and trading on NYSE Arca, Inc. of First Trust Inflation Managed Fund).

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

[12] *See supra* note 9.

the Fund will continue to comply with all initial and continued listing requirements under BATS Rule 14.11(i). The Adviser represents that the purpose of this change is to provide additional flexibility to the Adviser to meet the Fund's investment objective, as discussed above. The Adviser represents that there is no change to the Fund's investment objective. Except for the changes noted above, all other representations made in the Prior Filing remain unchanged.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The proposed changes to the Fund's means of achieving the investment objective will permit the Fund to adjust its portfolio to allow the Fund to continue to meet its investment objectives by investing in Derivatives in a manner consistent with other actively-managed exchange-traded funds and will enhance competition among other issues of Managed Fund Shares.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14] Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it is filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2014–031 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2014–031. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written 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 at 100 F Street NE., Washington, DC 20549–1090 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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–BATS–2014–031, and should be submitted on or before September 8, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Kevin M. O'Neill,**

*Deputy Secretary.*

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[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6), 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.

[16] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72816; File No. SR–ISE–2014–37]**

## Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change on Non-Customer Linkage and Sweep Orders

August 12, 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 July 31, 2014, the International Securities Exchange, LLC (''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 ISE proposes to amend its rules to introduce away market routing for Non-Customer Orders, and to implement a new order type: the ''Sweep Order.'' The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

Under the Options Order Protection and Locked/Crossed Market Plan (the ''Plan''), the ISE cannot execute orders at a price that is inferior to the best price available at other options exchanges (i.e., ''Protected Bids'' and ''Protected Offers'').[3] In compliance with this requirement, marketable orders that cannot be executed at the national best bid or offer (''NBBO'') or better, are instead exposed to all Members for up to one second before, if necessary, being routed to away markets by an unaffiliated Linkage Handler,[4] in the case of Public Customer Orders,[5] or cancelled, in the case of Non-Customer Orders.[6] The Exchange now proposes to supplement its away market routing capabilities by expanding this service to include Non-Customer Orders.

Under current Supplementary Material .02 to Rule 1901, if after a Non-Customer Order is exposed, the order cannot be executed in full on the Exchange at the then-current NBBO or better (i) the balance of the order will be placed on the ISE book if it is not marketable against the then-current NBBO, or (ii) the balance of the order will be canceled.[7] With the proposed changes to this rule, any unexecuted balance of a Non-Customer Order will now be eligible for away market routing instead of being cancelled after the order is exposed. As with Public Customer Orders today,[8] if after a Non-Customer Order is exposed, the order is marketable but cannot be executed in full on the ISE at the then-current NBBO or better, the balance of the order will be sent to the Linkage Handler for routing, up to the full displayed size of the Protected Bids or Protected Offers that are priced better than ISE's quote. Any balance of the order will be executed on the ISE if it is marketable, and any additional balance that is not marketable against the then-current NBBO will be placed on the ISE book.

Members that do not wish to have their Non-Customer Orders exposed prior to being routed to away markets by the Linkage Handler will also have that option. In particular, new Supplementary Material .04 to Rule 1901 provides that Members can choose to have their marketable Non-Customer Orders sent immediately to the Linkage Handler for routing if the automatic execution of the order would trade through another exchange's quote. In such cases, the order will not be exposed on the ISE and the Linkage Handler will immediately route the balance of the order to away markets, up to the full displayed size of any better priced Protected Bids and Protected Offers. Any balance of the order will be executed on the ISE if it is marketable, and any additional balance that is not marketable against the then-current NBBO will be placed on the ISE book. If an order marked ''do-not-route'' under this section cannot be executed in full on the ISE at the NBBO or better, the balance of the order will be placed on the ISE book if it is not marketable, or the balance of the order will be cancelled.

*Example:*

1. ISE has 3 offers in ABC option: $1.20 for 5 contracts, $1.21 for 15 contracts, and $1.22 for 25 contracts
2. PHLX has a best offer of $1.19 for 10 contracts
3. CBOE has a best offer of $1.21 for 15 contracts
4. Amex has a best offer of $1.22 for 10 contracts

*Non-Customer Order to Buy 85 contracts with a limit price of $1.21; Opted out of Flash Auction*

1. No Flash Auction; Linkage Handler routes 10 contracts to PHLX at $1.19
2. ISE executes 5 contracts at $1.20 and 15 contracts at $1.21
3. Linkage Handler routes 15 contracts to CBOE at $1.21
4. Remaining 40 contracts placed on the ISE book with limit price of $1.21

In addition, the Exchange proposes to adopt new Supplementary Material .05 to Rule 1901 which introduces a new order type intended to facilitate routing of Public Customer and Non-Customer Orders to away markets. A ''Sweep Order'' is a limit order that is executed against any available interest in the ISE order book at the NBBO or better and immediately sent to the Linkage Handler for away market routing. Sweep orders will not be exposed to Members prior to being routed to away markets, and will instead be handled in a manner similar to Non-Customer Orders that have opted out of being exposed under new Supplementary Material .04 to Rule 1901, described above. In particular, when the automatic execution of a marketable Sweep Order would trade through another exchange's quote, the balance of the order, up to the full displayed size of any better priced Protected Bids and Protected Offers, will be sent to the Linkage Handler for routing, with any additional balance being executed on the ISE if the order is marketable. Unlike Non-Customer Orders executed pursuant to Supplementary Material .04 to Rule 1901, however, any portion of a Sweep Order that is not executed will be cancelled rather than placed on the ISE book. Similarly, if the Sweep Order is not marketable when it is submitted to the Exchange it will be cancelled on receipt. In conjunction with the introduction of Sweep Orders the Exchange also proposes to amend Rule 805(a) to allow market makers to submit Sweep Orders in their appointed options classes.[9]

*Example:*

1. ISE has 3 offers in ABC option: $1.20 for 5 contracts, $1.21 for 15 contracts, and $1.22 for 25 contracts
2. PHLX has a best offer of $1.19 for 10 contracts
3. CBOE has a best offer of $1.21 for 15 contracts
4. Amex has a best offer of $1.22 for 10 contracts

*Sweep Order to Buy 85 contracts with a limit price of $1.21*

1. No Flash Auction; Linkage Handler routes 10 contracts to PHLX at $1.19
2. ISE executes 5 contracts at $1.20 and 15 contracts at $1.21
3. Linkage Handler routes 15 contracts to CBOE at $1.21
4. Remaining 40 contracts cancelled

2. 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.[10] In particular, the proposal is consistent with Section 6(b)(5) of the

[3] *See* Rule 1900(o); ISE Rule 1901.

[4] A Linkage Handler is an unaffiliated broker dealer with which the Exchange has contracted to provide routing services in connection with the Plan. *See* Supplementary Material .03 to Rule 1901.

[5] A Public Customer Order is an order for the account of a person or entity that is not a broker or dealer in securities. *See* ISE Rules 100(a)(38)–(39).

[6] A Non-Customer Order is an order for the account of a person or entity that is a broker or dealer in securities. *See* ISE Rules 100(a)(27)–(28).

[7] *See* Supplementary Material .02(e) to Rule 1901. Both Public Customer Orders and Non-Customer Orders that are marked ''do-not-route'' under this section will continue to be handled in this manner.

[8] *See* Supplementary Material .02(d) to Rule 1901.

[9] Market makers are currently permitted to submit the following order types in their appointed options classes: opening only orders, immediate-or-cancel (''IOC'') orders, market orders, fill-or-kill orders, complex orders, and certain block orders and non-displayed penny orders. *See* ISE Rule 805(a).

[10] 15 U.S.C. 78f(b).

Act,[11] 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.

Currently, the Exchange only routes Public Customer orders to away markets, and cancels any marketable Non-Customer orders that cannot be executed on the ISE in compliance with the Options Order Protection and Locked/Crossed Market Plan. The proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system by enabling Non-Customer Orders entered on the ISE to access liquidity on other exchanges for the first time. Comparable functionality is available to both Public Customer and Non-Customer Orders on other options exchanges, including, for example, NYSE Arca Options (''Arca'').[12] The Exchange believes that it is in the public interest to similarly allow ISE Members to access better-priced liquidity on other markets regardless of whether their orders are for the account of a Public Customer. In addition, the Exchange notes that Non-Customer routing will be purely voluntary, and Members that do not want their Non-Customer Orders routed to other options exchanges, or exposed on the ISE, will be able to opt out of those services. Giving Members the additional choice of having their Non-Customer Orders executed against available interest on other markets displaying better prices will improve firms' quality of execution.

The introduction of Sweep Orders on the ISE also removes impediments to and perfects the mechanism of a free and open market and a national market system because this new order type will further facilitate routing of Public Customer and Non-Customer Orders to other options exchanges. By forgoing exposure on the ISE prior to routing and cancelling any unexecuted balance of a Sweep Order, this new order type is designed to allow Members to quickly access available liquidity on the ISE and away markets. Other options exchanges also have order types similar to the proposed Sweep Order. For example, Arca offers a ''NOW Order'' that checks for available interest on the Arca order book before being routed away, with any unexecuted portion of the order being immediately cancelled.[13] The ISE believes that its proposed Sweep Order offering is competitive with order types already in place on other markets, and will allow Members to receive fast executions against interest available across all options exchanges.

Finally, the ISE believes that it is in the public interest to allow market makers to enter Sweep Orders in their appointed options classes so that they can use this order type to access liquidity on the ISE and other options exchanges. Under ISE Rules, Market Makers are permitted to provide resting liquidity in their appointed classes through the use of quotes entered in compliance with Rule 804. In order to access liquidity provided by other firms, however, Market Makers use IOC and other order types that do not rest on the regular order book.[14] Because any portion of a Sweep Order that is not executed is cancelled, the proposed addition of Sweep Orders to the list of order types that market makers may use in their appointed classes is generally consistent with Rule 805(a), which was intended to prevent market makers from having both standing limit orders and quotes in the same options class.

*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 is pro-competitive because it expands away market routing functionality that is currently limited to Public Customer Orders. With the proposed change, both Public Customer and Non-Customer Orders will be able to access better-priced liquidity on other competing markets when the ISE is not at the NBBO. Similar functionality is currently available at other options exchanges.[15]

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[16] and subparagraph (f)(6) of Rule 19b-4 thereunder.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov. Please include File Number* SR–ISE–2014–37 *on the subject line.*

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2014–37. 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

[11] 15 U.S.C. 78f(b)(5).

[12] *See* Arca Rule 6.76A(c).

[13] *See* Arca Rule 6.62(o).

[14] *See* supra note 9.

[15] *See* supra notes 12 and 13.

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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 ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2014–37 and should be submitted on or before September 8, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–19474 Filed 8–15–14; 8:45 am]

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[18] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72822; File No. SR–CBOE–2014–061]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule

August 12, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 1, 2014, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, 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 Exchange proposes to amend its Fees Schedule applicable to the PULSe workstation monthly fee. By way of background, the PULSe workstation is a front-end order entry system designed for use with respect to orders that may be sent to the trading systems of CBOE. The Exchange currently charges firms a fee of $350 per month for the first 10 Trading Permit Holder workstations (''TPH Workstations'') and $100 per month for all subsequent TPH Workstations. TPHs may also make a workstation available to their customers, which may include non-broker dealer public customers and non-TPH broker dealers (referred to herein as ''non-TPH Workstations''). For such non-TPH Workstations, the Exchange currently charges a fee of $350 per month per workstation.[3] In addition, the Exchange waives the monthly workstation fees for the first month for the first new user of a TPH or non-TPH using a PULSe workstation.[4]

The purpose of this proposed rule change is to modify the limited fee waiver available to new users of a TPH or non-TPH Workstation. Specifically, in order to give new users time to become familiar with and fully acclimated to the PULSe workstation functionality, the Exchange proposes to waive the monthly workstation fees for the first two months for all new users[5] between August 1, 2014 and December 31, 2014.[6] In addition, the fee for August 2014 is waived for any users that became new users in July 2014. After December 31, 2014, the PULSe workstation fee will revert to its current form, which provides that the fee is waived for the first month for the first new user of a TPH or non-TPH workstation. The proposed fee waivers are based on CBOE's billing period, which is based on a calendar month (i.e., begins on the first day of each month and ends on the last day of each month). For example, if a firm has a new user that begins using a PULSe workstation on August 15th, the firm's workstation fees for the new user would be waived from August 15th—September 30th (i.e., their August and September bills would not have a charge for the new user's workstation) or if a firm has a new user that begins using a PULSe workstation on September 25th, the firm's workstation fees for the new user would be waived from September 25th—October 31st (i.e., their September and October bills would not have a charge for the new user's workstation).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically,

[3] In instances where two or more TPHs wish to make a PULSe workstation available to the same non-TPH customer, a fee reduction applies. Under the reduction, if two or more TPHs make the PULSe workstation available to the same non-TPH.

[4] A TPH or non-TPH Workstation is utilized by a ''user'' with a specific user login. When a firm with an existing workstation, either TPH or non-TPH, adds another workstation another user login is generated. Currently, the firm receives a one month fee waiver for the workstation utilized by the new user login, but continues to pay the fee for the previous workstation.

[5] A firm that is currently utilizing a TPH or non-TPH Workstation but seeks to add another workstation is adding a new user. The proposal allows for a fee waiver for all new users between August 1, 2014 and December 31, 2014. For example, if a firm has one workstation and adds three more in August, the firm will get a fee waiver for the three new workstations for two months (i.e., their August and December [sic] bill will not have a charge for the three new workstations). A firm that is not currently utilizing a TPH or non-TPH Workstation may also add any number of workstations from August 1, 2014 and December 31, 2014, and receive the same two month fee waiver.

[6] If a firm has a new user in December, the firm will receive a fee waiver for that user for December 2014 and January 2015.

[7] 15 U.S.C. 78f(b).

the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitation 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[10] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

In particular, the Exchange believes the fee waiver is reasonable because the fee waivers will serve as an incentive for TPHs and their sponsored user customers to use the PULSe workstation as an additional trading tool on their trading desks. In addition, it is an incentive for firms that had new users in July 2014 to remain users of their workstation. The Exchange believes that it is equitable and not unfairly discriminatory because all firms with new users after August 1, 2014 and prior to December 31, 2014, are eligible for the fee waiver. In addition, allowing firms with new users in July 2014 to receive a fee waiver for August 2014 is not retroactive because under the current rules the firms are already receiving a fee waiver for July. Although firms that were already utilizing PULSe prior to July 2014 only received a one month fee waiver, which may be perceived as unfair discrimination, they too may have new users in the coming months and will benefit from the two month fee waiver for new users.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

CBOE 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.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and paragraph (f) of Rule 19b–4 [12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings 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–CBOE–2014–061 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–CBOE-*2014–061.* 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–CBOE-2014–061 and should be submitted on or before September 8, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–19478 Filed 8–15–14; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

[13] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

## In the Matter of Black Hawk Exploration, Composite Technology Corporation, Forza Environmental Building Products, Inc., Hotcloud Mobile, Inc., ImmunoBiotics, Inc., and SpatiaLight, Inc; Order of Suspension of Trading

August 14, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Black Hawk Exploration because it has not filed any periodic reports since the period ended August 31, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Composite Technology Corporation because it has not filed any periodic reports since the period ended March 31, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Forza Environmental Building Products, Inc. because it has not filed any periodic

reports since the period ended February 28, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Hotcloud Mobile, Inc. because it has not filed any periodic reports since the period ended July 31, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ImmunoBiotics, Inc. because it has not filed any periodic reports since the period ended September 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SpatiaLight, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on August 14, 2014, through 11:59 p.m. EDT on August 27, 2014.

By the Commission.

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–19617 Filed 8–14–14; 4:15 pm]

**BILLING CODE 8011–01–P**

## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**AGENCY:** Small Business Administration.

**ACTION:** 30-Day Notice.

**SUMMARY:** The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA) (44 U.S.C. Chapter 35), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

**DATES:** Submit comments on or before September 17, 2014.

**ADDRESSES:** Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov*

*Copies:* A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

**SUPPLEMENTARY INFORMATION:** The information collected is used by Small Business Administration to monitor the Agents, fees charged by Agents, and the relationship between Agents and lenders. The information helps SBA to determine among other things whether borrowers are paying unnecessary, unreasonable or prohibitive fees.

*Solicitation of Public Comments:* Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

*Summary of Information Collections:*

(1) *Title:* Compensation Agreement.

*Description of Respondents:* 7(a) Lenders, 504 Applications, and Disaster Loan request.

*Form Number:* SBA Form 159 (7a), 159 (504), 159D.

*Estimated Annual Respondents:* 9,210.

*Estimated Annual Responses:* 9,210.

*Estimated Annual Hour Burden:* 1,385.

**Curtis B. Rich,**

*Management Analyst.*

[FR Doc. 2014–19513 Filed 8–15–14; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #14089 and #14090]**

### Washington Disaster #WA–00049

**AGENCY:** U.S. Small Business Administration

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Washington (FEMA–4188–DR), dated 08/11/2014.

*Incident:* Wildfires.

*Incident Period:* 07/09/2014 through 08/05/2014.

**DATES:** *Effective Date:* 08/11/2014.

*Physical Loan Application Deadline Date:* 10/10/2014.

*Economic Injury (EIDL) Loan Application Deadline Date:* 05/11/2015.

**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:** Notice is hereby given that as a result of the President's major disaster declaration on 08/11/2014, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Okanogan, Confederated Tribes of Colville Reservation.

The Interest Rates are:

| | Percent |
|---|---|
| For Physical Damage: | |
| Non-profit organizations with credit available elsewhere ..... | 2.625 |
| Non-profit organizations without credit available elsewhere ..... | 2.625 |
| For Economic Injury: | |
| Non-Profit organizations without credit available elsewhere ..... | 2.625 |

The number assigned to this disaster for physical damage is 140895 and for economic injury is 140905.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2014–19530 Filed 8–15–14; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #14082 and #14083]**

### Massachusetts Disaster #MA–00061

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the Commonwealth of MASSACHUSETTS dated 08/06/2014

*Incident:* Tornadoes.

*Incident Period:* 07/28/2014.

**DATES:** *Effective Date:* 08/06/2014.

*Physical Loan Application Deadline Date:* 10/06/2014.

*Economic Injury (EIDL) Loan Application Deadline Date:* 05/06/2015.

**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:** Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:*

Suffolk.

*Contiguous Counties:*

Massachusetts: Essex; Middlesex; Norfolk;

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Homeowners With Credit Available Elsewhere | 4.375 |
| Homeowners Without Credit Available Elsewhere | 2.188 |
| Businesses With Credit Available Elsewhere | 6.000 |
| Businesses Without Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations With Credit Available Elsewhere | 2.625 |
| Non-Profit Organizations Without Credit Available Elsewhere | 2.625 |
| *For Economic Injury:* | |
| Agricultural Cooperatives Without Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations Without Credit Available Elsewhere | 2.625 |

The number assigned to this disaster for physical damage is 14082 C and for economic injury is 14083 0.

The State which received an EIDL Declaration # is Massachusetts.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: August 6, 2014.

**Maria Contreras-Sweet,**

*Administrator.*

[FR Doc. 2014–19518 Filed 8–15–14; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration # 14072 and # 14073]**

### Iowa Disaster Number IA–00061

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 1

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of IOWA (FEMA–4184–DR), dated 07/24/2014.

*Incident:* Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

*Incident Period:* 06/14/2014 through 06/23/2014.

**DATES: EFFECTIVE DATE:** 08/11/2014.

*Physical Loan Application Deadline Date:* 09/22/2014.

*Economic Injury (EIDL) Loan Application Deadline Date:* 04/24/2015.

**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 Private Non-Profit organizations in the State of IOWA, dated 07/24/2014, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties:

Sac and Fox Tribe of the Mississippi in Iowa.

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. 2014–19522 Filed 8–15–14; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF STATE

**[Public Notice: 8826]**

### Amended Notice of Intent To Prepare a Supplemental Environmental Impact Statement (SEIS) and To Conduct Additional Scoping for the Proposed Enbridge Energy, Limited Partnership Line 67 Expansion Project

**AGENCY:** Department of State.

**ACTION:** Notice; solicitation of comments.

**SUMMARY:** On March 15, 2013, the U.S. Department of State (the Department) issued a *Notice of Intent To Prepare a Supplemental Environmental Impact Statement (SEIS) and To Conduct Scoping and To Initiate Consultation Consistent With the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA) for the Proposed Enbridge Energy, Limited Partnership, Line 67 Capacity Expansion Project* (2013 NOI) in the **Federal Register** (78 FR 16565–67). The 2013 NOI informed the public that the Department would be preparing an SEIS in support of its review of a November 2012 application from Enbridge Energy, Limited Partnership (Enbridge) for a new Presidential Permit that would, if granted, authorize Enbridge to operate its existing Line 67 at the pipeline's full design capacity. A description of the proposed project is included in the 2013 NOI.

Since that time, Enbridge has amended and supplemented its November 2012 application. In June 2014, Enbridge informed the Department that Enbridge intends to increase pumping capacity outside of the Line 67 ''border segment'' (the portion of Line 67 from the Canadian border to the first main line shut-off valve, which is the segment that would be covered by a Presidential Permit), and to interconnect Line 67 with another Enbridge line (Line 3) on either side of the border segment. Enbridge is proceeding with certain elements of these plans. Enbridge submitted documents for public release in July 2014 which can be found at *http://www.state.gov/e/enr/applicant/applicants/c55571.htm.* In light of the changes in the project description, the Department is issuing this amended NOI and is conducting additional public scoping. In addition, a different third-party contractor is assisting the Department with the SEIS process than the firm that was named in the 2013 NOI.

**DATES:** The Department invites U.S. agencies, organizations, tribal governments, and members of the public to submit comments to assist the Department in identifying environmental and other relevant issues, any measures that might be adopted to reduce the proposed Project's environmental impacts, and other information relevant to determining the scope of the SEIS. The 30-day public scoping period begins with the publication of this Notice on August 18, 2014 and ends on September 17, 2014. Comments submitted electronically through *www.regulations.gov* as described below are strongly encouraged, but all comments will be given equal weight. The Department will consider comments received or postmarked by September 17, 2014. Comments received during the scoping period that followed the March 15, 2013 NOI will also be considered by the Department and do not need to be resubmitted. Comments received outside these scoping periods may be considered to the extent practicable.

All comments received during the additional scoping period may be made public, no matter how initially submitted. Comments are not private and will not be edited to remove identifying or contact information. The Department cautions commenters against including any information that they would not want publicly disclosed. The Department further requests that any party soliciting or aggregating comments from other persons direct those persons not to include any identifying or contact information, or information they would not want publicly disclosed, in their comments.

**ADDRESSES:** Parties may submit comments through the Federal eRulemaking Portal (*http://www.regulations.gov*) by entering the title of this Notice and following the prompts. Written comments should be addressed to: Ms. Mary D. Hassell, U.S. Department of State, 2201 C Street NW., Room 2726, Washington, DC 20520. As described above, comments are not private.

**FOR FURTHER INFORMATION CONTACT:** Project details on the Enbridge application for a new Presidential Permit for Line 67 (including the amendment thereto), as well as information on the Presidential Permit process, are available on the following Web site: *http://www.state.gov/e/enr/applicant/applicants/*. Please refer to this Web site or contact Ms. Mary D. Hassell at the address listed in the Addresses section of this notice.

Dated: August 12, 2014.

**Deborah Klepp**

*Director, Office of Environmental Quality and Transboundary Issues, Department of State.*

[FR Doc. 2014–19538 Filed 8–15–14; 8:45 a.m.]

**BILLING CODE 4710–09–P**

## DEPARTMENT OF TRANSPORTATION

### Connected Vehicle Infrastructure Deployment Guidance Workshop; Notice of Public Meeting

**AGENCY:** ITS Joint Program Office, Office of the Assistant Secretary for Research, Technology, Federal Highway Administration, U.S. Department of Transportation.

**ACTION:** Notice.

The U.S. Department of Transportation (USDOT) Intelligent Transportation System Joint Program Office (ITS JPO) will host a free Connected Vehicle to Infrastructure (V2I) Deployment Guidance public workshop to seek stakeholder input on preparations by the Federal Highway Administration (FHWA) regarding the development of connected V2I deployment guidance and deployment coalition planning. The meeting will be held on Friday, September 12, 2014, from 9:30 a.m. (CST) to 2:30 p.m. (CST) in the Cobo Center, 1 Washington Blvd., Detroit, MI 48226, Room 310A. Remote participation will be available via web conference.

To register for the workshop, please visit *www.itsa.org/fhwaworkshop*.

The USDOT would like input from transportation infrastructure owner/operators on draft FHWA guidance aimed at supporting successful implementation and operations of connected vehicle technologies. It should be noted that the deployment of V2I technologies will be voluntary and is not coupled with the National Highway Traffic Safety Administration's (NHTSA) proposed rulemaking for Vehicle to Vehicle (V2V) communications.

The primary target audience for this meeting is State and local Departments of Transportation, transit operators, other operating agencies, and infrastructure owners who are starting to plan for the deployment and use of connected vehicle technologies in their area. This meeting will also present the objectives of forming a deployment coalition to support implementation.

While this meeting is specifically focused for an audience that has been following connected vehicle research and has been formulating plans for implementation, it is open to other stakeholders in the connected vehicle community, including national associations and the general public. The results of this meeting will inform FHWA's preparation of guidance and tools in support of V2I deployment.

For further information, please contact Robert Arnold, FHWA, Director, Office of Transportation Management by at *robert.arnold@dot.gov* or by telephone at 202–366–1285. Agenda items for this meeting are subject to change.

Issued in Washington, DC, on the 12th day of August 2014.

**Stephen Glasscock,**

*Program Analyst, ITS Joint Program Office.*

[FR Doc. 2014–19460 Filed 8–15–14; 8:45 am]

**BILLING CODE 4910–9X–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2014–53]**

### Petition for Exemption; Summary of Petition Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number and must be received on or before September 8, 2014.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2014–0507 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building

Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC, 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on August 12, 2014.

**Lirio Liu,**

*Director, Office of Rulemaking.*

### Petition for Exemption

*Docket No.:* FAA–2014–0507.

*Petitioner:* Clayco, Inc.

*Section of 14 CFR:* parts 21, 45.23(b), 61.113(a) and (b), 91.7(a), 91.9(b)(2), 91.103, 91.109, 91.119, 91.121, 91.151(a), 91.203(a) and (b), 91.405(a), 91.407(a)(1), 91.409(a)(2), and 91.417(a) and (b).

*Description of Relief Sought:* The petitioner is seeking an exemption to allow commercial operation of its Small Unmanned Aircraft Systems (sUASs) for aerial imaging to monitor and ensure safety of secured and controlled environmental construction sites. The request is exclusively for the use of the UAS manufactured by Skycatch, Inc., a San Francisco based company.

[FR Doc. 2014–19457 Filed 8–15–14; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2014–44]**

### Petition for Exemption; Summary of Petition Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number and must be received on or before September 8, 2014.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2014–0404 using any of the following methods:

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

*Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Keira Jones (202) 267–4024, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on August 12, 2014,

**Lirio Liu,**

*Director, Office of Rulemaking.*

### Petition for Exemption

*Docket No.:* FAA–2014–0404

*Petitioner:* American Jet International

*Section of 14 CFR Affected:*

14 CFR part 91, SFAR 107

*Description of Relief Sought:*

American Jet International (AJI) seeks relief to provide, under contract, air ambulance services in support of the United Nations peace keeping efforts in Somalia and base an aircraft at the airport in Mogadishu (HCMM).

[FR Doc. 2014–19456 Filed 8–15–14; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

### Release of Waybill Data

The Surface Transportation Board has received a request from The Brattle Group (WB599–1—8/13/14) for permission to use certain data from the Board's 2009 through 2012 Carload Waybill Sample. A copy of this request may be obtained from the Office of Economics.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Alexander Dusenberry, (202) 245–0319.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2014–19493 Filed 8–15–14; 8:45 am]

BILLING CODE 4915–01–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. FD 35834]**

### Dakota, Minnesota & Eastern Railroad Corporation—Trackage Rights Exemption—Soo Line Railroad Company

**AGENCY:** Surface Transportation Board.

**ACTION:** Correction to notice of exemption.

Soo Line Railroad Company (SOO), pursuant to a written trackage rights agreement, has agreed to grant local and overhead trackage rights to Dakota, Minnesota & Eastern Railroad Corporation (DM&E) between milepost 159.0+/− on DM&E's Marquette Subdivision at or in the vicinity of Bluff, Minn. (previously known as La Crescent, Minn.), over SOO's Tomah and Watertown Subdivisions to the connection with SOO's M&P Subdivision and over the M&P Subdivision to milepost 7.0 at or in the vicinity of Columbia, Wis., a distance of approximately 119.0 +/− miles.[1] On June 26, 2014, notice of the exemption was served and published in the **Federal Register** (79 FR 36,379). The exemption became effective on July 10, 2014.

The published notice stated that SOO was granting DM&E overhead trackage rights. The notice should have stated that SOO was granting DM&E local and overhead trackage rights. This notice corrects that error.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time.

An original and 10 copies of all pleadings, referring to Docket No. FD 35834, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Terence M. Hynes, Sidley Austin LLP, 1501 K Street NW., Washington, DC 20005.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: August 12, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Derrick A. Gardner,**

*Clearance Clerk.*

[FR Doc. 2014–19531 Filed 8–15–14; 8:45 am]

**BILLING CODE 4915–01–P**

[1] A parallel trackage rights agreement in which SOO would acquire trackage rights over DM&E's Marquette Subdivision is the subject of the verified notice of exemption that was filed concurrently in *Soo Line Railroad Company—Trackage Rights Exemption—Dakota, Minnesota & Eastern Railroad Corporation,* Docket No. FD 35833.

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

**[Docket ID OCC–2014–0020]**

### Minority Depository Institutions Advisory Committee

**AGENCY:** Office of the Comptroller of the Currency, Department of the Treasury.

**ACTION:** Notice of Federal Advisory Committee Meeting.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC) announces a meeting of the Minority Depository Institutions Advisory Committee (MDIAC).

**DATES:** The OCC MDIAC will hold a public meeting on Tuesday, October 7, 2014, beginning at 8:30 a.m. Eastern Daylight Time (EDT).

**ADDRESSES:** The OCC will hold the October 7, 2014, meeting of the MDIAC at the Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

**FOR FURTHER INFORMATION CONTACT:** Beverly Cole, Senior Advisor to the Senior Deputy Comptroller for Midsize and Community Bank Supervision, (202) 649–5420, Office of the Comptroller of the Currency, Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** By this notice, the OCC is announcing that the OCC MDIAC will convene a meeting at 8:30 a.m. EDT on Tuesday, October 7, 2014, at the Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219. Agenda items include a review of the accomplishments of the MDIAC and a discussion of the status of the minority depository institution industry and current topics of interest to the industry. The purpose of the meeting is for the MDIAC to advise the OCC on steps the OCC may be able to take to ensure the continued health and viability of minority depository institutions and other issues of concern to minority depository institutions. Members of the public may submit written statements to the MDIAC by any one of the following methods:

- Email to *MDIAC@occ.treas.gov;* or
- Mail to: Beverly Cole, Designated Federal Officer, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

The OCC must receive written statements no later than Monday, September 29, 2014. Members of the public who plan to attend the meeting and members of the public who require auxiliary aid should contact the OCC by 5:00 p.m. EDT on Wednesday, October 1, 2014, to inform the OCC of their desire to attend the meeting and to provide the information that will be required to facilitate entry into the meeting. Attendees should provide their full name, email address, and organization, if any. Members of the public may contact the OCC via email at *MDIAC@occ.treas.gov* or by telephone at 202–649–5420.

Dated: August 11, 2014.

**Thomas J. Curry,**

*Comptroller of the Currency.*

[FR Doc. 2014–19438 Filed 8–15–14; 8:45 am]

**BILLING CODE 4810–33–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0393]**

### Agency Information Collection (Acquisition Regulation (VAAR) Part 813) Activity Under OMB Review

**AGENCY:** Office of Management, 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 September 17, 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. 2900–0393'' 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. 2900–0393.''

**SUPPLEMENTARY INFORMATION:**

*Titles:* Department of Veterans Affairs Acquisition Regulation (VAAR) Part 813.

*OMB Control Number:* 2900–0393.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* VA collects acquisition information from firms and individuals who wish to sell supplies, services, and construction or who wish to establish blanket purchase agreements (BPA) or other contractually related agreements with VA. VA uses the information collected to determine to whom to award contracts or with whom to enter into BPAs or other contractually related agreements.

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 June 6, 2014, at page 32821.

*Affected Public:* Business or other for profit and Not-for-profit institutions.

*Estimated Annual Burden:* 20,845 hours.

*Estimated Average Burden per Respondent:* 1 hour.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 20,845.

Dated: August 12, 2014.

By direction of the Secretary.

**Crystal Rennie,**

*Department Clearance Officer, Department of Veterans Affairs.*

[FR Doc. 2014–19429 Filed 8–15–14; 8:45 am]

BILLING CODE 8320–01–P

# FEDERAL REGISTER

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Part II

## Security and Exchange Commission

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating To Include Additional Specificity Within Rule 1.5 and Chapter XI Regarding Current System Functionality Including the Operation of Order Types and Order Instructions; Notice

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–72812; File No. SR–EDGA–2014–20]**

## Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating To Include Additional Specificity Within Rule 1.5 and Chapter XI Regarding Current System Functionality Including the Operation of Order Types and Order Instructions

August 11, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 1, 2014, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 1.5 and Chapter XI of its rule book to include additional specificity regarding the current functionality of the Exchange's System,[3] including the operation of its order types and order instructions. These changes are designed to update the rule book to reflect current system functionality and include: (i) Further clarifying the Exchange's trading sessions and hours of operation by amending Rule 11.1; (ii) describing the process for initial opening and re-opening after a trading halt by adding proposed Rule 11.7, Opening Process; (iii) amending the description of order types, order instructions, and their functionality by deleting the content of Rule 11.5, Order Types and Modifiers, renumbering it as Rule 11.8, and adding proposed Rule 11.6, Definitions; (iv) amending Rule 11.8, Priority of Orders, to provide additional specificity regarding the execution priority of orders and renumbering it as Rule 11.9; and (v) making a series of organizational and conforming changes to Rule 1.5, Rule 8.15, and Chapter XI.

The text of the proposed rule change is attached as Exhibit 5 and is available on the Exchange's Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend Rule 1.5 and Chapter XI of its rule book to include additional specificity regarding the current functionality of the Exchange's System, including the operation of its order types and order instructions. These changes are designed to update the rule book to reflect current system functionality and include: (i) Further clarifying the Exchange's trading sessions and hours of operation by amending Rule 11.1; (ii) describing the process for initial opening and re-opening after a trading halt by adding proposed Rule 11.7, Opening Process; (iii) amending the description of order types, order instructions, and their functionality by deleting the content of Rule 11.5, Order Types and Modifiers, renumbering it as Rule 11.8, and adding proposed Rule 11.6, Definitions; (iv) amending Rule 11.8, Priority of Orders, to provide additional specificity regarding the execution priority of orders and renumbering it as Rule 11.9; and (v) making a series of organizational and conforming changes to Rule 1.5, Rule 8.15, and Chapter XI. Unless otherwise stated,[4] the Exchange does not propose to substantively modify the operation of any of the current defined order types or terms or the operation of the System; rather, it intends to provide additional specificity and transparency to Members, Users, and the investing public regarding the Exchange's order types and system functionality, and to organize its rules in a more intuitive and less complex manner.[5]

Trading Sessions, Hours of Operation, and Initial Opening and Re-Opening Processes

The Exchange proposes to further clarify its trading sessions and hours of operation by amending Rule 11.1. The Exchange also proposes to describe the processes for initial opening and re-opening after a trading halt by adding proposed Rule 11.7, Opening Process. The Exchange believes that these proposed rule changes provide greater transparency to its Members,[6] Users,[7] and the investing public regarding the Exchange's hours of operation and current opening process.

Rule 11.1, Hours of Trading and Trading Days

The Exchange proposes to amend Rule 11.1, Hours of Trading and Trading Days, to clarify when orders may be entered into the System and to outline a User's ability to select the trading sessions for which an order may be eligible for execution. Proposed Rule 11.1(a)(1), Session Indicator, describes each of the Exchange's existing trading

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Exchange Rule 1.5(cc) defines ''System'' as ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.''

[4] As discussed in more detail below, the Exchange proposes the following new System functionality: Proposed Rule 11.7(c). Alternatively set the price of the Opening Process for securities listed on either the New York Stock Exchange, Inc. or NYSE MKT LLC at the midpoint of the then prevailing NBBO when the first two-sided quotation published by the listing exchange after 9:30:00 a.m. Eastern Time, but before 9:45:00 a.m. Eastern Time if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange. Proposed Rule 11.7(e). Alternatively set the price of a re-opening at the midpoint of the then prevailing NBBO when the first two-sided quotation is published by the listing exchange following the resumption of trading after a halt, suspension, or pause if no first trade is reported within one second of publication of the first two-sided quotation by the listing exchange. Proposed Rule 11.6(j)(1). Require that an order with a Market Peg instruction that is to be displayed by the System on the EDGA Book include an offset equal to or greater than one Minimum Price Variation. Proposed Rule 11.6(n)(4). Permit an order with a Post Only Instruction to execute against an order resting on the EDGA Book where it is eligible to receive price improvement as described under the proposed rule.

[5] *See* Mary Jo White, Chair, Commission, Speech at the Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference, (June 5, 2014), *available at http://www.sec.gov/News/Speech/Detail/Speech/1370542004312#.U7rxbLE4KSo.*

[6] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[7] The term ''User'' is defined as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.'' *See* Exchange Rule 1.5(ee).

sessions. A User may select the particular trading sessions for which their order(s) may be eligible for execution. Specifically, orders designated as:

- ''Pre-Opening Session'' are eligible for execution between 8:00 a.m. Eastern Time and 4:00 p.m. Eastern Time;
- ''Regular Session'' are eligible for execution between the completion of the Opening Process or a Contingent Open as defined in proposed Rule 11.7 (described below), whichever occurs first, and 4:00 p.m. Eastern Time, unless otherwise noted; [8]
- ''Post-Closing Session'' are eligible for execution between the start of the Regular Session and 8:00 p.m. Eastern Time; and
- ''All Sessions'' are eligible for execution between 8:00 a.m. and 8:00 p.m. Eastern Time.

Under proposed Rule 11.1(a)(1), orders may be entered into the System from 6:00 a.m. until 8:00 p.m. Eastern Time, but orders entered between 6:00 a.m. and 8:00 a.m. Eastern Time are not eligible for execution until the start of the session selected by the User. All orders are eligible for execution during the Regular Session. For an order to be eligible for the Pre-Opening and/or Post-Closing Sessions, Users must so designate the order. If the User does not select a particular session or sessions, the order will default to the Regular Session only.

Proposed Rule 11.7, Opening Process

The Exchange also proposes to adopt proposed Rule 11.7 to describe its opening and re-opening processes.[9] Proposed Rule 11.7(a) states that prior to the beginning of the Regular Session, Users who wish to participate in the Opening Process may enter orders to buy or sell. Orders cancelled prior to the Opening Process will not participate in the Opening Process. Proposed Rule 11.7(a)(2) provides that all orders may participate in the Opening Process except for: (i) Orders with a Stop Price [10] or Stop Limit Price [11] instruction, (ii) Limit Orders with a Post Only [12] instruction, (iii) orders with a time-in-force (''TIF'') instruction of Fill-or-Kill (''FOK'') or Immediate or Cancel (''IOC''), and (iv) Intermarket Sweep Orders (''ISOs''). Orders that are designated for the Regular Session that cannot participate in the Opening Process will not be accepted by the System until the Opening Process is completed or a Contingent Opening has occurred, as described below. Limit Orders with a Reserve Quantity [13] may participate to the full extent of their displayed size and Reserve Quantity. Limit Orders with a Discretionary Range [14] may participate up to their discretionary price for buy orders and down to their discretionary price for sell orders. A Limit Order with a Pegged instruction [15] will be eligible for execution in the Opening Process based on its pegged price at the time the Opening Process is conducted.

Under proposed Rule 11.7(a)(3), the Exchange will open by performing the Opening Process in which the System will attempt to match buy and sell orders that are executable at the midpoint of the National Best Bid and Offer (''NBBO''). Proposed Rule 11.7(c) codifies the process by which the System sets the opening price of the Opening Process. The System sets the price of the Opening Process at the midpoint of the first NBBO after 9:30:00 a.m. Eastern Time. However, for securities listed on either the New York Stock Exchange, Inc. (''NYSE'') or NYSE MKT LLC (''NYSE MKT''), the System currently sets the price of the Opening Process at the midpoint of the first NBBO subsequent to the first reported trade on the listing exchange after 9:30:00 a.m. Eastern Time. In addition to this existing process, the Exchange proposes to alternatively set the price of the Opening Process for securities listed on either the NYSE or NYSE MKT at the midpoint of the then prevailing NBBO when the first two-sided quotation published by the relevant listing exchange after 9:30:00 a.m. Eastern Time, but before 9:45:00 a.m. Eastern Time if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange. The System waits to set the price at the midpoint of the first NBBO as set forth above because securities listed on the NYSE or NYSE MKT may not open at precisely 9:30:00 a.m. Eastern Time.

Proposed Rule 11.7(b) describes the Opening Process. Under the Opening Process, all orders executable at the midpoint of the NBBO will be processed in time sequence, beginning with the order with the oldest time stamp. Matches will occur until there are no remaining contra-side orders or there is an imbalance of orders. An imbalance of orders may result in orders that cannot be executed in whole or in part. Any unexecuted orders may then be placed by the System on the EDGA Book,[16] cancelled, executed, or routed to away Trading Centers in accordance with the Users' instructions pursuant to proposed renumbered Rule 11.11.

Proposed Rule 11.7(d) describes the Exchange's process for a Contingent Open, which would occur where the conditions to establish the price of the Opening Process set forth under proposed Rule 11.7(c) do not occur by 9:45:00 a.m. Eastern Time. For example, the Opening Process will not occur where, if between 9:30:00 a.m. and 9:45:00 a.m. Eastern Time, no NBBO is published, or, for securities listed on either the NYSE or NYSE MKT, no first trade is reported or quote is published by the listing exchange, as proposed above. If the conditions to establish the price of the Opening Process do not occur by 9:45:00 a.m. Eastern Time, orders will be placed by the System on the EDGA Book, cancelled, executed, or routed to away Trading Centers in accordance with the Users' instructions pursuant to proposed renumbered Rule 11.11.

Proposed Rule 11.7(e) describes the process by which the System sets the price of a re-opening following the resumption of trading after a halt, suspension, or pause. The System currently re-opens a security at the midpoint of the first NBBO subsequent to the first reported trade on the listing exchange following the resumption of trading after a halt, suspension, or pause. In addition, the Exchange proposes to alternatively set the price of a re-opening at the midpoint of the then prevailing NBBO when the first two-sided quotation is published by the listing exchange following the resumption of trading after a halt, suspension, or pause if no first trade is reported within one second of

[8] Beginning at 9:30:00 a.m. Eastern Time, the System will accept: (i) Incoming orders designated as Intermarket Sweep Orders, and (ii) orders with a time-in-force instruction of Immediate-or-Cancel. This is to assist Members' compliance with Rule 611 of Regulation NMS.

[9] Proposed Rule 11.7 is based on and substantially similar to International Securities Exchange, LLC (''ISE'') Rule 2106. *See also* Securities Exchange Act Release No. 54287 (August 8, 2006), 71 FR 46947 (August 15, 2006) (Order Approving File No. SR–ISE–2006–48).

[10] The Stop Price instruction is proposed to be set forth in Rule 11.8(a)(1), and is further discussed below.

[11] The Stop Limit Price instruction is proposed to be set forth in Rule 11.8(b)(1), and is further discussed below.

[12] The Post Only instruction is proposed to be set forth in Rule 11.6(n)(4), and is further discussed below.

[13] Reserve Quantity is proposed to be defined in Rule 11.6(m), and is further discussed below.

[14] The Discretionary Range instruction is proposed to be defined in Rule 11.6(d), and is further discussed below.

[15] The Pegged instruction is proposed to be defined in Rule 11.6(i), and is further discussed below.

[16] The term ''EDGA Book'' is defined as ''the System's electronic file of orders.'' *See* EDGA Rule 1.5(d).

publication of the first two-sided quotation by the listing exchange.

Order Type and System Functionality Clarification Under Chapter XI

The Exchange proposes to describe the basic requirements for all order types processed by the System by eliminating current Rule 11.5 and replacing it with proposed Rule 11.6, Definitions, and Rule 11.8, Order Types, each of which are explained in more detail below. The Exchange also proposes to amend current Rule 11.8, Priority of Orders, to describe the time priority of orders at specific price points and renumber it as Rule 11.9. Unless otherwise stated, the Exchange does not propose to substantively modify the operation of any of the current defined order types or terms or the operation of the System. The Exchange believes the proposed amendments will provide greater transparency regarding how the System operates, the order types the Exchange offers, which instructions a User may attach to each order type, and how order types and instructions when used in combination, may affect an order's execution priority under proposed renumbered Rule 11.9.

Specifically, the Exchange proposes to delete the content of current Rule 11.5, Orders and Modifiers, and replace it with proposed Rule 11.6, Definitions, and Rule 11.8, Order Types. The Exchange's proposed rule change would outline the number of order types available on the System as well as describe what instructions may be attached to each order type. In certain cases, what was previously described under the Exchange's rules as a standalone order type, is, in fact, an instruction or set of instructions attached to an order type and not an order type itself. The Exchange believes the order types that it now proposes to classify as order instructions are derivative of and could not operate independently from what the Exchange proposed as a standalone order type. Specifically, and as described more fully below, proposed Rule 11.8, Order Types, would describe the following standalone order types that are available on the Exchange: Market Orders, Limit Orders, ISOs, MidPoint Peg Orders, MidPoint Discretionary Orders, NBBO Offset Peg Orders, and Route Peg Orders. Proposed Rule 11.8 would further describe each order type's functionality and the instructions a User may attach to each. Proposed Rule 11.6, Definitions, would re-classify and describe the features currently defined as order types as instructions that may be attached to order types.

Proposed Rule 11.6, Definitions

Proposed Rule 11.6 seeks to set forth in one rule current defined terms and order instructions that are described in Chapter XI. The proposed rule also includes additional defined terms and instructions to aid in describing System functionality and the operation of the Exchange's order types. Some features listed below and now codified in proposed Exchange Rule 11.6 are currently included under current Rule 11.5, where they are described as standalone order types. As part of the Exchange's order type clarification discussed below, the Exchange proposes to relocate and reclassify these features as instructions that may be appended to an order type.

The Exchange notes that an instruction defined within Rule 11.6 may not be available for all order types. Whether an instruction is available for a particular order type is set forth in detail in proposed Rule 11.8, Order Types.

The terms and instructions defined within proposed Rule 11.6 are as follows:

Attributable and Non-Attributable (Rule 11.6(a))

The Exchange currently defines the terms ''Attributable Order'' and ''Non-Attributable Order'' in Exchange Rules 11.5(c)(18) and (19). An Attributable Order is currently defined as ''[a]n order designated for display (price and size) that includes the Member's market participant identifier (''MPID'').'' A Non-Attributable Order is currently defined as ''[a]n order designated for display (price and size) on an anonymous basis by the System.'' The Exchange believes that a User choosing whether to display its MPID on an order they submit to the Exchange is more characteristic of an instruction, rather than an order type. Therefore, the Exchange proposes to keep this definition but delete the word Order from both terms, leaving just the terms Attributable and Non-Attributable. As part of its order type clarification, the Exchange proposes to relocate each term to proposed Rule 11.6. The Exchange does not propose to alter the meaning of either term. The Exchange, however, proposes to add additional specificity to the rule regarding the designation of orders as Attributable and Non-Attributable. Specifically, the Exchange proposes to state that unless the User elects otherwise, all orders will be automatically defaulted by the System to Non-Attributable. Further, a User may elect an order to be Attributable on an order-by-order basis or instruct the Exchange to default all its orders as Attributable on a port-by-port basis. However, if a User instructs the Exchange to default all its orders as Attributable on a particular port, such User would not be able to designate any order from that port as Non-Attributable. Where a User includes an Attributable instruction with an order, the User's MPID will be visible via the Exchange's Book Feed.[17] Conversely, if an order is to be Non-Attributable, the User's MPID will not be visible via the Exchange's Book Feed.

Cancel Back (Rule 11.6(b))

Under current Exchange Rule 11.5(c)(4), a User may opt not to use any re-pricing [18] instructions if display of the User's order by the System on the EDGA Book at its limit price would violate Regulation NMS, Regulation SHO, or the National Market System Plan, also known as Limit Up/Limit Down (''LULD''), to address extraordinary market volatility (the ''LULD Plan'') [19] at the time of receipt by the System. In such a case, the System cancels the order back to the User. The Exchange proposes to add a new defined term ''Cancel Back'' to its rules to specifically describe this instruction. The Exchange proposes to define Cancel Back as an instruction the User may attach to an order instructing the System to cancel the order, when, if displayed by the System on the EDGA Book at the time of entry, or upon return to the System after being routed away, the order would create a violation of Rule 610(d) of Regulation NMS, Rule 201 of Regulation SHO, or the order cannot otherwise be executed or posted by the System to the EDGA Book at its limit price upon entry. The Cancel Back instruction is not currently defined in the rules, but is currently available in the System. This proposed addition merely codifies the existing ability of a User to request that an order be cancelled if it would violate Regulation NMS, Regulation SHO, or the LULD Plan if it were displayed by the System on the EDGA Book at its limit price, upon entry.

Discretionary Range (Rule 11.6(d))

The Exchange currently defines a ''Discretionary Order'' in Rule 11.5(c)(13) as an ''[o]rder to buy or sell a stated amount of a security at a

[17] The Exchange's Book Feed is described under Rule 13.8.

[18] The re-pricing instructions are proposed to be defined in Rule 11.6(l), and are further discussed below.

[19] *See* Appendix A to Securities Exchange Act Release No. 67091 (May 31, 2012) 77 FR 33498 (June 6, 2012).

specified, undisplayed price (the ''discretionary price''), as well as at a specified, displayed price.'' [20] The Exchange believes that a Member adding a non-displayed discretionary price to its order is characteristic of an instruction, rather than an order type. Therefore, the Exchange proposes to delete the word Order from the defined term, and rename the term ''Discretionary Range.'' In addition, the Exchange proposes to modify the definition of Discretionary Range to clarify the order types that may include a Discretionary Range instruction, and how the Discretionary Range of the order operates. Specifically, the Exchange proposes to define Discretionary Range as an instruction that may accompany an order to buy (sell) a stated amount of a security at a specified, displayed price with discretion to execute up (down) to a specified, non-displayed price.[21]

The Exchange also proposes to state that the Discretionary Range of an order to buy (sell) cannot be more than $0.99 higher (lower) than the order's displayed price and that an order with a Discretionary Range instruction resting on the EDGA Book will execute at its least aggressive price when matched for execution against an incoming order that also contains a Discretionary Range instruction, as permitted by the terms of both the incoming and resting order. The Exchange does not propose to add additional functionality to the operation of the Discretionary Range instruction or to alter the meaning of the term or the manner in which an order with a Discretionary Range instruction currently operates in the System. Finally, as part of its order type clarification, the Exchange proposes to relocate the term to proposed Rule 11.6(d).

Display Options (Rule 11.6(e))

An order may either be displayed or non-displayed on the EDGA Book. Accordingly, the Exchange proposes to include definitions of ''Displayed'' and ''Non-Displayed.'' Although the words display and displayed are used in various Exchange rules,[22] these terms are not currently defined in the Exchange's rules. Therefore, the Exchange proposes to define Displayed in Rule 11.6(e) as ''an instruction the User may attach to an order stating that the order is to be displayed by the System on the EDGA Book.'' The addition of the definition is not intended to change the substance of how that term is used in the Exchange's existing rules. The Exchange is also proposing that the Displayed instruction is the default instruction for all orders eligible for display by the System on the EDGA Book.

Second, the Exchange proposes to amend the definition of a Non-Displayed Order. Current Exchange Rule 11.5(c)(8) defines a Non-Displayed Order as:

> [a] market or limit order that is not displayed on the Exchange. A Non-Displayed Order is ranked based on the specified limit price and time of order entry in accordance with Rule 11.8(a)(2) and is available for potential execution against incoming marketable orders in accordance with Rule 11.9(a)(4)(A)–(B).

The Exchange believes that a Member adding a Non-Displayed instruction to its order is characteristic of an instruction, rather than a standalone order type. Therefore, the Exchange proposes to delete the word Order from the defined term, and rename the term ''Non-Displayed.'' In addition, the Exchange proposes to modify the definition of Non-Displayed in its rules and proposes to define it as an ''instruction the User may attach to an order stating that the order is not to be displayed by the System on the EDGA Book.'' [23]

The Exchange does not propose to carry over to the definition of Non-Displayed in proposed Rule 11.6 the current rule text regarding the priority and ranking of Non-Displayed Orders given its re-categorization as an order instruction described above. The Exchange notes that it is also proposing to amend Rule 11.8 (to be renumbered as Rule 11.9) to outline the priority of orders and the impact of this instruction will be discussed therein. Therefore, the Exchange believes it unnecessary to include this provision in the definition of Non-Displayed as it is redundant with provisions in another rule. Lastly, the Exchange plans to move the definition of Non-Displayed to proposed Rule 11.6(e).

Locking Price (Rule 11.6(f))

Under current Exchange Rule 11.5(c)(4), a re-pricing instruction may be triggered if an order displayed at its limit price would be a Locking Quotation [24] upon entry into the System. The existing rules do not provide a definition of the price at which an order would cause such a violation. Therefore, the Exchange proposes to add a new term, Locking Price, to its rules to specifically define this price as the ''price of an order to buy (sell) that, if, upon entry into the System, or upon return to the System after being routed away, and displayed by the System on the EDGA Book, it would be a Locking Quotation.'' The introduction of the new defined term would provide additional specificity to, but not change the substance of the existing rules.[25]

Locking Quotation and Crossing Quotations (Rule 11.6(c) and (g))

Currently, Exchange Rule 11.16, Locking and Crossing Quotations in NMS Stocks, defines the terms ''Locking Quotation'' and ''Crossing Quotation.'' Specifically, Locking Quotation is defined as ''[t]he display of a bid for an NMS stock during regular trading hours at a price that equals the price of an offer for such NMS stock previously disseminated pursuant to an effective national market system plan, or the display of an offer for an NMS stock during regular trading hours at a price that equals the price of a bid for such NMS stock previously disseminated pursuant to an effective national market system plan.'' A Crossing Quotation is defined as ''[t]he display of a bid (offer) for an NMS stock during Regular Trading Hours at a price that is higher (lower) than the price of an offer (bid) for such NMS stock previously disseminated pursuant to an effective national market system plan.'' The Exchange does not propose any changes to these definitions, other than to clarify that the Locking and Crossing Quotation would be in violation of Rule 610(d) of Regulation NMS and to remove the term ''Regular Trading Hours'' from each definition as the Exchange applies its re-pricing instructions to comply with Rule 610(d) of Regulation NMS (described below) outside of Regular Trading Hours. These definitions would also be relocated to proposed Rule 11.6.

[20] Similar optionality is available on other exchanges. *See* Nasdaq Stock Market LLC (''Nasdaq'') Rule 4751(f)(1), and NYSE Arca, Inc. (''NYSE Arca'') Rule 7.31(h)(2).

[21] The Exchange proposes to modify the existing rule text to make clear that an order with a Discretionary Range maintains the ability to execute at its displayed price with discretion to execute at prices to and including a specified, non-displayed price, and not exclusively at those prices. The Discretionary Range may include prices to and more aggressive than the midpoint of the NBBO.

[22] *See* Exchange Rule 11.5(c).

[23] Other exchanges define Non-Displayed similarly, but as a ''Non-Displayed Order.'' *See* Nasdaq Rule 4751(e)(3), and BATS Exchange, Inc. (''BZX'') Rule 11.9(c)(11). In addition, an order may include a Displayed and Non-Displayed Instruction. *See* proposed Rule 11.6(m) *infra.*

[24] The term Locking Quotation is proposed to be defined in Rule 11.6(g), and is further discussed below.

[25] The term, ''Locking Price'' is similarly defined in the rules of other exchanges. *See, e.g.,* BZX Rule 11.13(a)(1), which defines ''locking price'' as ''. . . prices equal to displayed orders on the other side of the market.''

Minimum Execution Quantity (Rule 11.6(h))

The Exchange proposes to introduce, and provide a definition of, a new term—''Minimum Execution Quantity.'' Minimum Execution Quantity is an instruction a User may include with an order that includes a Non-Displayed instruction requiring the System to execute the order to the extent that a minimum quantity can be satisfied by execution against a single order or multiple aggregated orders simultaneously. An order with a Minimum Execution Quantity instruction may be partially executed so long as the execution size is equal to or exceeds the quantity provided in the instruction. The Exchange also proposes to state that, unless the User elects otherwise, any shares remaining after a partial execution will continue to be executed by the System at a size that is equal to or exceeds the quantity provided with the instruction. The Minimum Execution Quantity instruction would no longer apply to an order where the number of shares remaining after a partial execution is less than the quantity provided in the instruction. The Minimum Execution Quantity instruction is not currently defined in the rules, but is currently available in the System.[26]

Minimum Price Variation (Rule 11.6(i))

Exchange Rule 11.7, Price Variations, currently defines the term ''Price Variation.'' Specifically, the existing definition of Price Variation makes clear that bids, offers, or orders in securities traded on the Exchange shall not be made in an increment smaller than: (i) $0.01 if those bids, offers, or orders are priced equal to or greater than $1.00 per share; or (ii) $0.0001 if those bids, offers, or orders are priced less than $1.00 per share; or (iii) any other increment established by the Commission for any security which has been granted an exemption from the minimum price increment requirements of Rule 612(a) or 612(b) of Regulation NMS. The Exchange does not propose to amend the definition other than to remove the term, ''indications of interest'', as indications of interest have not existed on the Exchange since its withdrawal of the Exchange's Step-up order type.[27] In addition, the Exchange proposes to relocate the definition from Rule 11.7 to proposed Rule 11.6.

Pegged (Rule 11.6(j))

The Exchange currently describes its price pegging functionality as a ''Pegged Order'' under current Rule 11.5(c)(6). The Exchange proposes to relocate the language describing this functionality as an instruction under proposed Rule 11.6. Other than as described below, the Exchange does not propose to substantively amend this functionality; the Exchange believes that a User instructing the Exchange to peg an order's price is characteristic of an instruction a User may attach to an order, rather than an order type. Specifically, the Exchange proposes to change the name Pegged Order to Pegged instruction and to define a Pegged instruction as an order instruction to automatically re-price an order in response to changes in the NBBO. The revised definition of Pegged Order as a Pegged instruction would continue to include the following provisions while also providing additional specificity as described below: (i) A User may specify that the order's price will peg to a price a certain amount away from the NBB or NBO (offset); (ii) if an order with a Pegged instruction displayed on the Exchange would lock the market, the price of the order will be automatically adjusted by the System to one Minimum Price Variation below the current NBO (for bids) or to one Minimum Price Variation above the current NBB (for offers); (iii) a new time stamp is created for the order each time it is automatically adjusted; and (iv) orders with a Pegged instruction are not eligible for routing pursuant to Rule 11.11. For purposes of the Pegged instruction, the rule would also state that the System's calculation of the NBBO does not take into account any orders with Pegged instructions that are resting on the EDGA Book. The rule would also state that an order with a Pegged instruction would be cancelled if an NBB or NBO, as applicable, is no longer available.

In addition, the Exchange proposes to further describe the options available when using a Pegged instruction by introducing two new terms—Primary Peg and Market Peg.[28] Specifically, proposed Rule 11.6 would state that a Pegged instruction may be a Market Peg or Primary Peg. An order that includes a Primary Peg instruction will have its price pegged by the System to the NBB, for a buy order, or the NBO for a sell order. A User may, but is not required to, select an offset equal to or greater than one Minimum Price Variation above or below the NBB or NBO that the order is pegged to. An order with a Primary Peg instruction would be eligible to join the Exchange's Best Bid or Offer (''Exchange BBO'') when the EDGA Book has been locked or crossed by another market. If an order with a Primary Peg instruction would create a Locking Quotation or Crossing Quotation, the price of the order would be automatically adjusted by the System to one Minimum Price Variation (discussed below) below the current NBO (for bids) or to one Minimum Price Variation above the current NBB (for offers).

An order that includes a Market Peg instruction will have its price pegged by the System to the NBB, for a sell order, or the NBO, for a buy order. Historically, the System permitted Users to include an offset amount of zero with a Market Peg instruction. The Exchange now proposes to require that an order with a Market Peg instruction that is to be displayed by the System on the EDGA Book include an offset equal to or greater than one Minimum Price Variation. For an order that is to be displayed by the System on the EDGA Book, the order will be required to have an offset for an order to buy (sell) that is equal to or greater than one Minimum Price Variation below (above) the NBO (NBB) that the order is pegged to. If a User does not select an offset, the System will automatically include an offset on an order to buy (sell) that is equal to one Minimum Price Variation below (above) the NBO (NBB) that the order is pegged to. Requiring an offset is necessary to prohibit an order with a Market Peg instruction from becoming a Locking Quotation. For an order with a Non-Displayed instruction, a User may, but is not required to, select an offset for an order to buy (sell) that is equal to or greater than one Minimum Price Variation below (above) the NBO (NBB) that the order is pegged to.

Operation of Limit Orders With a Pegged Instruction

The following examples illustrate the operation of Limit Orders with a Pegged instruction.

*Example No. 1.* Buy Limit Order with a Primary Peg instruction and Offset.

Assume the NBBO is $10.00 by $10.06. A Limit Order is entered into the System to buy 500 shares, with a Primary Peg instruction and offset of +$0.02. The order will be pegged to the NBB and initially displayed by the System on the EDGA Book at $10.02.

[26] The minimum execution quantity instruction is available on other exchanges. *See, e.g.,* Nasdaq Rule 4751(f)(5), and National Stock Exchange, Inc. (''NSX'') Rule 11.11(c)(2)(B).

[27] *See* Securities Exchange Act Release No. 64094 (March 18, 2011), 76 FR 16468 (March 23, 2011) (SR–EDGA–2011–07).

[28] The Primary Peg and Market Peg order instructions are available on other exchanges. *See, e.g.,* New York Stock Exchange LLC (''NYSE'') Rule 13 (defining Pegging Interest), and Nasdaq 4751(f)(4).

*Example No. 2.* Sell Limit Order with a Primary Peg instruction and Offset.

Assume the NBBO is $10.00 by $10.06. A Limit Order is entered into the System to sell 500 shares, with a Primary Peg instruction and offset of −$0.02. The order will be pegged to the NBO and initially displayed by the System on the EDGA Book at $10.04.

*Example No. 3.* Buy Limit Order with a Market Peg instruction and Offset.

Assume the NBBO is $10.00 by $10.10. A Limit Order is entered into the System to buy 500 shares with a Market Peg instruction and offset of −$0.01. The order will be pegged to the NBO and initially displayed by the System on the EDGA Book at $10.09.

*Example No. 4.* Sell Limit Order with a Market Peg instruction and Offset.

Assume the NBBO is $10.00 by $10.10. A Limit Order is entered to sell 500 shares with a Market Peg instruction and offset of +$0.01, and a second Limit Order is entered to sell 800 shares with a Market Peg instruction and offset of +$0.03. The orders will be pegged to the NBB and initially displayed by the System on the EDGA Book at $10.01 and $10.03, respectively. If the NBBO then changes to $10.02 by $10.10, the orders will be re-priced and displayed at $10.03 and $10.05, respectively.

Permitted Price (Rule 11.6(k))

The Exchange currently defines the term ''Permitted Price'' in Exchange Rule 11.5(c)(4)(B), which states that a short sale order that is subject to the Exchange's short sale price sliding process will ''be re-priced to display at one MPV above the current NBB.'' The Exchange does not propose to amend the definition other than to delete it from Rule 11.5(c)(4)(B) and add relocate it under proposed Rule 11.6.

Re-Pricing (Rule 11.6(l))

The Exchange currently offers various re-pricing instructions which, in all cases, result in the ranking and/or display of an order at a price other than the order's limit price in order to comply with applicable securities laws and Exchange Rules. Specifically, the Exchange's re-pricing instructions are designed to permit Users to comply with: (i) Rule 610(d) of Regulation NMS; or (ii) Rule 201 of Regulation SHO are currently described under Exchange Rules 11.5(c)(4) as the ''displayed price sliding process'' [29] and ''short sale price sliding process.'' [30] The Exchange proposes to delete Rule 11.5(c)(4) in its entirety and replace it with proposed Rule 11.6(l), which will describe in more detail and provide additional specificity regarding the re-pricing instructions currently available to Users by renaming displayed price sliding under current Rule 11.5(c)(4) as Hide Not Slide and introducing and defining three new terms with regard to Regulation NMS compliance—Price Adjust, Single Re-Price, and Routed and Returned Re-Pricing, and three new terms with regard to Regulation SHO compliance—Short Sale Price Adjust, Short Sale Price Sliding, and Short Sale Single Re-Price.[31] The Exchange also proposes to describe in its rules the re-pricing instruction for orders that are not displayed by the System on the EDGA Book. By providing additional specificity in proposed Rule 11.6(l) regarding the available re-pricing instructions, the Exchange believes the proposed rules will aid the understanding of Members, Users, and the investing public with respect to the operation of the System and the manner in which orders subject to re-pricing are handled and displayed by the System on the EDGA Book.

The Exchange describes each of these new terms in more detail below and provides specific examples as to how each process operates.

Re-Pricing Instructions To Comply With Rule 610(d) of Regulation NMS

Proposed Rule 11.6(l)(1) sets forth the following re-pricing instructions to comply with Rule 610(d) of Regulation NMS: (i) Price Adjust; (ii) Hide Not Slide; (iii) Single Re-Price; and (iv) and Routed and Returned Re-Pricing. As discussed in more detail under the description of proposed Rule 11.8, the Exchange notes a Limit Order that, if displayed by the System on the EDGA Book at its limit price upon entry would be a Locking Quotation or Crossing Quotation, will be automatically defaulted by the System to the Hide Not Slide instruction, unless the User affirmatively elects: (i) The Cancel Back instruction; (ii) the Price Adjust instruction; or (iii) the Single Re-Price instruction.

Price Adjust (Rule 11.6(l)(1)(A))

Under the Price Adjust instruction, where a buy (sell) order would be a Locking Quotation or Crossing Quotation if displayed by the System on the EDGA Book at the time of entry, the order will be displayed and ranked [32] at a price that is one Minimum Price Variation lower (higher) than the Locking Price.[33] The order will be displayed and ranked by the System on the EDGA Book at the Locking Price if: The NBBO changes such that the order, if displayed at the Locking Price, would not be a Locking Quotation or Crossing Quotation, including where an ISO with a TIF instruction of Day is entered into the System and displayed on the EDGA Book on the same side of the market as the order at a price that is equal to or more aggressive than the Locking Price.[34] The order would not be subject

[29] The ''displayed price sliding process'' is currently described under Rule 11.5(c)(4)(A) as follows: An EDGA Only Order that, at the time of entry, would cross a Protected Quotation will be re-priced to the locking price and ranked at such price in the EDGA Book. An EDGA Only Order that, if at the time of entry, would create a violation of Rule 610(d) of Regulation NMS by locking or crossing a Protected Quotation will be displayed by the System at one minimum price variation (''MPV'') below the current NBO (for bids) or to one MPV above the current NBB (for offers) (collectively, the ''displayed price sliding process''). In the event the NBBO changes such that the EDGA Only Order at the original locking price would not lock or cross a Protected Quotation, the order will receive a new timestamp, and will be displayed at the original locking price.

[30] The ''short sale price sliding process'' is currently described under Rule 11.5(c)(4)(B)–(C) as follows: An EDGA Only Order that, at the time of entry, could not be executed or displayed pursuant to Rule 201 of Regulation SHO will be re-priced by the System to prevent execution or display at or below the current NBB (such entire process called the ''short sale price sliding process''). Any EDGA Only order subject to such re-pricing by the System will be re-priced to display at one MPV above the current NBB (''Permitted Price''). Following the initial adjustment provided for in this paragraph (B), the EDGA Only Order will, to reflect declines in the NBB, continue to be re-priced at the lowest Permitted Price down to the order's original limit price, or if a market order, until the order is filled. The order will receive a new timestamp each time it is re-priced. Alternatively, following the initial adjustment provided for in paragraph (B), the EDGA Only Order may, in accordance with the User's instructions, provided that in all cases the display or execution of such lower prices does not violate Rule 201 of Regulation SHO: (i) Be re-priced one additional time to a price that is above the current NBB but equal to the NBB at the time the EDGA Only Order was received and receive a new timestamp; or (ii) not be adjusted further. In the event the NBB changes such that the price of a Non-Displayed Order subject to short sale price sliding would lock or cross the NBB, the Non-Displayed Order will receive a new timestamp, and will be re-priced by the System to a Permitted Price. EDGA Only Orders marked ''short exempt'' shall not be subject to the short sale price sliding process.

[31] Other exchanges utilize similar re-pricing processes. *See e.g.,* Chicago Stock Exchange, Inc. (''CHX'') Art. I, Rule 2(b)(1)(C), BZX Rules 11.9(c)(4), (6) and 11.9(g)(2), BATS–Y Exchange, Inc. (''BYX'') Rules 11.9(c)(4), (6) and 11.9(g)(2), and Nasdaq's ''Re-pricing of Orders during Short Sale Period'' described in Nasdaq Rule 4763(e).

[32] For purposes of the description of the re-pricing instructions under proposed Rule 11.6(l), the terms ''ranked'' and ''priced'' are synonymous and used interchangeably.

[33] The Exchange notes that other exchanges offer similar functionality. *See* Nasdaq Rule 4751(f)(7) (Price to Comply Order), BZX Rule 11.9(g)(1) (Display-Price Sliding), BYX 11.9(g)(1) (Display-Price Sliding), and CHX Rule Art. I, Rule 2(b)(1)(C)(i) (NMS Price Sliding).

[34] *See* Division of Trading and Markets: Response to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS, Question

Continued

to further re-ranking and will be displayed by the System on the EDGA Book at the Locking Price until executed or cancelled by the User. The order will receive a new time stamp at the time an order is re-ranked. Pursuant to proposed renumbered Rule 11.9, all orders that are re-ranked and re-displayed pursuant to the Price Adjust instruction will retain their priority as compared to each other based upon the time such orders were initially received by the System.

Operation of Orders With a Price Adjust Instruction

The following examples [35] illustrate the operation of the Price Adjust instruction.

*Example No. 1.* A Limit Order to Buy Executes at Displayed Price.

Assume the NBBO is $10.00 by $10.10 and that there are no orders resting on the EDGA Book. If a non-routable Limit Order to buy 100 shares at $10.11 with a Price Adjust instruction is to be displayed by the System on the EDGA Book, such order will be displayed and ranked at $10.09. If a Limit Order to sell 100 shares at $10.09 or less is entered into the System, such order would execute against the resting Limit Order to buy at $10.09.

*Example No. 2.* The Displayed Price of a Limit Order to Buy Moves up One Minimum Price Variation.

Assume the NBBO is $10.00 by $10.10 and that there are no orders resting on the EDGA Book. If a non-routable Limit Order with a Price Adjust instruction to buy 100 shares at $10.11 is to be displayed by the System on the EDGA Book, such order will be displayed and ranked at $10.09. If the NBO subsequently moves to $10.11, the order will be displayed and ranked at $10.10 and given a new time stamp. If the NBO moves to $10.12, the order will remain ranked and displayed at $10.10, the Locking Price.

Hide Not Slide (Rule 11.6(l)(1)(B))

The Exchange also proposes to amend its description of the displayed price sliding process under current Rule 11.5(c)(4)(A) and rename it the Hide Not Slide instruction under proposed Rule 11.6(l)(1)(B). The only difference is that current Rule 11.5(c)(4)(A) incorrectly states that an order subject to the displayed price sliding process would receive a new time stamp where the NBBO changes such that the order would no longer lock or cross the market and is displayed at the Locking Price. Under Hide Not Slide, the Exchange proposes to correctly state that the order would retain its time stamp where the NBBO changes such that the order, if displayed by the System on the EDGA Book at the Locking Price would not be a Locking Quotation or Crossing Quotation, will be ranked and displayed by the System at the Locking Price. Under Hide Not Slide, the order retains its original time stamp because it remains ranked at the Locking Price. An order subject to the Hide Not Slide instruction will only receive a new time stamp when it is re-ranked by the System upon clearance of a Locking Quotation due to the receipt of an ISO with a TIF instruction of Day that establishes a new NBBO at the Locked Price in accordance with proposed Rule 11.9(a)(2)(B) described below. All other aspects of displayed price sliding and Hide Not Slide are similar. Like the displayed price sliding process, under the Hide Not Slide instruction, a buy (sell) order that would be a Locking Quotation or Crossing Quotation if displayed by the System on the EDGA Book at the time of entry, will be displayed at a price that is one Minimum Price Variation lower (higher) than the Locking Price, will be ranked at the Locking Price [36] with the ability to execute at the Locking Price. The Exchange proposes to specify in proposed Rule 11.6(l)(1)(B) that if a contra-side order that equals the Locking Price is displayed by the System on the EDGA Book, the order will be ranked at the Locking Price but its ability to execute at the Locking Price will be suspended unless and until there is no contra-side displayed order on the EDGA Book that equals the Locking Price. However, in such case, an order subject to the Hide Not Slide instruction may execute against other orders at its displayed price. Lastly, like displayed price sliding, Hide Not Slide would be the default re-pricing instruction.

Operation of Orders With a Hide Not Slide Instruction

The following examples illustrate the operation of the Hide Not Slide instruction:

*Example No. 1.* Assume the NBBO is $10.00 by $10.10 and that there are no orders resting on the EDGA Book. A non-routable Limit Order with a Hide Not Slide instruction to buy 100 shares at $10.10 is entered into the System. Such order will be displayed by the System on the EDGA Book at $10.09 and be ranked by the System at the Locking Price of $10.10. The NBBO will update to $10.09 by $10.10. If a Limit Order to sell 100 shares at $10.09 or more is entered into the System, such order would execute against the Limit Order at $10.10.

If a Limit Order to sell 100 shares is entered at $10.10 and there are no displayed orders to sell in the System at $10.10, such order will execute against the Limit Order to buy at $10.10.

*Example No. 2.* The Displayed Price of a Limit Order to Buy Moves up One Minimum Price Variation.

Assume the NBBO is $10.00 by $10.10 and that there are no orders resting on the EDGA Book. A non-routable Limit Order with a Hide Not Slide instruction to buy 100 shares at $10.11 is entered into the System. Such order will be displayed by the System on the EDGA Book at $10.09 and will be ranked at $10.10, the Locking Price. The NBBO will update to $10.09 by $10.10. If the NBO moves to $10.11, the Limit Order to buy will be ranked and displayed at $10.10, the Locking Price. If the NBBO then moves to $10.10 by $10.12, the Limit Order to buy will remain ranked and displayed at $10.10, the Locking Price.

*Example No. 3.* Resting Sell Order Prevents Contra-Side Displayed Limit Order with a Post Only Instruction from Executing at Locking Price.

Assume the NBBO is $10.00 by $10.10. Also, assume there is a Limit Order with a Displayed instruction to sell 100 shares at $10.10 on the EDGA Book. A Limit Order with a Displayed, Post Only, and Hide Not Slide instruction to buy 100 shares at $10.10 is entered into the System. The Limit Order with the Displayed, Post Only, and Hide Not Slide instructions will be ranked at $10.10, the Locking Price, and displayed by the System on the EDGA Book at $10.09.[37] The order will be

5.02, *available at http://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm* (last visited March 6, 2014).

[35] Unless otherwise noted, the examples included under the description of the re-pricing instructions in this section assume that there is no Top of Book interest on the EDGA Book. Exchange Rule 1.5(dd) defines ''Top of Book'' as ''the best-ranked order to buy (or sell) in the EDGA Book as ranked pursuant to Rule 11.8.'' The Exchange notes that Exchange Rule 11.8 is being renumbered as Exchange Rule 11.9. The definition of ''Top of Book'' under Exchange Rule 1.5(dd) is proposed to be amended by this filing to reflect the updated rule number.

[36] The displayed price sliding process under current Rule 11.5(c)(4)(A) states an order that would be a Crossing Quotation at the time of entry will be re-priced and ranked at the Locking Price. The Exchange proposes to specify under description of the Hide Not Slide instruction that the order will be ranked at the Locking Price where it would have been a Locking Quotation or Crossing Quotation.

[37] Assume that the Limit Order to buy with the Post Only instruction does not remove liquidity from the EDGA Book because the value of an execution does not equal or exceed the value of such execution if the order instead posted to the EDGA Book and subsequently provided liquidity,

unable to execute at the Locking Price of $10.10 because there is a displayed sell order at that price on the EDGA Book. If a Limit Order to sell 100 shares at $10.10 is entered into the System, such order will not execute against the Limit Order with both the Post Only and Hide Not Slide instructions to buy at $10.10 because the resting displayed Limit Order to sell 100 shares at $10.10 has time priority. Assuming no changes to the above conditions, if a Limit Order to sell 100 shares at $10.09 is entered into the System, it would execute against the Limit Order with a Post Only and Hide Not Slide instruction to buy at $10.09.

*Example No. 4.* Ability to Execute at the Locking Price is Suspended.

Assume the NBBO is $10.00 by $10.10 and that there are no orders resting on the EDGA Book. A Limit Order with a Hide Not Slide instruction to buy 100 shares at $10.10 is entered into the System. The order will be displayed on the EDGA Book at $10.09 and ranked at $10.10, the Locking Price. If a Limit Order with a Post Only instruction to sell 100 shares at $10.10 is entered into the System, it will not execute against the buy order at 10.10 due to the Post Only instruction.[38] The buy order will now be unable to execute at the Locking Price of $10.10 because there is a displayed sell order at that price on the EDGA Book. If a Limit Order to sell 100 shares at $10.10 is entered into the System, such order will not execute against the Limit Order with the buy order at $10.10 because the resting displayed Limit Order to sell 100 shares at $10.10 has time priority.

Routed and Returned Re-Pricing (Rule 11.6(l)(1)(B)(i))

The portion of a Limit Order that is returned to the System after being routed away in accordance with Rule 11.9(b) (proposed to be renumbered as Rule 11.11), that, if displayed by the System on the EDGA Book at its limit price at the time of entry in the System, would be a Locking Quotation or Crossing Quotation, will be automatically defaulted by the System to the Routed and Returned Re-Pricing instruction, unless the User affirmatively elects the Cancel Back instruction, Price Adjust instruction, Hide Not Slide instruction, or the Single Re-Price instruction.

Under the Routed and Returned Re-Pricing instruction, a Limit Order that is returned to the EDGA Book after being routed to an away Trading Center with a limit price that would cause the order to be a Locking Quotation or Crossing Quotation will be displayed by the System on the EDGA Book at a price that is one Minimum Price Variation lower (higher) than the Locking Price for orders to buy (sell), will be ranked at the Locking Price; provided, however, that if a contra-side order with a Post Only instruction that equals the Locking Price is displayed by the System on the EDGA Book, the order will be ranked at the Locking Price but its ability to execute at the Locking Price will be suspended unless and until there is no contra-side order displayed by the System on the EDGA Book that equals the Locking Price. However, in such case, an order subject to the Hide Not Slide instruction may execute against other orders at its displayed price. Each time the NBBO is updated, a buy (sell) order subject to the Routed and Returned Re-Pricing instruction will be further adjusted so that it continues to be displayed by the System on the EDGA Book at one Minimum Price Variation below (above) the NBO (NBB) and will be ranked at the Locking Price until the price of such order reaches its limit price, at which point it will remain displayed by the System on the EDGA Book at that price and cease to be further adjusted pursuant to the Routed and Returned Re-Pricing instruction. The order will receive a new time stamp when it is returned to the EDGA Book and each time it is subsequently re-ranked. Pursuant to Rule 11.9, all orders that are re-ranked and re-displayed pursuant to the Routed and Returned Re-Pricing instruction will retain their priority as compared to each other at the same price based upon the time such orders were initially received by the System.

Operation of Orders With a Routed and Returned Re-Pricing Instruction

The following examples illustrate the operation of the Routed and Returned Re-Pricing instruction:

Assume the NBBO is $10.00 by $10.10. Also, assume there are no sell orders resting on the EDGA Book. A Limit Order to buy 100 shares at $10.11 is returned to the EDGA Book after being routed to an away Trading Center. If displayed by the System on the EDGA Book, the returned Limit Order would be a Crossing Quotation. The order would default to the Routed and Returned Re-Pricing instruction unless the User affirmatively elects the Cancel Back instruction, the Price Adjust instruction, the Hide Not Slide instruction, or the Single Re-Price instruction. The Limit Order subject to the Routed and Returned Re-Pricing instruction will be ranked at $10.10 and displayed by the System on the EDGA Book at $10.09 with a new time stamp. If the NBO moves to $10.11, the Limit Order subject to the Routed and Returned Re-Pricing instruction will be re-priced and ranked at the Locking Price of $10.11, and displayed by the System on the EDGA Book at $10.10 with a new time stamp. If the NBO then moves to $10.12, the Limit Order subject to the Routed and Returned Re-Pricing instruction will now be ranked and displayed by the System on the EDGA Book at $10.11, its limit price.

Single Re-Price (Rule 11.6(l)(1)(C))

If the User selects the Single Re-Price instruction, where an order would be a Locking Quotation or Crossing Quotation if displayed by the System on the EDGA Book at the time of entry, the order will be displayed and ranked at a price that is one Minimum Price Variation lower (higher) than the Locking Price for orders to buy (sell) and will not be subject to any further adjustment by the System.[39]

Operation of Orders With a Single Re-Price Instruction

The following examples illustrate the operation of the Single Re-Price instruction:

*Example No.1:* Limit Order to Buy that is Subject to the Single Re-Price Instruction Executes at Displayed Price.

Assume the NBBO is $10.00 by $10.10 and that there are no orders resting on the EDGA Book. If a non-routable Limit Order with a Single Re-Price instruction to buy 100 shares at $10.11 is entered into the System, such order will be ranked and displayed by the System on the EDGA Book at $10.09 and will not be further adjusted by the System. If a Limit Order to sell 100 at $10.09 is entered into the System, such order would execute against the Limit Order to buy at $10.09.

*Example No. 2.* The Displayed Price of a Limit Order to Buy that is Subject to the Single Re-Price Instruction.

Assume the NBBO is $10.00 by $10.10 and that there are no orders resting on the EDGA Book. If a non-routable Limit Order with a Single Re-Price instruction to buy 100 shares at $10.11 is entered into the System, such order will be ranked and displayed by the System on the EDGA Book at $10.09. If the NBBO moves to $10.09 by $10.11, the Limit Order subject to the Single Re-Price

including the applicable fees charged or rebates provided under proposed Rule 11.6(n)(4). *See also infra* note 49.

[38] *Id.*

[39] The Exchange notes that other exchanges offer similar functionality. *See* Nasdaq Rule 4751(f)(8) (Price to Comply Post Order), BZX Rule 11.9(g)(1) (Display-Price Sliding), BYX 11.9(g)(1) (Display-Price Sliding), and CHX Rule Art. I, Rule 2(b)(1)(C)(i) (NMS Price Sliding).

instruction will not be further adjusted and will remain ranked and displayed by the System on the EDGA Book at $10.09.

Re-Pricing Instructions to Comply With Rule 201 of Regulation SHO

Proposed Exchange Rule 11.6(l)(2) sets forth the following re-pricing instructions for an order with a Short Sale instruction to comply with Rule 201 of Regulation SHO: (i) Short Sale Price Adjust; (ii) Short Sale Price Sliding; and (iii) Short Sale Single Re-Price. The Exchange notes that a Limit Order to sell with a Short Sale instruction that cannot be displayed by the System on the EDGA Book or executed at its limit price at the time of entry into the System because a short sale price restriction is in effect pursuant to Rule 201 of Regulation SHO (''Short Sale Circuit Breaker''),[40] will be automatically defaulted by the System to the Short Sale Price Adjust instruction, unless the User affirmatively elects: (i) The Cancel Back instruction; (ii) the Short Sale Price Sliding instruction; or (iii) the Short Sale Single Re-Price instruction. Like current Rule 11.5(c)(4)(E), orders to sell with both a Short Sale and a Short Exempt instruction are not eligible for any of the re-pricing instructions to comply with Rule 201 of Regulation SHO and will execute, display and/or route without regard to whether the order is at a Permitted Price above the NBB or whether a Short Sale Circuit Breaker in effect. In addition, when a Short Sale Circuit Breaker is in effect, the re-pricing instructions to comply with Rule 610(d) of Regulation NMS will be ignored with regard to a sell order that contains a Short Sale instruction. In such case, the below re-pricing instructions to comply with Rule 201 of Regulation SHO will apply.

Short Sale Price Adjust (Rule 11.6(l)(2)(A)).

Under the Short Sale Price Adjust instruction, the System will cause an order to sell with a Short Sale instruction to be ranked and displayed by the System on the EDGA Book at the Permitted Price.[41] Following the initial ranking, the order to sell with a Short Sale instruction will, to the extent the NBB declines, continue to be re-ranked and displayed by the System on the EDGA Book at the Permitted Price down to the order's limit price. The order to sell with a Short Sale instruction will receive a new time stamp each time it is re-ranked. All orders to sell with Short Sale instructions that are re-ranked and re-displayed by the System on the EDGA Book pursuant to the Short Sale Price Adjust instruction will retain their priority as compared to each other based upon the time such orders were initially received by the System.

Operation of Orders With a Short Sale Price Adjust Instruction

The below example illustrates the Short Sale Price Adjust instruction.

Assume the NBBO is $10.00 by $10.10 and the Short Sale Circuit Breaker is in effect for the relevant security. Also assume that there are no orders resting on the EDGA Book. If a Limit Order[42] to sell 200 shares at $9.95 is entered into the System with a Short Sale instruction and is subject to the Short Sale Price Adjust instruction, such order will be ranked and displayed at $10.01. If a Limit Order to buy 100 shares at $10.01 is entered into the System, such order would execute at $10.01 against the Limit Order to sell with the Short Sale and Short Sale Price Adjust instructions.

If the NBBO then moves to $9.99 by $10.01, the Limit Order to sell with the Short Sale and Short Sale Price Adjust instructions will be ranked and displayed by the System on the EDGA Book at $10.00. If the NBBO moves to $9.96 by $10.00, the order will be re-ranked and displayed by the System on the EDGA Book at $9.97. If the NBBO moves to $9.93 by $9.97, the order will be re-ranked and displayed by the System on the EDGA Book at $9.95, and will not be re-ranked further because the order reached its limit price.

Short Sale Price Sliding (Rule 11.6(l)(2)(B)).

If the User selects the Short Sale Price Sliding instruction, the System will cause a Limit Order to sell with a Short Sale instruction to be displayed by the System on the EDGA Book at the Permitted Price and be ranked at the midpoint of the NBBO. Following the initial ranking, the order will, to the extent the NBB declines, be re-ranked and displayed by the System on the EDGA Book one additional time at a price that is equal to the NBB at the time the order was received by the System and will receive a new time stamp. All orders to sell with Short Sale instructions that are re-ranked and re-displayed by the System on the EDGA Book pursuant to the Short Sale Price Sliding instruction will retain their priority as compared to each other based upon the time the orders were initially received by the System.

Operation of Orders With a Short Sale Price Sliding Instruction

The below example illustrates the Short Sale Price Sliding instruction.

Assume the NBBO is $10.00 by $10.10 and a Short Sale Circuit Breaker is in effect for the security. Also assume that there are no orders resting on the EDGA Book. A User enters a sell order into the System with a Short Sale instruction for 200 shares at $9.95 and elects the Short Sale Price Sliding instruction. The order will be ranked at $10.005 and displayed by the System on the EDGA Book at $10.01.

In the above example, if the NBBO then moves to $9.99 by $10.01, the order will be re-ranked and displayed by the System on the EDGA Book at $10.00. If the NBBO moves to $9.98 by $10.00, the order will remain displayed at $10.00 and not be subject to further re-ranking because the price of the order reached the bid at which it could not execute when it first arrived in the System because a Short Sale Circuit Breaker was in effect.

Short Sale Single Re-Price (Rule 11.6(l)(2)(C))

If the User elects the Short Sale Single Re-Price instruction, the System will cause a Limit Order to sell with a Short Sale instruction that is entered into the System to be ranked and displayed by the System on the EDGA Book at the Permitted Price.[43] Following the initial ranking provided for in this rule, the

[40] 17 CFR 242.200(g); 17 CFR 242.201. On February 26, 2010, the Commission adopted amendments to Regulation SHO under the Act in the form of Rule 201, pursuant to which, among other things, short sale orders in covered securities generally cannot be executed or displayed by a trading center, such as EDGA, at a price that is at or below the current NBB when a Short Sale Circuit Breaker is in effect for the covered security. *See* Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010). In connection with the adoption of Rule 201, Rule 200(g) of Regulation SHO was also amended to include a ''short exempt'' marking requirement. *See also* Securities Exchange Act Release No. 63247 (November 4, 2010), 75 FR 68702 (November 9, 2010) (extending the compliance date for Rules 201 and 200(g) to February 28, 2011). *See also* Division of Trading & Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, *www.sec.gov/divisions/marketreg/rule201faq.htm*.

[41] The Exchange notes that other exchanges offer similar functionality. *See* Nasdaq Rule 4763(e) (Re-Pricing of Orders During Short Sale Period), BZX Rule 11.9(g)(2) (Short Sale Price Sliding), BYX 11.9(g)(2) (Short Sale Price Sliding), and CHX Rule Art. I, Rule 2(b)(1)(C)(ii) (Short Sale Price Sliding).

[42] Assume for purposes of this example that a Limit Order contains either a Post Only or Book Only instruction.

[43] The Exchange notes that other exchanges offer similar functionality. *See* Nasdaq Rule 4763(e) (Re-Pricing of Orders During Short Sale Period), BZX Rule 11.9(g)(2) (Short Sale Price Sliding), BYX 11.9(g)(2) (Short Sale Price Sliding), and CHX Rule Art. I, Rule 2(b)(1)(C)(ii) (Short Sale Price Sliding).

order will not be adjusted further to reflect a decline in the NBB.

Operation of Orders With a Short Sale Single Re-Price Instruction

The below example illustrates the Short Sale Single Re-Price instruction.

Assume the NBBO is $10.00 by $10.10 and a Short Sale Circuit Breaker is in effect for the security. Also assume that there are no orders resting on the EDGA Book. A User enters an order into the System to sell 200 shares at $9.95 with a Short Sale instruction and the Short Sale Single Re-Price instruction. Such order will be ranked and displayed by the System on the EDGA Book at $10.01. If a Limit Order to buy 100 shares at $10.01 is entered into the System, such order would execute at $10.01 against the sell order with the Short Sale instruction and Single Re-Price instruction.

In the above example, if the NBBO then moves to $9.99 by $10.01, the order to sell with the Short Sale instruction and the Single Re-Price instruction will not re-priced and will remain Displayed at $10.01.

Re-Pricing of Orders With a Non-Displayed Instruction (Rule 11.6(l)(3))

Proposed Rule 11.6(l)(3) states that to avoid potentially trading through Protected Quotations of external markets, a non-routable order with a Non-Displayed instruction that would be a Crossing Quotation of an external market will be ranked at the Locking Price, unless the User affirmatively elects that the order Cancel Back. Each time the NBBO is updated and the order continues to be a Locking Quotation or Crossing Quotation of an external market, the order will be adjusted so that it continues to be ranked at the current Locking Price. Once an order with a Non-Displayed instruction has been ranked at its limit price it will only be adjusted in the event the NBBO is updated and the order would again be a Crossing Quotation of an external market. The order will receive a new time stamp each time it is subsequently re-ranked. For example, assume the NBBO is $24.00 x $26.00 and there are no orders resting on the EDGA Book. If an incoming order with a Non-Displayed instruction is entered into the System to buy at $27.00, it will be ranked by the System at $26.00, the Locking Price. Assume the NBBO changes to $24.00 x $25.00. The buy order with a Non-Displayed instruction will be re-ranked at $25.00, the new Locking Price, and be given a new time stamp.

Reserve Quantity and Replenishment Amounts (Rule 11.6(m))

Exchange Rule 11.5(c)(1) currently defines a ''Reserve Order'' as ''[a] limit order with a portion of the quantity displayed ('display quantity') and with a reserve portion of the quantity ('reserve quantity') that is not displayed.'' The Exchange believes that a Reserve Order is more appropriately described as an order instruction, rather than an order type. Therefore, the Exchange proposes to delete the term Reserve Order and replace it with the order instruction ''Reserve Quantity'' in proposed Rule 11.6. The substantive definition of Reserve Quantity would remain the same. Specifically, proposed Rule 11.6 would define Reserve Quantity to mean the portion of an order with a Non-Displayed instruction in which a portion of that order is also displayed on the EDGA Book. The Exchange believes that reclassifying a Reserve Order as Reserve Quantity is consistent with the current System's functionality that permits a User when entering an order into the System to instruct the System to not display a portion of that order on the EDGA Book. The Exchange also proposes to include within the definition that both the portion of the order with a Displayed instruction and the Reserve Quantity of the order are available for execution against incoming orders.

The Exchange proposes to include in proposed Rule 11.6 language that describes how a User entering an order into the System with a Reserve Quantity may instruct the System to update the displayed quantity by setting a replenishment amount.[44] Proposed Rule 11.6(m) would also describe the two replenishment instructions offered by the Exchange which are: (i) Fixed Replenishment; and (ii) Random Replenishment.[45] Where the displayed quantity of an order is reduced to less than a Round Lot, the System will, in accordance with the replenishment instruction selected by the User, replenish the displayed quantity from the Reserve Quantity by at least a single Round Lot. A new time stamp is created for the displayed portion of the order each time it is replenished from the Reserve Quantity, while the Reserve Quantity retains the time stamp of its original entry.[46] Where the combined amount of the displayed quantity and Reserve Quantity of an order is reduced to less than one Round Lot, the order will be treated as an order with a Displayed instruction for purposes of execution priority under proposed renumbered Rule 11.9.

Under the Fixed Replenishment instruction, the displayed quantity of an order is replenished by a fixed quantity designated by the User. The Fixed Replenishment quantity for the order equals the initial displayed quantity designated by the User. The displayed replenishment quantity selected by the System may not be less than a single Round Lot or greater than the remaining Reserve Quantity. As set forth in proposed rule 11.8(b)(5) discussed below, unless the User selects the Random Replenishment instruction, the System will automatically default the order to the Fixed Replenishment instruction with a replenishment value equal to the displayed quantity of the order.

Under the Random Replenishment instruction, both the actual quantity of the order that will be initially displayed by the System on the EDGA Book and subsequent displayed replenishment quantities are randomly determined by the System within a replenishment range established by the User. In particular, the User entering an order into the System subject to the Random Replenishment instruction must select a quantity around which the replenishment range is established and a replenishment value. The actual quantity that will be initially displayed, as well as subsequent displayed replenishment quantities, will then be determined by the System randomly selecting a number of shares in Round Lots within a replenishment range that is between: (i) The quantity around which the replenishment range is established minus the replenishment value; and (ii) the quantity around which the replenishment range is established plus the replenishment value. In no case can the displayed replenishment quantity exceed the remaining Reserve Quantity of the order. The displayed replenishment quantity selected by the System may not

[44] Other exchanges offer similar functionality for refreshing the displayed portion of an order from a Reserve Quantity. *See, e.g.,* Nasdaq Rule 4751(f)(2) (Reserve Orders) and NYSE Rule 13 (Reserve Order Types).

[45] The Random Replenishment instruction is consistent with functionality described in existing Exchange rules related to the objective of a User to avoid providing information that an order has Reserve Quantity. Exchange Rule 13.8(b) contemplates the subsequent replenishment of ''Reserve Orders'' by permitting Users to obfuscate their order identification numbers on the Exchange's Book Feed when replenishing the displayed quantity of a Reserve Order.

[46] The Exchange notes that other exchanges maintain similar time stamp functionality when replenishing a displayed amount of an order from the order's undisplayed quantity. *See* Nasdaq Rule 4751(f)(2) (Reserve Orders), and NYSE Rule 13 (Reserve Order Types, Minimum Display Reserve Order).

be less than a single Round Lot or greater than the remaining Reserve Quantity.

Operation of Orders With Replenishment Amounts

The following examples illustrate the operation of replenishment amounts.

Fixed Replenishment

*Example No. 1.* A User enters an order into the System to buy 10,000 shares at $100 with a displayed quantity of 1,000 shares and a Reserve Quantity of 9,000 shares. The order defaults to a Fixed Replenishment quantity of 1,000 shares, equal to its displayed quantity. An inbound Market Order to sell 400 shares is entered into the System and executes against the displayed quantity of 1,000 shares, resulting in a remaining displayed quantity of 600 shares. Another Market Order to sell 600 shares is entered into the System and executes against the 600 displayed shares. The displayed quantity is then replenished by the System from the Reserve Quantity to the order's original displayed quantity of 1,000 shares, resulting in a remaining Reserve Quantity of 8,000 shares.

*Example No. 2.* A User enters Order No. 1, an order to buy 6,000 shares at $30.50, the NBB, with a displayed quantity of 1,000 shares and a Reserve Quantity of 5,000 shares. A User then enters Order No. 2 to buy 600 shares at $30.50 with no Reserve Quantity. Subsequently, an inbound Market Order to sell 2,000 shares is entered into the System. The order to sell first executes against the displayed quantity of 1,000 shares of the Order No. 1, then executes against the full 600 shares of Order 2, and then executes 400 shares from the Reserve Quantity of Order No. 1. The displayed quantities of Order Nos. 1 and 2 execute in time priority, followed by the Reserve Quantity of Order No. 1. The display quantity of Order No. 1 is then replenished for 1,000 shares, leaving a Reserve Quantity of 3,600 shares.

Random Replenishment

*Example No. 1.* A User enters an order into the System to buy 10,000 shares at $100 and the User selects Random Replenishment with a quantity of 1,000 shares around which the replenishment range is established and a replenishment value of 400 shares. Under Random Replenishment, the System will generate the actual quantity of the order that will be initially displayed by the System on the EDGA Book and subsequent displayed replenishment quantities within a replenishment range that is calculated by adding and subtracting the 400 share replenishment value from the order's quantity of 1,000 shares around which the replenishment range is to be established. Hence, for this order, 1,000 shares plus or minus 400 shares equals a replenishment range of 600 to 1,400 shares. Assume the System randomly chooses an initial displayed quantity of 800 shares, resulting in a Reserve Quantity of 9,200 shares. An inbound Market Order to sell 800 shares is entered into the System and executes against the 800 share displayed quantity. Under Random Replenishment, the displayed quantity is randomly replenished to a new Round Lot quantity within the replenishment range of 600 to 1,400 shares. Assume the System selects a replenishment quantity of 1,200 shares. The System will then display 1,200 shares to buy at $100, resulting in a Reserve Quantity of 8,000 shares.

*Example No. 2.* A User enters an order into the System to buy 5,000 shares at $100 and the User selects Random Replenishment with a quantity of 2,000 shares around which the replenishment range is established and a replenishment value of 1,000 shares. Under Random Replenishment, the System will generate the actual quantity of the order that will be initially displayed by the System on the EDGA Book and subsequent displayed replenishment quantities within a replenishment range that is calculated by adding and subtracting the 1,000 share replenishment value from the order's quantity of 2,000 shares around which the replenishment range is established. Hence, for this order, 2,000 shares plus or minus 1,000 shares equals a replenishment range of 1,000 to 3,000 shares. Assume the System randomly chooses an initial display quantity of 2,500 shares, resulting in a Reserve Quantity of 2,500 shares. A Market Order to sell 2,500 shares is entered into the System and is executed against the displayed quantity of 2,500 shares. Because the upper end of the replenishment range of 3,000 shares exceeds the remaining Reserve Quantity of 2,500 shares, the replenishment range is reset by the System to be between 1,000 shares and 2,500 shares. Assume the System selects a Random Replenishment of 1,100 shares. The System will then display on the EDGA Book 1,100 shares to sell at $100, resulting in a Reserve Quantity of 1,400 shares. The System will further reset the replenishment range to be between 1,000 shares and 1,400 shares. If, after subsequent executions, the lower end of the replenishment range exceeds the remaining Reserve Quantity, the System will generate a replenishment quantity that is equal to the remaining Reserve Quantity.

Routing/Posting Instructions (Rule 11.6(n))

As discussed in more detail below, the Exchange proposes to describe the routing and posting instructions available to Users under the Exchange's rules under new proposed Rule 11.6(n). Specifically, proposed Rule 11.6(n) defines the following routing and posting instructions that a User may select, depending on the order type: (i) Aggressive; (ii) Super Aggressive; (iii) Book Only; (iv) Post Only; (v) Destination Specified; and (vi) Destination-on-Open.

The Exchange proposes to introduce two new terms to its rules—Aggressive and Super Aggressive. Aggressive is an order instruction that directs the System to route such order if an away Trading Center crosses the limit price of the order resting on the EDGA Book. Super Aggressive is an order instruction that directs the System to route such order if an away Trading Center locks or crosses the limit price of the order resting on the EDGA Book. The Exchange believes adding definitions for these terms will provide additional transparency to the Exchange's rules.

The Exchange proposes to replace the term ''EDGA Only Order'' with the term ''Book Only,'' revise the definition of EDGA Only Order, and move the new definition to proposed Rule 11.6(n)(3). None of the proposed changes introduce any substantive changes to the operation of the functionality of the System. Specifically, current Rule 11.5(c)(4) defines the term EDGA Only Order as follows:

> [a]n order that is to be ranked and executed on the Exchange pursuant to Rule 11.8 and Rule 11.9(a)(4) or cancelled, without routing away to another trading center. The System will default to the displayed price sliding process and short sale price sliding process for an EDGA Only Order unless the User has entered instructions not to use any of the processes.

The Exchange believes that the operation of an EDGA Only Order is indicative of an instruction a User may attach to a Limit Order and not that of a standalone order type. Therefore, the Exchange proposes to delete the word Order from the term, and to define the term as an order instruction. In addition, the Exchange believes that the term Book Only is a more commonly used term in the securities industry. Therefore, the Exchange proposes to replace the term EDGA Only with Book Only. Moreover, the Exchange does not

propose to carry over the description of an EDGA Only Order that states it is subject to the Exchange's ''display price sliding process and short sale price sliding process'' unless the User instructs otherwise. The Exchange believes this language is unnecessary because the applicable defaults are set forth in the proposed revisions to the Exchange's re-pricing instructions, as described in proposed Rule 11.6(l). With these changes, the proposed definition of Book Only reads as follows: ''[A]n order instruction stating that an order will be matched against an order on the EDGA Book or posted to the EDGA Book, but will not route to an away Trading Center.'' [47]

The Exchange also proposes to amend the term ''Post Only Order'' and move it to proposed Rule 11.6(n). Current Exchange Rule 11.5(c)(5) defines the term Post Only Order as the following:

> An order that is to be ranked and executed on the Exchange pursuant to Rule 11.8 and Rule 11.9(a)(4) or cancelled, as appropriate, without routing away to another trading center except that the order will not remove liquidity from the EDGA Book absent an order instruction to the contrary. A EDGA Post Only Order will be subject to the displayed price sliding process and short sale price sliding process unless a User has entered instructions not to use the either or both processes as set forth in paragraph (c)(4) above.

The Exchange proposes to amend the existing language of a ''Post Only Order'' to classify it as a ''Post Only'' instruction. The revised definition would read as follows:

> An instruction that may be attached to an order that is to be ranked and executed on the Exchange pursuant to Rule 11.9 and Rule 11.10(a)(4) or cancelled, as appropriate, without routing away to another trading center except that the order will not remove liquidity from the EDGA Book, except as described below. An order with a Post Only instruction and a Hide Not Slide or Price Adjust instruction will remove contra-side liquidity from the EDGA Book if the order is an order to buy or sell a security priced below $1.00 or if the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the EDGA Book and subsequently provided liquidity, including the applicable fees charged or rebates provided.[48]

This amended definition would change the rule in the following ways. First, the Exchange believes that the operation of Post Only functionality is indicative of an instruction a User may attach to a Limit Order and not that of a standalone order type. Therefore, the Exchange proposes to delete the word Order from the term, and to define Post Only as an order instruction. The Exchange does not propose to carry over the current description of Post Only functionality that states it is subject to the Exchange's ''display price sliding process and short sale price sliding process'' unless the User instructs otherwise. The Exchange believes this language is unnecessary because the applicable defaults are set forth in the proposed revisions to the Exchange's re-pricing instructions and order types in proposed Rule 11.6(l). The Exchange also proposes to remove from the definition of Post Only the language that an order with a Post Only instruction will not remove liquidity from the EDGA Book unless ''the User enters an instruction to the contrary.'' The Exchange proposes to replace this language with a description of the specific circumstances under which an order with a Post Only instruction may remove liquidity from the EDGA Book. Specifically, a Price Adjust or Hide Not Slide instruction will remove contra-side liquidity from the EDGA Book if the order is an order to buy or sell a security priced below $1.00 or if the value of such execution when removing liquidity equals or exceeds the value of such execution if the order instead posted to the EDGA Book and subsequently provided liquidity, including the applicable fees charged or rebates provided.[49]

The Exchange also proposes to include the instruction ''Destination Specified'' in proposed Rule 11.6. The Exchange currently defines the term ''Destination Specific Order'' in Rule 11.5(c)(9) as:

> A market or limit order that instructs the System to route the order to a specified away trading center or centers, after exposing the order to the EDGA Book. Destination Specific Orders that are not executed in full after routing away are processed by the Exchange as described below in Rule 11.9(a)(4), save where the User has provided instructions that the order reside on the book of the relevant away trading center.

As part of its proposed order type clarification discussed below, the Exchange proposes to amend its rules to classify the operation of a Destination Specific Order as an instruction that may be appended to a Market Order or a Limit Order. In doing so, the Exchange proposes to change the name of the Destination Specific Order to Destination Specified. The Exchange believes that treating the Destination Specific Order not as a standalone order type, but rather as an instruction assists in clarifying the operation of the Exchange's order types. The Exchange further proposes that, depending on the User's routing instructions, an order with a Destination Specified instruction may be processed by the System as described in Rule 11.9(b)(1) (renumbered as 11.10(a)(4)), returned to the User, or posted to the EDGA Book, unless the User instructs that the order reside on the book of the relevant away Trading Center. With these proposed revisions, the definition of Destination Specified reads: ''Destination Specified instructs the System to route the order to a specified away Trading Center or Centers, after exposing the order to the EDGA Book. Such orders that are not executed in full after routing away are processed by the Exchange as described in Exchange Rule 11.10(a)(4), unless the User has provided instructions that the order reside on the book of the relevant away Trading Center.'' The proposed changes do not reflect any substantive change to the operation of the Destination Specified order instruction in the System.

Lastly, Exchange Rule 11.5(c)(10) currently defines the term ''Destination-on-Open Order.'' The Exchange proposes to relocate the Destination-on-Open instruction from Exchange Rule 11.5(c)(10) to proposed Rule 11.6(n)(6). In addition, as part of its proposed order type clarification discussed below, the Exchange proposes to classify Destination-on-Open as an instruction that may be appended to a Market or a Limit Order. As a result, the Exchange proposes deleting the word Order from its name. The Exchange believes that treating Destination-on-Open as an instruction, rather than a standalone order type, will assist in clarifying the operation of the Exchange's order types. The Exchange also proposes that an unfilled portion of an order with a Destination-on-Open instruction may also be cancelled or rerouted. The proposed change does not involve any substantive changes to the operation of the order instruction in the System.

[47] The proposed definition of Book Only is similar to that of other exchanges. *See* BZX Rule 11.9(c)(4) (BATS Only Order), BYX Rule 11.9(c)(4) (BATS Only Order), NSX Rule 11.11(c)(6) (NSX Only Order).

[48] Other exchanges offer similar functionality for Post Only orders. *See* BZX Rule 11.9(c)(6) (BATS Post Only Order) and BYX Rule 11.9(c)(6); *see also* NYSE Rule 13 (Add Liquidity Only Modifier) and NYSE Arca Rule 7.31(nn) (Adding Liquidity Only Order).

[49] The Exchange notes that an order with a Post Only instruction will, in most cases, remove liquidity from the EDGA Book because under its current taker-maker pricing structure, the remover of liquidity is provided a rebate while the provider of liquidity is charged a fee. Therefore, in most cases, value of the execution to remove liquidity will equal or exceed the value of such execution once posted to the EDGA Book, including the applicable fees charged or rebates received. *See, e.g.,* proposed Rule 11.6(n)(4).

Short Sale and Short Exempt (Rules 11.6(o) and (p))

Although certain current Exchange rules refer to the terms ''short sale order'' and ''short exempt,'' [50] the Exchange rules do not specifically define these terms. Therefore, the Exchange proposes to add definitions for ''Short Sale'' and ''Short Exempt'' as these terms are currently understood by Users of the Exchange and to clarify that each are instructions that a User may include on an order. Specifically, proposed Rule 11.6(o) would state that a ''Short Sale instruction shall have the same meaning as the Short Sale definition contained in Rule 200(a) of Regulation SHO.'' Rule 11.6(p) would define a Short Exempt instruction as a ''an instruction on an order with a Short Sale instruction that satisfies the requirements set forth in Rule 201 of Regulation SHO.''

TIF (Rule 11.6(q))

As described below, the Exchange proposes to describe the TIF instructions available to Users on the Exchange under proposed Rule 11.6(q), to include the following instructions: IOC, Day, FOK, and Good-'til Time (''GTT'').

The Exchange proposes to relocate IOC, Day, and FOK from current Rule 11.5(b) with minor clarifications.[51] Specifically, the Exchange proposes to incorporate the existing definitions of an ''IOC Order,'' ''Day Order'' and ''Fill-or-Kill Order,'' as set forth in Rules 11.5(b)(1)–(3), into proposed Rule 11.6(q). The only change the Exchange proposes to make is to delete the word Order from each term, as the Exchange believes that each term is more accurately described as an order instruction. In addition, the Exchange proposes to include in the definition of Day that an order with a TIF instruction of Day entered into the System before the start of the specified trading session would be placed by the System in a pending state and activated for potential execution upon the start of that trading session.

The Exchange also proposes to include a new TIF instruction of GTT, which will instruct the System that the order is to be cancelled at a specified time of day. A TIF instruction of GTT can be applied to an order eligible for trading in any trading session. Any unexecuted portion of an order with a TIF instruction of GTT will be cancelled at: (i) The expiration of the User's specified time; (ii) at the end of the User's specified trading session(s); or (iii) the end of the trading day, as instructed by the User. In no event shall an order with a TIF instruction of GTT be eligible for execution over multiple trading days.[52]

Trading Center (Rule 11.6(r))

The Exchange also proposes to add a definition of the term ''Trading Center'' to proposed Rule 11.6. Trading Center would be defined as ''[o]ther securities exchanges, facilities of securities exchanges, automated trading systems, electronic communications networks or other brokers or dealers.'' This definition also exists within Exchange Rule 2.11(a). The term Trading Center appears frequently within Chapter XI and the Exchange believes that repeating this definition in Rule 11.6(r) adds further clarity to its Rules. In addition, the Exchange notes that its proposed definition of Trading Center is consistent with the definition of Trading Center under Rule 600(a)(78) of Regulation NMS.[53]

Units of Trading (Rule 11.6(s))

Rule 11.6 currently provides that ''[o]ne hundred (100) shares shall constitute a 'round lot,' any amount less than 100 shares shall constitute an 'odd lot,' and any amount greater than 100 shares that is not a multiple of a round lot shall constitute a 'mixed lot.' '' The Exchange proposes to delete the definition of ''Units of Trading'' as a standalone rule and proposes to relocate it to proposed Rule 11.6(s) with the below modifications.

First, the Exchange proposes to clarify that a Round Lot is 100 shares, unless an alternative number of shares is established as a Round Lot by the listing exchange for the security. This proposed revision acknowledges that for certain securities, a Round Lot is smaller than 100 shares (e.g., for Berkshire Hathaway Class A's ''(BRK.A)'' a Round Lot is one (1) share). Similarly, in Rule 11.8(a)(6) (proposed to be renumbered as Rule 11.9(a)(6)), the Exchange proposes to make an additional conforming change to replace the term ''99 shares or fewer'' with ''less than a Round Lot.'' The Exchange also proposes to clarify the definition of Round Lot under proposed Rule 11.6(s) by adding that orders that are a Round Lot are eligible to be Protected Quotations.

Current Rule 11.5(c)(2) provides that an Odd Lot Order is ''[a]n order to buy or sell an odd lot.'' The Exchange proposes to move this text into proposed Rule 11.6(s)(2) and also amend the definition of Odd Lot to read ''[a]ny amount less than a Round Lot.'' The Exchange also proposes to clarify that orders of Odd Lot size are only eligible to be Protected Quotations if aggregated to form a Round Lot.

Similarly, the Exchange proposes to make conforming amendments to the definition of a Mixed Lot contained in current Rule 11.5(c)(3) and to move such text to Rule 11.6(s)(3). Mixed Lot would be defined as ''[a]ny amount greater than a Round Lot that is not an integer multiple of a Round Lot . . .'' The Exchange also proposes to clarify that Odd Lot portions of an order of Mixed Lot size are only eligible to be Protected Quotations if aggregated to form a Round Lot.[54]

Proposed Rule 11.8, Order Types

The Exchange proposes to add proposed Rule 11.8, Order Types, to outline the characteristics of all orders accepted by the System. Currently, Exchange Rule 11.5 lists twenty-six individual order types.[55] As discussed above, the Exchange believes that most of these individual order types currently set forth under Exchange Rule 11.5 can be reclassified as instructions that may be attached to order types. Thus, the Exchange proposes to delete the content of current Rule 11.5 and replace it with proposed Rule 11.8, which describes the following order types accepted by the System: Market Orders, Limit Orders, ISOs, MidPoint Peg Orders, MidPoint Discretionary Orders, NBBO Offset Peg Orders, and Route Peg Orders. Proposed Rule 11.8 would describe each order type's functionality and the instructions a User may attach to each. The

[50] *See* Exchange Rules 11.9(a)(1) and 11.15.

[51] Current Rule 11.5(b) includes two (2) additional TIF instructions of Good-'til-Cancel and Good-'til-Day, which the Exchange proposes to delete from its rules because they are not currently offered by the Exchange.

[52] Other exchanges offer TIF instructions similar to GTT. *See* CHX Rules Art. 1, Rule 2(d)(3) (Good 'Til Date), BZX Rule 11.9(b)(4) (Good 'til Day), BYX Rule 11.9(b)(4) (Good 'til Day), and Nasdaq Rule 4751(h)(4) (System Hours Expire Time).

[53] Under Exchange Act Rule 600(a)(78), ''Trading Center'' is defined as ''a national securities exchange or national securities association that operates an SRO trading facility, an alternative trading system, an exchange market maker, an OTC market maker, or any other broker or dealer that executes orders internally by trading as principal or crossing orders as agent.'' *See* 242 CFR 600(a)(78).

[54] The Exchange notes that these proposed definitions are similar to Nasdaq Rule 4751(g) (definition of ''Order Size'').

[55] The order types listed under current Exchange Rule 11.5 are: Limit Order, Market Order, IOC Order, Day Order, FOK Order, GTC Order, GTD Order, Reserve Order, Odd Lot Order, Mixed Lot Order, EDGA Only Order, Post Only Order, Pegged Order, MidPoint Peg Order, MidPoint Discretionary Order, Non-Displayed Order, Destination Specific Order, Destination-on-Open Order, Stop Order, Stop Limit Order, Discretionary Order, NBBO Peg Offset Order, Route Peg Order, Attributable Order, Non-Attributable Order, Intermarket Sweep Order, and Directed Intermarket Sweep Order. *See* Exchange Rule 11.5.

Exchange reiterates that, unless otherwise stated, it is not proposing to amend its current System functionality. The Exchange believes that the proposed rule change will provide greater specificity and transparency regarding the function of each of the order types and order instructions accepted by the System, including which order types and order instructions can be combined with each other.

Market Orders (Rule 11.8(a))

Exchange Rule 11.5(a)(2) currently defines a ''Market Order'' as:

[a]n order to buy or sell a stated amount of a security that is to be executed at the NBBO when the order reaches the Exchange. Market orders shall not trade through Protected Quotations. A market order that is designated as ''EDGA Only'' will be cancelled if, when reaching the Exchange, it cannot be executed on the System in accordance with Rule 11.9(a)(4). Market orders that are not designated as ''EDGA Only'' and that cannot be executed in accordance with Rule 11.9(a)(4) on the System when reaching the Exchange will be eligible for routing away pursuant to Rule 11.9(b)(1). Except with respect to a Destination-on-Open Order, as defined in paragraph (c)(10), below, any portion of a market order that would execute at a price more than $0.50 or 5 percent worse than the consolidated last sale at the time the order initially reaches the Exchange, whichever is greater, will be cancelled. Market orders are not eligible for execution during the Pre-Opening or the Post-Closing Trading Sessions.

Under proposed Rule 11.8(a), the Exchange proposes to amend the definition of a Market Order to clarify its operation and the instructions available to Users when entering a Market Order into the System. The Exchange proposes to carry over the language of current Rule 11.5(a)(2) into proposed Rule 11.8(a).

Proposed Rule 11.8(a) would define a Market Order as ''[a]n order to buy or sell a stated amount of a security that is to be executed at the NBBO or better when the order reaches the Exchange.'' Proposed Rule 11.8(a) would also include descriptions of the instructions that may be attached to a Market Order. First, the rule would make clear that an order may include a Stop Price that will convert the order into a Market Order when the Stop Price is triggered. An order to buy converts to a Market Order when a consolidated last sale in the security occurs at, or above, the specified Stop Price. An order to sell converts into a Market Order when the consolidated last sale in the security occurs at, or below, the specified Stop Price. This functionality is currently described in the Exchange's rules as a Stop Order under Rule 11.5(c)(11). The Exchange believes that a Stop Order is more appropriately described as an order instruction for a Market Order, rather than a stand-alone order type. Therefore, the Exchange proposes to delete the term Stop Order and replace it with the order instruction Stop Price in proposed Rule 11.8(a)(1). The proposed definition of Stop Price will remain the same as the current definition of Stop Order.

Market Orders are only eligible for execution by the System during the Regular Session. Proposed Rule 11.8(a)(2) would state that unless otherwise instructed by the User, the System will automatically default a Market Order to a TIF instruction of Day. A User may instead select TIF instructions of IOC or FOK for a Market Order. A Market Order that includes a TIF instruction of FOK will be cancelled if not executed in full immediately after entry into the System. If a Market Order includes a TIF instruction of IOC, any portion of the Market Order not executed after checking the System for available shares, and, if applicable, after return to the System after being routed to an away Trading Center, will be cancelled. A Market Order may not trade through a Protected Quotation.

Market Orders may be an Odd Lot, Round Lot, or Mixed Lot. A User may attach a Minimum Execution Quantity instruction to a Market Order with a TIF instruction of IOC. Under proposed renumbered Rule 11.10(a)(3)(A), where a non-routable buy (sell) Market Order is entered into the System and the NBO (NBB) is greater (lesser) than the Upper (Lower) Price Band, such order will be posted by the System to the EDGA Book and priced at the Upper (Lower) Price Band, unless (i) the order includes a TIF instruction of IOC or FOK, in which case it will be cancelled if not executed, or (ii) the User has entered a Cancel Back instruction.[56] The Exchange also proposes under Rule 11.8(a)(4) that a Market Order that includes both a TIF instruction of Day and a Short Sale instruction that cannot be executed because of the existence of a Short Sale Restriction, will also be posted and displayed by the System to the EDGA Book and priced in accordance with the Short Sale Price Sliding instruction described in proposed Rule 11.5(l)(2).

A Market Order may include a Book Only instruction. Except as described above with respect to re-pricing of a Market Order where the NBO (NBB) is greater (less) than the Upper (Lower) Price Band, a Market Order that includes a Book Only instruction will be cancelled if, when entered into the System, it cannot be executed in accordance with proposed Rule 11.10(a)(4). Except for a Market Order that includes a Destination-on-Open instruction, any portion of a Market Order that would execute at a price more than the greater of $0.50 or 5 percent worse than the consolidated last sale as published by the responsible single plan processor at the time the order is entered into the System, will be cancelled. A Market Order that does not include a Book Only instruction, or a TIF instruction of IOC or FOK, and cannot be executed by the System in accordance with proposed renumbered Rule 11.10(a)(4) will be eligible for routing to a Trading Center pursuant to proposed Rule 11.11.

Operation of Market Order With a Book Only Instruction

The below examples demonstrate the functionality of a Market Order that is entered with a Book Only instruction.

*Example No. 1.* Assume the NBBO is $10.01 x $10.02 and the Exchange's BBO is $9.99 x $10.02. A Market Order with a Book Only instruction to buy 100 shares is entered into the System and executes against the $10.02 offer displayed by the System on the EDGA Book.

*Example No. 2.* Assume the NBBO is $10.01 x $10.02 and the Exchange's BBO is $9.99 x $10.02. A MidPoint Peg Order to sell priced at the midpoint of the NBBO of $10.015 is resting on the EDGA Book. A Market Order with a Book Only instruction to buy 100 shares is entered into the System and executes against the order with a Non-Displayed instruction to sell at $10.015.

*Example No. 3.* Assume the NBBO is $10.01 x $10.02 and the Exchange's BBO is $9.99 x $10.03 and no better priced orders with a Non-Displayed instruction are resting on the EDGA Book. A Market Order with a Book Only instruction to buy 100 shares is entered into the System but is cancelled back to the User because the order is not routable and the NBO is displayed only on an away Trading Center.

Limit Orders (Rule 11.8(b))

Exchange Rule 11.5(a)(1) defines a Limit Order as, ''[a]n order to buy or sell a stated amount of a security at a

[56] Current Exchange Rule 11.9(a)(3)(A) states, ''[w]here a non-routable buy (sell) Market Order is entered into the System and the NBB (NBO) is greater (less) than to the Upper (Lower) Price Band, such order will be posted to the EDGA Book or executed, unless (i) the order is an IOC Order, in which case it will be cancelled if not executed, or (ii) the User has entered instructions to cancel the order.'' *See also* Securities Exchange Act Release No. 69003 (February 27, 2013), 78 FR 14394 (March 5, 2013) (SR–EDGA–2013–08).

specified price or better'' and a ''marketable'' Limit Order as a ''Limit Order to buy (sell) at or above (below) the lowest (highest) Protected Offer (Protected Bid) for the security.'' The Exchange proposes to relocate these definitions without modification to proposed Rule 11.8(b). Proposed Rule 11.8(b) would further describe a Limit Order's functionality and which instructions are available to Users when entering a Limit Order. Rule 11.8(b) would also describe the re-pricing instructions for Limit Orders available to Users seeking to comply with Rule 610 of Regulation NMS and Rule 201 of Regulation SHO.

First, proposed Rule 11.8(b) will describe how a Limit Order may include a ''Stop Limit Price''. An order with a Stop Limit Price will convert to a Limit Order once the Stop Limit Price is triggered. A Limit Order to buy with a Stop Limit Price becomes eligible for execution by the System when the consolidated last sale in the security occurs at, or above, the specified Stop Limit Price. A Limit Order to sell with a Stop Limit Price becomes eligible for execution when the consolidated last sale in the security occurs at, or below, the specified Stop Limit Price. This functionality is currently described in the Exchange's rules as a Stop Limit Order under Rule 11.5(c)(12). The Exchange believes that a Stop Limit Order is more appropriately described as an order instruction for a Limit Order, rather than a stand-alone order type. Therefore, the Exchange proposes to delete the term Stop Limit Order and replace it with the description of the Stop Limit Price functionality in proposed Rule 11.8(b)(1). The proposed description of a Stop Limit Price will remain the same as the current definition of Stop Limit Order.

Proposed Rule 11.8(b)(2) would state that a Limit Order must have one of the following TIF instructions: IOC, FOK, Day or GTT and that unless otherwise instructed by the User, the System will automatically default a Limit Order to a TIF instruction of Day.

A Limit Order may be an Odd Lot, Round Lot or Mixed Lot. A User may include a Minimum Execution Quantity instruction only for Limit Orders that also include a Non-Displayed instruction. A Limit Order is eligible for execution during the Pre-Opening Session, Regular Session and the Post-Closing Session.

A Limit Order will default to a Displayed instruction unless the User includes a Non-Displayed instruction on the order, or a portion thereof. A Limit Order with a Displayed instruction will default to a Non-Attributable instruction unless the User selects the Attributable instruction. A Limit Order that includes both a Post Only instruction and Non-Displayed instruction will be rejected by the System. Unless the order is re-priced in accordance with proposed Rule 11.8(b)(13), a Limit Order that includes a Non-Displayed instruction is ranked based on the specified limit price at the time the order is entered into the System in accordance with proposed Rule 11.9(a)(2)(A) and is available for potential execution in the System against incoming orders in accordance with proposed Rule 11.10(a)(4)(A)–(B). A Limit Order with a Displayed instruction may also include a Reserve Quantity. A Limit Order with both a Displayed instruction and Reserve Quantity must include a replenishment amount. Unless the User selects the Random Replenishment instruction, the System will automatically default the order to a Fixed Replenishment instruction with a replenishment value equal to the displayed quantity of the order.

A Limit Order may include a Post Only or Book Only instruction. Unless a Limit Order includes a Post Only or Book Only instruction, proposed Rule 11.8(b)(7) would specify that a marketable Limit Order would be eligible to be routed to a Trading Center pursuant to current Rule 11.9(b) (proposed to be renumbered as Rule 11.11). In such case, the routable, marketable Limit Order may include a Destination Specified, or a Destination-on-Open instruction. A Limit Order may also include an Aggressive or Super Aggressive instruction.

Limit Orders that include a TIF instruction of Day or GTT (''Eligible Limit Orders'') may include a Discretionary Range or Pegged instruction (e.g., Market Peg or Primary Peg). A Limit Order that includes a Pegged instruction is not eligible to be routed to another Trading Center in accordance with proposed renumbered Rule 11.11.

Proposed Rules 11.8(b)(10), (11), and (12) would also describe the various re-pricing instructions a User may attach to an Eligible Limit Order to comply with Rule 610 of Regulation NMS or Rule 201 of Regulation SHO. The operation of these re-pricing instructions is explained in detail above.[57] Proposed Rules 11.8(b)(10), (11), and (12) would explain which re-pricing instructions the System may default to absent a selection by the User. The Rule would also state that a User may elect to Cancel Back the order should its display by the System on the EDGA Book or execution by the System trigger the application of a re-pricing instruction.

First, Eligible Limit Orders are subject to one of the three re-pricing instructions the Exchange offers to comply with Rule 610 of Regulation NMS. A Limit Order that, if displayed at its limit price at the time of entry into the System, would become a Locking Quotation or Crossing Quotation will be automatically defaulted by the System to the Hide Not Slide instruction, unless the User affirmatively elects the Cancel Back instruction, the Price Adjust instruction or the Single Re-Price instruction. A Limit Order to buy (sell) with a limit price that would be a Crossing Quotation at the time of entry will not execute at a price that is higher (lower) than the Locking Price.

Second, should a Short Sale Circuit Breaker be in effect, an Eligible Limit Order may also be subject to one of the three re-pricing instructions the Exchange offers to comply with Rule 201 of Regulation SHO. Proposed Rule 11.8(b)(11) would state that a Limit Order that includes a Short Sale instruction and that is not marked Short Exempt and that cannot be executed in the System or displayed by the System on the EDGA Book at its limit price at the time of entry into the System because a Short Sale Circuit Breaker is in effect, will be automatically defaulted by the System to the Short Sale Price Adjust instruction, unless the User affirmatively elects the Cancel Back instruction, the Short Sale Price Sliding instruction or the Short Sale Single Re-Price instruction.

Third, when a Limit Order, or a portion thereof, is returned to the Exchange after being routed away in accordance with Rule 11.11, and, if displayed by the System on the EDGA Book at its limit price it would become a Locking Quotation or Crossing Quotation, such Limit Order will be automatically defaulted by the System to the Routed and Returned Re-Pricing instruction, unless the User affirmatively elects the Cancel Back instruction, the Price Adjust instruction, Hide Not Slide instruction, or the Single Re-Price instruction.

Lastly, proposed Rule 11.8(b)(13) would state that a Limit Order with a Non-Displayed instruction that would be a Crossing Quotation of an external market will be re-ranked in accordance with the Re-Pricing of orders with a Non-Displayed instruction process under proposed Rule 11.6(l)(3), unless the User affirmatively elects that the order Cancel Back.

The below examples describe the functionality of a Limit Order with

[57] *See supra* notes 29 to 43 and accompanying text.

various instructions under various circumstances.

Operation of Marketable Limit Order With a Book Only Instruction

*Example No. 1.* Assume the NBBO is $10.01 x $10.02 and the Exchange's BBO is $9.99 x $10.02. A Limit Order with a Book Only instruction to buy is entered into the System with a limit price of $10.02 and is executed against the $10.02 offer that is resting on the EDGA Book.

*Example No. 2.* Assume the NBBO is $10.01 x $10.02 and the Exchange's BBO is $9.99 x $10.02. A MidPoint Peg Order to sell ranked at the midpoint of the NBBO of $10.015 is resting on the EDGA Book. A Limit Order with a Book Only instruction to buy is entered into the System with a limit price of $10.02 and is executed against the MidPoint Peg Order to sell at $10.015.

Operation of Limit Order With a Book Only Instruction Entered With a Limit Price That Equals the Locking Price

The following information applies to each of the scenarios listed below.

*Example.* Assume the NBBO is $10.01 x $10.02 and the Exchange's BBO is $9.99 x $10.03. A Limit Order with a Book Only instruction to buy is entered into the System with a limit price of $10.02.[58]

*No Re-Pricing Instruction Elected by User—Defaults to Hide Not Slide Instruction*

*Scenario No. 1.* Assume the facts from the example above and that the order defaults to the Hide Not Slide instruction because an alternate re-pricing instruction is not elected. The Limit Order is displayed at $10.01, one Minimum Price Variation below the Locking Price of $10.02, and is ranked at Locking Price. The Exchange's BBO is now $10.01 x $10.03. The Limit Order may be displayed at the Locking Price in response to changes in the NBBO.

*User Elects Price Adjust Instruction*

*Scenario No. 2.* Assume the facts from the example above and that the User elects the Price Adjust instruction. The Limit Order is displayed and ranked by the System on the EDGA Book at $10.01, one Minimum Price Variation below the Locking Price. The Exchange's BBO is now $10.01 x $10.03. The Limit Order may be re-ranked and displayed at the Locking Price with a new time stamp in response to changes in the NBBO.

*User Elects Single Re-Price Instruction*

*Scenario No. 3.* Assume the facts from the example above and that the User elects the Single Re-Price instruction. The Limit Order is displayed and ranked by the System on the EDGA Book at $10.01, one Minimum Price Variation below the Locking Price. The Exchange's BBO is now $10.01 x $10.03. The Limit Order is not subject to further adjustments in response to changes in the NBBO.

The Exchange's BBO Joins NBO

The following information applies to each of the scenarios listed below.

*Example.* Assume the NBBO is $10.01 x $10.02 and the Exchange's BBO is $10.01 x $10.03. Also assume that orders with a Post Only instruction do not remove liquidity from the EDGA Book because the value of an execution would not equal or exceed the value of an execution if posted at its limit price, including the applicable fees charged or rebates provided under proposed Rule 11.6(n)(4). The EDGA Book contains the following buy orders, ranked in time order:

Buyer One: $10.02 Book Only/Price Adjust instruction/displayed and ranked at $10.01.

Buyer Two: $10.02 Book Only/Single Re-Price instruction/displayed and ranked at $10.01.

Buyer Three: $10.02 Book Only/Hide Not Slide instruction/displayed at $10.01 and ranked at $10.02.

*Scenario 1.* Assume that Seller One enters a Limit Order with a Post Only and Displayed instruction to sell at $10.02. Seller One's order cannot remove liquidity pursuant to proposed Rule 11.6(n)(4) so it does not execute in the System against Buyer Three's buy order. Rather, it is displayed by the System on the EDGA Book at $10.02. The Exchange's BBO narrows to $10.01 x $10.02. Buyer Three's ability to execute at $10.02 is suspended to prevent later arriving sell orders priced at $10.02 from violating Seller One's time priority at that price.

*Scenario 2.* Assume the facts from above and that Seller Two enters a Limit Order to sell at $10.02. This order does not execute against Buyer Three because Buyer Three's ability to execute at $10.02 is suspended because a contra-side order to sell at $10.02 is displayed on the EDGA Book. Seller Two's offer is posted by the System to the EDGA Book and joins the offer at $10.02 behind Seller One.

*Scenario 3.* Assume the facts from above and next that Seller One cancels its order. Buyer Three's ability to execute at $10.02 remains suspended because a contra-side order to sell at $10.02 from Seller 2 remains displayed on the EDGA Book. Seller Two does not execute against Buyer Three because Buyer Three's ability to execute at $10.02 is suspended.

*Scenario 4.* Assume the facts from above and next that Seller Three enters a Limit Order to sell at $10.02. Seller Three does not execute against Buyer Three because Buyer's Three's ability to execute at $10.02 remains suspended. Seller Three's order is posted by the System to the EDGA Book at $10.02 behind Seller Two.

Operation of Limit Orders with Displayed and Post Only Instructions

The following information applies to each of the scenarios listed below.

*Example No. 1.* Assume the NBBO is $10.01 x $10.02 and the Exchange's BBO is $10.01 x $10.02.

*Scenario No. 1.* Buyer One enters a Limit Order with a Displayed and Post Only instruction at $10.02. Buyer One's order will not execute at $10.02 because an order with a Post Only instruction will not remove liquidity from the EDGA Book at its limit price unless there is a contra-side order to provide an execution, the value of which would equal or exceed the value of an execution if posted at its limit price, including the applicable fees charged or rebates. If Buyer One's Limit Order is subject to the Hide Not Slide instruction, it will be displayed by the System on the EDGA Book at $10.01 and ranked at $10.02, the Locking Price. If Buyer One's Limit Order is subject to either the Price Adjust or Single Re-Price instructions, it will not execute and will be displayed and ranked by the System on the EDGA Book at $10.01.

*Scenario No. 2.* Assume that Buyer One instead enters a Limit Order with a Displayed and Post Only instruction at $10.03. Also assume that the value of an execution with one cent of price improvement would equal or exceed the value of an execution if posted at its limit price, including the applicable fees charged or rebates provided under proposed Rule 11.6(n)(4). If Buyer One's order contains a Hide Not Slide or Price Adjust instruction the order will be executed at 10.02.

*Example No. 2.* For the following scenarios, assume the NBBO upon order entry is $10.01 x $10.02. Also assume that orders with a Post Only instruction

[58] The Limit Order does not execute in the System because the NBO is displayed on an away Trading Center and the Limit Order is not eligible to be routed away. The Limit Order is also not displayed by the System on the EDGA Book at its limit price because if it did it would be a Locking Quotation. The User may elect that the Limit Order immediately Cancel Back; otherwise, the Limit Order will be eligible for one of the three re-pricing instructions the Exchange offers to comply with Rule 610 of Regulation NMS. The Limit Order will be automatically defaulted by the System to the Hide Not Slide instruction unless the User affirmatively elects the Price Adjust instruction, the Single Re-Price instruction, or Cancel Back.

do not remove liquidity from the EDGA Book because the value of an execution does not equal or exceed the value of an execution if posted at its limit price, including the applicable fees charged or rebates provided under proposed Rule 11.6(n)(4). Unless otherwise specified, further assume that all Limit Orders with a Displayed and Post Only instruction are Limit Orders to buy.

*Scenario No. 1.* The Exchange BBO is $9.99 x $10.03. A Limit Order to buy at $10.00 is entered into the System. The order is posted by the System to the EDGA Book at $10.00. The order does not change the NBB; but improves the Exchange BBO to $10.00 x $10.03.

*Scenario No. 2.* The Exchange BBO is $9.99 x $10.03. A Limit Order to buy at $10.02 is entered into the System and the User selected the Price Adjust Process. If the buy order was displayed by the System on the EDGA Book at its limit price, it would lock the NBO at $10.02 and, hence, be considered a Locking Quotation. To avoid being a Locking Quotation, the order is ranked and displayed by the System on the EDGA Book at $10.01.

*Scenario No. 3.* The Exchange BBO is $9.99 x $10.03. A Limit Order to buy at $10.02 is entered into the System and the User elects the Single Re-Price instruction. If displayed by the System on the EDGA Book at its limit price, the order would lock the NBO at $10.02 and, hence, be considered a Locking Quotation. To avoid being a Locking Quotation, the order is ranked and displayed by the System on the EDGA Book at $10.01 with no further price adjustments.

*Scenario No. 4.* The Exchange BBO is $9.99 x $10.03. A Limit Order to buy at $10.02 is entered into the System and the User elects that the order Cancel Back should it become a Locking Quotation or Crossing Quotation. If displayed on the EDGA Book at its limit price, the order would lock the NBO at $10.02 and, hence, be considered a Locking Quotation. The order is immediately canceled pursuant to the User's instructions.

*Scenario No. 5.* The Exchange BBO is $9.99 x $10.03. A buy order priced at $10.02 is entered into the System. If displayed on the EDGA Book at its limit price, the order would lock the NBO at $10.02 and, hence, be considered a Locking Quotation. To avoid being a Locking Quotation, order defaults to the Hide Not Slide instruction because the User did not select either the Cancel Back, Price Adjust, or Single Re-Price instructions, the order is displayed by the System on the EDGA Book at $10.01, and ranked by the System at $10.02, the Locking Price.

Other Examples

The following information applies to each of the scenarios listed below.

*Example.* Assume the NBBO is $10.00 x $10.01 and the Exchange's BBO is $10.00 x $10.02. Also assume that orders with a Post Only instruction do not remove liquidity from the EDGA Book because the value of an execution does not equal or exceed the value of an execution if posted at its limit price, including the applicable fees charged or rebates provided under proposed Rule 11.6(n)(4). The following buy orders are resting on the EDGA Book ranked in order of time of arrival:

Buyer One: $10.01 x 100 Book Only/Price Adjust instruction/displayed and ranked by the System on the EDGA Book at $10.00.

Buyer Two: $10.01 x 100 Book Only/Single Re-price instruction/displayed and ranked by the System on the EDGA Book at $10.00.

Buyer Three: $10.01 x 100 Book Only/Hide Not Slide instruction/displayed by the System on the EDGA Book at $10.00 and ranked by the System at $10.01

*Scenario No. 1.* Seller One enters into the System a Limit Order to sell 100 shares with a Post Only instruction at $10.01. Seller One's order will be posted by the System to the EDGA Book at $10.01, updating the Exchange's BBO to $10.00 x $10.01. Buyer Three's ability to execute at $10.01 is suspended because a contra-side order to sell 100 shares at $10.01 is now displayed by the System on the EDGA Book. Seller Two enters a Limit Order to sell 100 shares at $10.01. Seller Two's order may not execute in the System against Buyer Three's order because Seller One currently has priority at that price. Accordingly, Seller Two's order will be posted by the System to the EDGA Book at $10.01 and ranked by the System behind Seller One. Seller One cancels its order. Seller Two's order is now the Exchange's best offer at $10.01. Seller Two's order would remain on the EDGA Book and not execute against Buyer Three's order—Buyer Three's ability to execute at $10.01 continues to be suspended because a contra-side order to sell 100 shares at $10.01 is displayed by the System on the EDGA Book.

*Scenario No. 2.* Assume that Seller One instead enters into the System a Limit Order to sell 100 shares at $10.01 without a Post Only instruction. Seller One's order executes against Buyer Three's order at $10.01.

*Scenario No. 3.* Assume that Seller One instead enters into the System a Limit Order to sell 500 shares at $10.00 without a Post Only or Book Only instruction. Seller One's order executes 100 shares against Buyer Three's order at $10.01, and then executes 100 shares against Buyer One's order at $10.00, and lastly, executes 100 shares against Buyer Two's order at $10.00. The remaining 200 shares of Seller One's order are routed in accordance with proposed renumbered Rule 11.11.

*Scenario No. 4.* Assume that Seller One instead enters into the System a Limit Order to sell 500 shares with a Book Only instruction at $10.00 and selects the Price Adjust Process. Seller One's order executes 100 shares against Buyer Three's order at $10.01, and then executes 100 shares against Buyer One's order at $10.00, and lastly, executes 100 shares against Buyer Two's order at $10.00. The remaining 200 shares of Seller One's order are subject to the Price Adjust instruction and are, therefore, ranked and displayed by the System on the EDGA Book at $10.01.

*Scenario No. 5.* Assume instead that prior to any contra-side sell order being entered into the System, the NBBO updates to $10.00 x $10.02. Buyer One's order is ranked and displayed by the System on the EDGA Book at $10.01, and it, along with Buyer Three, establish a new NBB. Buyer Three's order has execution priority ahead of Buyer One's order.[59] Buyer Two's order remains ranked and displayed by the System at $10.00. The NBBO is now $10.01 x $10.02. Seller One enters into the System a Limit Order to sell 100 shares at $10.01. Seller One's order is executed against Buyer Three's order at $10.01.

*Scenario No. 6.* Assume instead that prior to any contra-side sell order being entered into the System Buyer Four enters into the System an ISO with a TIF instruction of Day to buy 100 shares at $10.01. Buyer Four's order is displayed by the System on the EDGA Book at $10.01.[60] Buyer Three's order is then

[59] As described in more detail below, under proposed Rule 11.9(a)(2)(C), where such an order is re-ranked to the Locking Price after a Locking Quotation clears, the System will re-rank and display such orders at the Locking Price in time priority in the following order: (i) ISO with a TIF instruction of Day that establishes a new NBBO at the Locking Price; (ii) Limit Orders to which the Hide Not Slide or Routed And Returned Re-Pricing instruction has been applied; (iii) Limit Orders to which the Price Adjust instruction has been applied; and (iv) orders with a Pegged instruction. *See infra* section entitled "*Orders Re-Ranked upon Clearance of a Locking Quotation*".

[60] Buyer Four's order may be posted to the EDGA Book under proposed Rule 11.8(c)(4), which states that a User entering an ISO with TIF instruction of Day represents that such User has simultaneously routed one or more additional limit orders marked ISO, if necessary, to away Trading Centers to execute against the full displayed size of any Protected Quotation for the security with a price that is superior or equal to the limit price of the ISO entered in the System. This is consistent with the ISO exception under the Exchange Rule 11.10(f),

also displayed by the System on the EDGA Book at $10.01 behind Buyer Four's order. Buyer One's order is also displayed by the System on the EDGA Book at $10.01, behind Buyer Three's order and Buyer Four's order. Buyer Two's order remains ranked and displayed by the System at $10.00. Seller One enters into the System a Limit Order to sell 200 shares at $10.01. Seller One's order executes 100 shares against Buyer Four's order at $10.01, then executes 100 shares against Buyer Three's order at $10.01.

ISO (Rule 11.8(c))

Proposed Rule 11.8(c) would define an ISO as it is currently defined in Rule 11.5(d)(1), but would also include additional language to describe which instructions may be attached to an ISO and how the System will treat such orders. Just as in Rule 11.5(d)(1), proposed Rule 11.8(c) will continue to state that the System will accept incoming ISOs (as such term is defined in Regulation NMS) and that ''[t]o be eligible for treatment as an ISO, the order must be: (i) A Limit Order; (ii) marked ISO; and (iii) the User entering the order must simultaneously route one or more additional Limit Orders marked ISO, if necessary, to away markets to execute against the full displayed size of any Protected Quotation for the security with a price that is superior to the limit price of the ISO entered in the System. Such orders, if they meet the requirements of the foregoing sentence, may be executed at one or multiple price levels in the System without regard to Protected Quotations at away Trading Centers consistent with Regulation NMS (i.e., may trade through such quotations).''

Like current Rule 11.5(d)(1), proposed Rule 11.8(c) would continue to make clear to Members that the Exchange relies on the marking of an order as an ISO when handling such order, and thus, it is the entering Member's responsibility, not the Exchange's responsibility, to comply with the requirements of Regulation NMS relating to ISOs.

Proposed Rule 11.8(c)(4) provides that incoming ISOs may be submitted during the Pre-Opening Session, Regular Session and the Post-Closing Session. Proposed Rule 11.8(c)(1)–(4) would also state that an incoming ISO will have a default TIF instruction of Day, unless the User selects a TIF instruction of GTT or IOC. Incoming ISOs cannot include a TIF instruction of FOK. An ISO with a Post Only and TIF instruction of GTT or Day will be rejected without execution if, when entered, it is immediately marketable against an order with a Displayed instruction resting on the EDGA Book, unless the User included on the ISO a Price Adjust, Hide Not Slide, or the Single Re-Price instruction. The rule would also state that a User entering an ISO with TIF instruction of Day represents that such User has simultaneously routed one or more additional limit orders marked ISO, if necessary, to away Trading Centers to execute against the full displayed size of any Protected Quotation for the security with a price that is superior or equal to the limit price of the ISO entered in the System.[61] Any unfilled portion of an ISO with a TIF instruction of GTT or Day will be posted by the System to the EDGA Book at the ISO's limit price.

Similar to proposed Rule 11.8(b) on Limit Orders, proposed Rule 11.8(c) would also describe the various re-pricing instructions a User may attach to an ISO to comply with Rule 610 of Regulation NMS or Rule 201 of Regulation SHO where the ISO includes a Post Only and TIF instruction of GTT or Day. An ISO with a TIF instruction of GTT or Day as well as a Short Sale instruction that cannot be executed or displayed by the System at its limit price at the time of entry into the System because of the existence of a Short Sale Circuit Breaker, will be automatically defaulted by the System to the Short Sale Price Adjust instruction, unless the User affirmatively elects the Cancel Back instruction, the Short Sale Price Sliding instruction or the Short Sale Single Re-Price instruction.

Inbound ISOs are not eligible for routing pursuant to Rule 11.9(b) (proposed to be renumbered as Rule 11.11). However, proposed Rule 11.8(c) would permit a User to attach an instruction to an ISO that would allow the ISO to bypass the System and be immediately routed by the Exchange as an outbound ISO to an away Trading Center specified by the User for execution. It is the entering Member's responsibility, not the Exchange's responsibility, to comply with the requirements of Regulation NMS relating to ISOs. The Exchange notes that this functionality is currently provided for under Exchange Rule 11.5(d)(2) as a ''Direct Intermarket Sweep Order'' (''Directed ISO''). The Exchange proposes to no longer classify a Directed ISO as a standalone order type because it believes the functionality of a Directed ISO is more indicative of an instruction a User may attach to an ISO directing the System to route the order to a specified Trading Center, rather than a standalone order type.

MidPoint Peg Order (Rule 11.8(d))

Exchange Rule 11.5(c)(7) currently defines a MidPoint Peg Order as ''[a] limit order whose price is automatically adjusted by the System in response to changes in the NBBO to be pegged to the midpoint of the NBBO.'' The Exchange proposes to move the description of the functionality of a MidPoint Peg Order into proposed Rule 11.8(d) and to include additional language describing and outlining the instructions that may be included with a MidPoint Peg Order. The Exchange also proposes to amend the definition to expressly state that a MidPoint Peg Order may be a Market Order or a Limit Order. However, proposed Rule 11.8(d) makes clear that notwithstanding that a MidPoint Peg Order may be a Market Order or a Limit Order, as set forth in proposed Rules 11.8(a) and 11.8(b), respectively, the operation of and available instructions applicable to a MidPoint Peg Order are limited to those contained in proposed Rule 11.8(d).

Like current Rule 11.5(c)(7), proposed Rule 11.8(d) would state that a MidPoint Peg Limit Order may only contain the following TIF instructions: Day, FOK, IOC, or GTT. Any unexecuted portion of a MidPoint Peg Limit Order with a Day or GTT instruction that is resting on the EDGA Book will receive a new time stamp each time it is re-priced by the System in response to changes in the midpoint of the NBBO.

A MidPoint Peg Order may include a limit price that would specify the highest or lowest prices at which the MidPoint Peg Order to buy or sell would be eligible to be executed. Specifically,

which requires that ISOs be routed to execute against all protected quotations with a price that is *better than or equal* to the display price, rather than solely to protected quotations for a security with a price that is superior to the ISO's limit price. *See also* Question 5.02 in the Division of Trading and Markets, Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS (last updated April 4, 2008) *available at http://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm.*

[61] The operation of an ISO with a TIF instruction of Day is similar to the Post ISO order on the National Stock Exchange, Inc. (''NSX''), but for the NSX stating that it will reject a Post ISO if it is immediately marketable against a displayed order on the NSX Book, while the Exchange retains such orders where they include a Price Adjust, Hide Not Slide, or Single Re-Price instruction. *See* NSX Rule 11.11(c)(8)(ii). The ISO exception under Exchange Rule 11.10(f) requires that ISOs be routed to execute against all protected quotations with a price that is *better than or equal* the display price, rather than solely to protected quotations for a security with a price that is superior to the ISO's limit price. *See* Question 5.02 in the Division of Trading and Markets, Responses to Frequently Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS (last updated April 4, 2008) *available at http://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm.*

a MidPoint Peg Order with a limit price that is more aggressive than the midpoint of the NBBO will execute at the midpoint of the NBBO or better subject to its limit price.[62] For example, assume the NBBO is $10.10 by $10.18, resulting in a midpoint of $10.14, and there are no orders resting on the EDGA Book. An order with a Non-Displayed instruction to sell is entered with a limit price of $10.12 and is posted non-displayed on the EDGA Book. A MidPoint Peg Order to buy with a limit price of $10.15 is then entered and executes against the order to sell at $10.12, a price better than the midpoint of the NBBO because the MidPoint Peg order is able to receive price improvement subject to its limit price. A MidPoint Peg Order will be ranked at the midpoint of the NBBO where its limit price is equal to or more aggressive than the midpoint of the NBBO.

A MidPoint Peg Order may execute at its limit price or better where its limit price is less aggressive than the midpoint of the NBBO. For example, assume the NBBO is $10.01 by $10.02, resulting in a midpoint of $10.015, and there are no orders resting on the EDGA Book. A MidPoint Peg Order to buy is entered with a limit price of $10.01 and posted non-displayed on the EDGA Book at $10.01, its limit price, because its limit price precludes it from being posted at $10.015, the midpoint of the NBBO. An order to sell at $10.01 is then entered and executes against the MidPoint Peg Order to buy at $10.01. A MidPoint Peg Order will be ranked at its limit price where its limit price is less aggressive than the midpoint of the NBBO. Expressly stating at which prices a MidPoint Peg Orders are ranked and may execute is intended to provide additional clarity regarding the operation of the MidPoint Peg Orders.

Proposed Rule 11.8(d) would also state that a MidPoint Peg Order may only be entered as a Round Lot or a Mixed Lot. A User may include a Minimum Execution Quantity instruction on a MidPoint Peg Order. MidPoint Peg Orders are not eligible for routing pursuant to Rule 11.9(b)(1) (proposed to be renumbered as Rule 11.11), unless routed utilizing the RMPT routing strategy as defined in proposed renumbered Rule 11.11(g)(20). The rule would also state that a MidPoint Peg Order is not eligible for execution when a Locking Quotation or Crossing Quotation exists. In such case, a MidPoint Peg Order would rest on the EDGA Book and would not be eligible for execution in the System until a Locking Quotation or Crossing Quotation no longer exists.

MidPoint Peg Orders are defaulted by the System to a Non-Displayed instruction. MidPoint Peg Orders are not eligible to include a Displayed instruction. MidPoint Peg Orders may only be executed during Regular Trading Hours.

MidPoint Peg Orders will not trade with any other orders at a price above the Upper Price Band or below the Lower Price Band.

MidPoint Discretionary Order (Rule 11.8(e))

The Exchange currently defines and explains the functionality of a MidPoint Discretionary Order in Rule 11.5(c)(17).[63] The Exchange proposes to renumber current Rule 11.15(c)(17) as proposed Rule 11.8(e) but does not propose to amend the functionality of the MidPoint Discretionary Order. However, the Rule will be reformatted to be consistent with the Exchange's description of other order types to clearly delineate the various aspects of the MidPoint Discretionary Order. The MidPoint Discretionary Order would continue to be defined as ''[a] Market or Limit Order to buy (sell) that is pegged to the NBB (NBO) with discretion to execute at prices up to (down to) and including the midpoint of the NBBO.'' Notwithstanding that a MidPoint Discretionary Order may also considered a Market or Limit Order, its operation and available modifiers would be set forth in proposed Rule 11.8(e); proposed Rules 11.8(a) and (b) regarding Market and Limit Orders would generally not apply to MidPoint Discretionary Orders.

A MidPoint Discretionary Order with a limit price may only contain a TIF of Day or GTT. MidPoint Discretionary Orders may only be a Round Lot or Mixed Lot. MidPoint Discretionary Orders may only be submitted during Regular Trading Hours. MidPoint Discretionary Orders are not eligible for routing pursuant to proposed Rule 11.11.

A MidPoint Discretionary Order that is a Limit Order to buy is displayed at and pegged to the NBB, with discretion to execute at prices up to and including the midpoint of the NBBO. A MidPoint Discretionary Order to sell is displayed at and pegged to the NBO, with discretion to execute at prices down to and including the midpoint of the NBBO. A MidPoint Discretionary Order's displayed price and discretionary range are bound by its limit price. A MidPoint Discretionary Order to buy or sell with a limit price that is less than the prevailing NBB or higher than the prevailing NBO, respectively, is posted to the EDGA Book at its limit price. The displayed prices of MidPoint Discretionary Orders are derived from the NBB or NBO, and cannot independently establish the NBB or NBO. MidPoint Discretionary Orders in stocks priced at $1.00 or more can only be executed in sub-penny increments when they execute at the midpoint of the NBBO against contra side MidPoint Peg Orders and against other MidPoint Discretionary Orders. A new time stamp is created for a MidPoint Discretionary Order to buy or sell each time its displayed price is automatically adjusted based on a change in the NBB or NBO, respectively. MidPoint Discretionary Orders are not eligible for routing pursuant to Rule 11.11.

Pursuant to proposed Rule 11.10(a)(3), a MidPoint Discretionary Order to buy will be re-priced to the Upper Price Band where the price of the Upper Price Band moves below an existing Protected Bid. A MidPoint Discretionary Order to sell will be re-priced to the Lower Price Band where the price of the Lower Price Band moves above an existing Protected Offer. MidPoint Discretionary Orders will only execute at their displayed prices and not within their discretionary ranges when: (i) The price of the Upper Price Band equals or moves below an existing Protected Bid; or (ii) the price of the Lower Price Band equals or moves above an existing Protected Offer. When the conditions in (i) or (ii) of the preceding sentence no longer exist, MidPoint Discretionary Orders will resume trading against other orders in their discretionary range and being displayed at and pegged to the NBBO.

NBBO Offset Peg Order (Rule 11.8(f))

The Exchange currently defines and explains the functionality of the NBBO Peg Offset Order in Rule 11.5(c)(15).[64] The Exchange proposes to renumber

[62] A MidPoint Peg Order will execute at prices better than the midpoint of the NBBO where it is able to receive price improvement subject to its limit price either upon entry or re-pricing.

[63] *See* Securities Exchange Act Release No. 67226 (June 20, 2012), 77 FR 38113 (June 26, 2012) (Notice of Filing and Immediate Effectiveness to Amend EDGA Rules to Add the MidPoint Discretionary Order).

[64] *See* Securities Exchange Act Release No. 67960 (October 2, 2012), 77 FR 61463 (October 9, 2012) (SR–EDGA–2012–44) (notice of filing and immediate effectiveness of the proposal to adopt the NBBO Offset Peg Order) (''EDGA Adopting Release''); Securities Exchange Act Release No. 68595 (January 7, 2013), 78 FR 2475 (January 11, 2013) (SR–EDGA–2012–47) (notice of filing and immediate effectiveness to amend the NBBO Offset Peg Order); and Securities Exchange Act Release No. 69876 (June 27, 2013), 78 FR 40257 (July 3, 2013) (SR–EDGA–2013–17) (notice of filing and immediate effectiveness to amend the NBBO Offset Peg Order).

current Rule 11.15(c)(15) as proposed Rule 11.8(e) but does not propose to amend the functionality of the NBBO Offset Peg Order. However, the Rule will be reformatted to be consistent with the Exchange's description of other order types to clearly delineate the various aspects of the NBBO Offset Peg Order. The NBBO Offset Peg Order would continue to be defined as ''[a] Limit Order that, upon entry, is automatically priced by the System at the Designated Percentage (as defined in Rule 11.21(d)(2)(D) (proposed to be renumbered as Rule 11.20(d)(2)(D)) away from the then current NBB (in the case of an order to buy) or NBO (in the case of an order to sell), or if there is no NBB or NBO at such time, at the Designated Percentage away from the last reported sale from the responsible single plan processor.'' Notwithstanding that a NBBO Offset Peg Order is also considered a Limit Order, as set forth in proposed Rule 11.8(b), its operation and available instructions would be limited to those contained in proposed Rule 11.8(e); proposed Rule 11.8(b) regarding Limit Orders would not apply to NBBO Offset Peg Orders.

Upon reaching the Defined Limit (as defined in Rule 11.21(d)(2)(F) (proposed to be renumbered as Rule 11.20(d)(2)(F)), the price of an NBBO Offset Peg Order bid or offer will be automatically adjusted by the System to the Designated Percentage away from the then current NBB or NBO, respectively, or if there is no NBB or NBO at such time, to the Designated Percentage away from the last reported sale from the responsible single plan processor. If an NBBO Offset Peg Order bid or offer moves a specified number of percentage points away from the Designated Percentage toward the then current NBB or NBO, the price of such bid or offer will be automatically adjusted by the System to the Designated Percentage away from the then current NBB or NBO. If there is no NBB or NBO at such time, the order will be automatically adjusted by the System to the Designated Percentage away from the last reported sale from the responsible single plan processor. In the event that pricing an NBBO Offset Peg Order at the Designated Percentage away from the then current NBB or NBO, or, if there is no NBB or NBO, to the Designated Percentage away from the last reported sale from the responsible single plan processor, would result in the order exceeding its limit price, the order will be cancelled or rejected.

In the absence of an NBB or NBO and last sale reported by the responsible single plan processor, the order will be cancelled or rejected. If, after entry into the System, the NBBO Offset Peg Order is priced based on the last sale reported by the responsible single plan processor and such NBBO Offset Peg Order is established as the NBB or NBO, the NBBO Offset Peg Order will not be subsequently adjusted in accordance with this rule until either there is a new last sale reported by the responsible single plan processor, or a new NBB or new NBO is established by a national securities exchange. NBBO Offset Peg Orders may only include a TIF instruction of Day. NBBO Offset Peg Orders may only be entered as a Round Lot or Mixed Lot. NBBO Offset Peg Orders are defaulted by the System to a Displayed instruction. NBBO Offset Peg Orders are not eligible to include a Non-Displayed instruction. Users may submit NBBO Offset Peg Orders to the Exchange starting at the beginning of the Pre-Opening Session, but such orders are not executable or automatically priced until after the first regular way last sale on the relevant listing exchange for the security, as reported by the responsible single plan processor. The order expires at the end of the Regular Session.

NBBO Offset Peg Orders are not eligible for routing pursuant to Rule 11.9(b) (proposed to be renumbered as Rule 11.11). When a Crossing Quotation exists, an NBBO Peg Offset Order will be automatically priced by the System at the Designated Percentage (as defined in Rule 11.21(d)(2)(D) (proposed to be renumbered as Rule 11.20(d)(2)(D)) away from the then current NBO (in the case of an order to buy) or NBB (in the case of an order to sell). Notwithstanding the availability of the NBBO Offset Peg Order functionality, a User acting as a Market Maker remains responsible for entering, monitoring, and re-submitting, as applicable, quotations that meet the requirements of Rule 11.21(d) (proposed to be renumbered as Rule 11.20(d)). An NBBO Offset Peg Order will receive a new time stamp each time it is re-priced in response to changes in the NBB, NBO, or last reported sale.

Route Peg Order (Rule 11.8(g))

The Exchange currently defines and explains the functionality of the Route Peg Order under Rule 11.5(c)(14).[65] The Exchange proposes to renumber Rule 11.15(c)(14) as Rule 11.8(g) but does not propose to amend the functionality of the Route Peg Order. However, the Rule would be reformatted to be consistent with the Exchange's description of other order types to clearly delineate the various aspects of the Route Peg Order. The Route Peg Order would be defined as a non-displayed Limit Order that is eligible for execution at the NBB for a buy order and NBO for a sell order against an order that is in the process of being routed to away Trading Centers with an order size equal to or less than the aggregate size of the Route Peg Order interest available at that price. Route Peg Orders are passive, resting orders on the EDGA Book and do not remove liquidity. A Route Peg Order does not execute at a price that is inferior to a Protected Quotation. Notwithstanding that a Route Peg Order is also Limit Order, as set forth in proposed Rule 11.8(b), its operation and available instructions would be limited to those contained in proposed Rule 11.8(f).

Proposed Rule 11.8(g) would delineate various aspects of the Route Peg Order. Rule 11.8(g) would make clear that a Route Peg Order may only have a TIF instruction of GTT or Day. Route Peg Orders are not eligible to include a TIF instruction of IOC or FOK. Route Peg Orders may only be entered as Round Lots or Mixed Lots. Route Peg Orders are defaulted by the System to a Non-Displayed instruction. Route Peg Orders are not eligible to include a Displayed instruction. A User may specify a Minimum Execution Quantity instruction for a Route Peg Order. Route Peg Orders may be entered, cancelled, and cancelled/replaced prior to and during the Regular Session. Route Peg Orders are only eligible for execution in a given security during the Regular Session, except that, even after the commencement of the Regular Session, Route Peg Orders are not eligible for execution: (i) In the Opening Session; and (ii) until such time that orders in that security during the Regular Session can be posted by the System to the EDGA Book. Any and all remaining, unexecuted Route Peg Orders are cancelled at the conclusion of the Regular Session. Route Peg Orders are not eligible for routing pursuant to Rule 11.9(b)(2) (proposed to be renumbered as Rule 11.11). A Route Peg Order is not eligible for execution when a Locking Quotation or Crossing Quotation exists. In such case, a Route Peg Order would rest on the EDGA Book and would not be eligible for execution in the System until a Locking Quotation or Crossing Quotation no longer exists.

Proposed Rule 11.9, Priority

The Exchange proposes to renumber current Rule 11.8, Priority as proposed Rule 11.9 and amend it to: (i) Outline

[65] *See* Securities Exchange Act Release No. 67726 (August 24, 2012), 77 FR 52771 (August 30, 2012) (SR–EDGA–2012–28) (Order Approving Proposed Rule Change to Amend EDGA Rules to Add the Route Peg Order).

the priority of orders at certain price points; (ii) clarify the priority of Limit Orders with a Reserve Quantity; and (iii) make certain non-substantive, conforming and clarifying changes. The Exchange does not propose to modify the current priority of orders at the same price or the operation of the System. The Exchange simply seeks to further outline current System functionality within the Exchange's Rules. The Exchange believes the proposed amendments will provide Members, Users, and the investing public with greater transparency regarding how the System operates.

Under Rule 11.9(a), orders of Users are first ranked and maintained by the System on the EDGA Book according to their price. Orders at the same price and of the same type are then ranked by the System depending on the time they were entered into the System. The Exchange proposes to amend Rule 11.9 to delineate, consistent with current System functionality, how orders with certain instructions are to be ranked by the System as well as how orders may be re-ranked when such orders utilize instructions that cause them to be ranked by the System upon clearance of a Locking Quotation.[66] The Exchange also proposes to clarify that, for purposes of priority under Rule 11.9(a)(2)(A): (i) An ISO,[67] the displayed price of a MidPoint Discretionary Order,[68] and NBBO Offset Peg Orders [69] are to be treated as a Limit Order; [70] and (ii) orders subject to a re-pricing instruction to comply with Rule 201 of Regulation SHO under proposed Rule 11.6(l)(2), including Market Orders that are displayed on the EDGA Book pursuant to proposed Rule 11.8(a)(4)) and proposed re-numbered Rule 11.10(a)(3)(A), maintain the same priority as Limit Orders at that price.

General Priority

Current Rule 11.8(a)(2) states, in sum, that the System shall execute equally priced trading interest in time priority in the following order: (i) Displayed size of limit orders; (ii) Non-displayed limit orders and reserve orders; (iv)[sic] MidPoint Discretionary Orders as set forth in Rule 11.5(c)(17) and the Discretionary range of Discretionary Orders as set forth in current Rule 11.5(c)(13); and (v)[sic] Route Peg Orders as set forth in current Rule 11.5(c)(14).

The Exchange proposes to amend the above priority to state that it applies to equally priced trading interest other than where orders are re-ranked at the Locking Price after a Locking Quotation clears. The Exchange also proposes to amend the description of order types under proposed Rules 11.9(a)(2)(A)(i)–(iv) to be consistent with proposed Rule 11.8, Order Types. As amended, proposed Rule 11.9(a)(2)(A) would state that the System will execute equally priced trading interest within the System other than where orders are re-ranked at the Locking Price after a Locking Quotation clears in time priority in the following order: (i) The portion of a Limit order with a Displayed instruction; (ii) Limit Orders with a Non-Displayed instruction and the Reserve Quantity of Limit Orders; (iii) MidPoint Discretionary Orders executed within their Discretionary Range and Limit Orders executed within their Discretionary Range; and (iv) Route Peg Orders.

Operation of General Priority

*Example.* Assume the NBBO is $10.01 x $10.02 and the Exchange BBO is $10.01 x $10.02. Also, assume that the displayed and Reserve Quantity of each order have the same time stamp. The EDGA Book contains the following buy orders, ranked in time order:

Buyer One: $10.01 x 100 shares displayed/Reserve Quantity of 500.

Buyer Two: $10.01 x 100 shares non-displayed.

Buyer Three: $10.01 x 100 shares displayed/Reserve Quantity of 500.

Seller One enters into the System a Limit Order to sell 1,000 shares at $10.01. Seller One's order first executes 100 shares against the displayed quantity of Buyer One's order at $10.01, then executes 100 shares against the displayed quantity of Buyer Three's order at $10.01, then executes 500 shares against the Reserve Quantity of Buyer One's order at $10.01 (thus completely filling Buyer One's order), then executes 100 shares against Buyer Two's order at $10.01 (thus completely filling Buyer Two's order), and lastly, executes 200 shares against the Reserve Quantity of Buyer Three's order at $10.01. Seller One's order would be completely filled at this point, leaving 300 shares in Reserve Quantity for Buyer Three, which would be replenished and displayed in accordance with Buyer Three's instructions.

Orders Re-Ranked Upon Clearance of a Locking Quotation

Order priority also differs where buy (sell) orders utilize instructions that result in their being re-ranked upon clearance of a Locking Quotation. In such case, the System will re-rank and display such orders at the Locking Price. The Exchange proposes to include proposed Rule 11.9(a)(2)(C), which would state that, where such an order is re-ranked to the Locking Price after a Locking Quotation clears, the System will re-rank and display such orders at the Locking Price in time priority in the following order: (i) ISO with a TIF instruction of Day that establishes a new NBBO at the Locking Price; (ii) Limit Orders to which the Hide Not Slide or Routed and Returned Re-Pricing instruction has been applied; (iii) Limit Orders to which the Price Adjust instruction has been applied; and (iv) orders with a Pegged instruction. Orders not executed and remaining on the EDGA Book after being re-ranked upon clearance of the Locking Quotation will be executed in time priority under proposed Rule 11.9(a)(2)(A) described above.

Operation of Priority for Orders Re-Ranked Upon Clearance of a Locking Quotation

*Example.* Assume the NBBO is 10.01 x 10.02 and the Exchange BBO is 10.01 x 10.03. The EDGA Book contains the following buy orders, ranked in time order:

Buyer One: $10.05 x 100 shares Primary Pegged instruction/displayed and ranked at $10.01.

Buyer Two: $10.02 x 100 shares Book Only/Price Adjust instruction/displayed and ranked at $10.01.

Buyer Three: $10.02 x 100 shares Book Only/Single Re-Price instruction/displayed and ranked at $10.01.

Buyer Four: $10.02 x 100 shares Book Only/Hide Not Slide instruction/displayed at $10.01 and ranked at $10.02.

Buyer Five: $10.03 x 100 shares MidPoint Peg/non-displayed at $10.015, the midpoint of the NBBO.

*Scenario No. 1.* Assume the NBO of $10.02 on an away Trading Center is executed or cancelled. As a result, the Exchange is at the NBBO of $10.01 x $10.03.

Upon clearance of the Locking Quotation, Buyer Four's order is displayed by the System on the EDGA Book at $10.02. The Exchange established the new NBBO of $10.02 x $10.03. Buyer Two's order is displayed by the System on the EDGA Book at $10.02 and given a new time stamp

[66] For purposes of priority under proposed Rule 11.9(a)(2)(A) and (B), the Exchange notes that orders of Odd Lot, Round Lot, or Mixed Lot size are treated equally.

[67] *See* proposed Rule 11.8(c).

[68] *See* proposed Rule 11.8(e).

[69] *See* proposed Rule 11.8(f).

[70] *See* proposed Rule 11.8(b).

behind Buyer Four's order. Buyer One's order is displayed by the System on the EDGA Book at $10.02 and given a new time stamp behind Buyers Four and Two. Buyer Five's order remains non-displayed by the System on the EDGA Book and is ranked at $10.025, the new midpoint of the NBBO, and is provided a new time stamp. Buyer Three's order remains displayed by the System on the EDGA Book at $10.01.

Seller One enters into the System a Limit Order to sell 500 shares at $10.01. Seller One's order is executed as follows: 100 shares against Buyer Five's order at $10.025; 100 shares against Buyer Four's order at $10.02; 100 shares against Buyer Two's order at $10.02; 100 shares against Buyer One's order at $10.02; and 100 shares against Buyer Three's order at $10.01.

*Scenario No. 2.* Buyer Six enters into the System an ISO buy order with a limit price of $10.02 and a TIF instruction of Day. Buyer Six's order is displayed by the System on the EDGA Book at $10.02 and locks the NBBO. The Exchange's BBO is now $10.02 x $10.03 and the buy orders will be ranked by the System as follows:

Buyer Four's order is now displayed by the System on the EDGA Book at $10.02, receives a new time stamp and is ranked behind Buyer Six. Buyer Two's order is displayed by the System on the EDGA Book at $10.02, receives a new time stamp and is ranked behind Buyers Six and Four. Buyer One's order is displayed by the System on the EDGA book at $10.02, receives a new time stamp and is ranked behind Buyers Six, Four, and Two. The NBBO is updated to $10.02 x $10.02 resulting in a locked market. Buyer Two's order remains displayed by the System on the EDGA Book at $10.01. Buyer Five's order is not executable because the NBBO is locked and MidPoint Peg Orders are not eligible for execution during a locked market.

Seller One enters into the System a Limit Order to sell 500 shares at $10.01 and it is executed as follows: 100 shares against Buyer Six's order at $10.02; 100 shares against Buyer Four's order at $10.02; 100 shares against Buyer Two's order at $10.02; 100 shares against Buyer One's order at $10.02; and 100 shares against Buyer Three's order at $10.01.

Reserve Quantity Priority

The Exchange proposes to amend Rule 11.9(a)(6) to modify the description of the priority of an order with a Reserve Quantity and to amend certain terms to be consistent with the order type clarification under proposed Rules 11.6 and 11.8.

For both the Fixed Replenishment and Random Replenishment instruction, the displayed quantity receives a new time stamp each time it is replenished from the Reserve Quantity. The Reserve Quantity retains the time stamp of its original entry. Current Rule 11.8(a)(6) discusses the priority of the Reserve Quantity of an order and states that ''[a] new time stamp is created both for the refreshed and reserved portion of the order each time it is refreshed from reserve.'' The Exchange proposes to amend this description to state that a new time stamp is created only for the displayed quantity of the order each time it is replenished from Reserve Quantity. In addition, as discussed above, proposed Rule 11.8(m)(1) states that a new time stamp is created for the portion of the order with a Displayed instruction each time it is replenished from the Reserve Quantity, while the Reserve Quantity retains the time-stamp of its original entry.

*Example.* Assume a Limit Order to buy 2,000 shares at $100 is entered with a Displayed instruction for a quantity of 500 shares. The order defaults to a Fixed Replenishment instruction of 500 shares, equal to its initial displayed quantity. An inbound Market Order to sell arrives for 490 shares and executes against the displayed quantity of 500 shares. As per the Fixed Replenishment instructions, 500 shares are deducted from the Reserve Quantity and added to the displayed quantity of 10 shares. The now displayed 500 shares and remaining 10 shares are both given a new identical time stamp as of the time of replenishment and displayed as a single order for 510 shares on the EDGA Book.

Additional Clarifications

The Exchange also proposes to make additional clarifying and conforming changes to proposed Rule 11.9. First, the Exchange proposes to add titles to Rules 11.9(a)(3)–(8). These titles are not intended to alter the meaning of these subsections; they simply seek to assist the reader in identifying the topic each subsection is to address. Second, the Exchange proposes to replace the term, ''Market participants'' under Rule 11.9(a)(3) with the term ''Users.'' Lastly, the Exchange proposes to update the cross-reference in Rule 11.9(a)(4) from Rule 11.5(e), Cancel/Replace Messages, to proposed Rule 11.10(e), Cancel Replace Messages. As discussed below, the Exchange proposes to relocate the text of Rule 11.5(e) and renumber it as Rule 11.10(e).

Organizational and Ministerial Changes to Rule 1.5, Rule 8.15, and Chapter XI

The Exchange also proposes to make a series of organizational, conforming changes to internal references, and clarifying changes to Rule 1.5, Rule 8.15, and Chapter XI. These changes are:

- Rules 1.5 and 8.15, update internal cross-references to rules in Chapter XI to reflect the renumbering of certain rules;
- Rule 11.5(e), Cancel/Replace Messages, would be renumbered and relocated to proposed Rule 11.10(e);[71]
- The content of Rule 11.6, Units of Trading, would be amended (described above) and included as a set of defined terms in proposed Rule 11.6, Definitions, as Rule 11.6(s);
- The content of Rule 11.7, Price Variations, would be relocated and included as a set of defined terms in proposed Rule 11.6, Definitions, as Rule 11.6(i) (described above);
- Current Rule 11.8, Priority of Orders is to be amended and renumbered as Rule 11.9 (described above).
  - Exchange Rule 1.5(dd) defines ''Top of Book'' as ''the best-ranked order to buy (or sell) in the EDGA Book as ranked pursuant to Rule 11.8.'' As a result of Rule 11.8 being renumbered to Rule 11.9, the Exchange proposes to amend the cross reference to Rule 11.8 in Rule 1.5(dd) to reflect Rule 11.9;
- Rule 11.9, Order Execution, would be renumbered as Rule 11.10;
- Rule 11.9(b), Routing, and 11.9(c), Priority of Routed Orders, would be removed in their entirety from Rule 11.9 and relocated to form a new standalone Rule 11.11, Routing to Away Trading Centers;
- Rules 11.9(d), Display of Automated Quotations, would be renumbered as Rule 11.10(b);
- Rule 11.9(e), Self-Help, would be renumbered as Rule 11.10(c);
- Rule 11.9(f), Anti-Internalization Qualifier (''AIQ''), would be renumbered as Rule 11.10(d) and renamed ''EdgeRisk Self Trade Prevention (''ERSTP''). All referenced to ''AIQ'' would be replaced with ''ERSTP'';
- Rule 11.9(g), Market Access, would be relocated and renumbered as Rule 11.11(i);
- Rule 11.10, Trade Execution and Reporting, would be renumbered and renamed as Rule 11.12, Trade Reporting. The Exchange believes this name

[71] The Exchange also proposed to amend paragraph (e)(1) of proposed renumbered Rule 11.10 to state that orders may only be cancelled or replaced if the order has a TIF instruction other than IOC and FOK and if the order has not yet been executed in its entirety.

change more accurately reflects to the requirements of the rule;

- Rule 11.11, Clearance and Settlement; Anonymity, would be renumbered as Rule 11.13;
- Rule 11.12, Limitation of Liability, would be renumbered as Rule 11.14;
- Rule 11.13, Clearly Erroneous Executions, would be renumbered at Rule 11.15;
- Rule 11.14, Trading Halts Due to Extraordinary Market Volatility, would be renumbered as Rule 11.16;
- Rule 11.15, Short Sales, would be renumbered and relocated as Rule 11.10(a)(5);
- The content of Rule 11.16(a), Locking or Crossing Quotations in NMS Stocks, would be relocated to Rule 11.6, Definitions. The content of Rule 11.16(b), (c), and (d) would be relocated and renumbered as Rule 11.10(f), Locking and Crossing Quotations in NMS Stocks;
- Rule 11.17, Reserved, would be deleted;
- Rule 11.18, Registration of Market Makers, would be renumbered as Rule 11.17;
- Rule 11.19, Obligations of Market Maker Authorized Traders, would be renumbered at Rule 11.18;
- Rule 11.20, Registration of Market Makers in a Security, would be renumbered as Rule 11.19;
- Rule 11.21, Obligations of Market Makers, would be renumbered at Rule 11.20. Rule 11.21 would be entitled, ''Retail Orders'' as described below; and
- Rule 11.22, Input of Accurate Information would be relocated and renumbered as Rule. 11.5.

Order Execution (renumbered Rule 11.10)

The Exchange also proposes to make a series of ministerial changes to proposed Rule 11.10, Order Execution. First, the Exchange proposes to amend Rule 11.10(a)(3)(A) to clarify that it includes orders with a TIF instruction of FOK. Currently, proposed Rule 11.10(a)(3)(A) states ''where a non-routable buy (sell) order is entered into the System at a price less (greater) than or equal to the Upper (Lower) Price Band, such order will be posted to the EDGA Book or executed, unless (i) the order that is an IOC Order, in which case it will be cancelled if not executed, or (ii) the User has entered instructions to cancel the order.'' As amended, subsection (i) of Rule 11.10(a)(3)(A) would state that an order with a TIF of IOC or FOK will be cancelled and not posted to the EDGA Book in such circumstances.

Second, the Exchange proposes to amend proposed Rule 11.10(a)(4) to clarify the treatment of orders upon receipt by the System. Proposed Rule 11.9(a)(4) currently states that ''[a]n incoming order shall first attempt to be matched for execution against orders in the EDGA Book.'' The Exchange proposes to revise this language to state that the order will be matched for execution against orders on the EDGA Book unless the User instructs the System to bypass the EDGA Book and route the order to an away Trading Center in accordance with Exchange Rules. This amendment allows a User to specify instructions: (i) To route to an away Trading Center; or (ii) for the order to be posted to the EDGA Book and not immediately execute against resting liquidity upon receipt by the System.

Third, the Exchange proposes to amend current Rule 11.9(a)(2) (renumbered as Rule 11.10(a)(2) to clarify the treatment of orders entered during the Pre-Opening Session or Post-Closing Session. Current Rule 11.9(a)(2) states that for any execution to occur during Regular Trading Hours, the price must be equal to or better than the Protected NBBO, unless the order is marked ISO or unless the execution falls within another exception set forth in Rule 611(b) of Regulation NMS. Current Rule 11.9(a)(2) also states that for any execution to occur during the Pre-Opening Session or the Post-Closing Session, the price must be equal to or better than the highest bid or lowest offer. The Exchange proposes to clarify that an execution will occur during the Pre-Opening Session or the Post-Closing Session at a price equal to or better than the highest bid or lowest offer on the EDGA Book or disseminated by the responsible single plan processor, unless the order is marked ISO. Thus, the proposed text will make clear that the System accepts orders marked ISO during the Pre-Opening Session and Post-Closing Session, and will execute orders marked ISO regardless of the highest bid or lowest offer.

Fourth, current Exchange Rule 11.9(d) (renumbered as Rule 11.10(b)), Display of Automated Quotations, states that the Exchange shall communicate to Users its procedures concerning a change from automated to ''manual quotations'' (as defined in Regulation NMS) when the System is incapable of displaying automated quotations. The Exchange proposes to amend this rule to clarify that that when a system malfunction renders the System incapable of displaying automated quotations, the System will be disabled by the Exchange and will be unable to accept any orders. The Exchange also proposes to amend the rule to clarify that the Exchange shall promptly communicate to Users the unavailability of the System.

Lastly, as described more fully above, the Exchange proposes to update various rule cross-references to reflect the proposed re-numbering of certain rules within Chapter XI.

Rule 11.9(b), Routing (Proposed Rule 11.11)

The Exchange proposes to amend Rule 11.9(b)(2) (renumbered as Rule 11.11(a)) to describe which re-pricing instructions to comply with Rule 201 of Regulation SHO may apply to the unexecuted portion of an order routed to an away Trading Center when a Short Sale Circuit Breaker is in place. The rule currently provides, in part, that ''[f]or any other order ineligible for routing due to a short sale price test restriction, the Exchange will post the unfilled balance of the order to the EDGA Book, treat the order as if it was an EDGA Only Order, and subject it to the short sale price sliding process, as described in [current] Rule 11.5(c)(4).'' The Exchange proposes a conforming amendment to this rule to reflect that the default process is the Short Sale Price Adjust instruction, rather than the Short Sale Price Sliding instruction, unless the User has elected to use an alternative process as described in proposed Rule 11.6(l) or to have the ordered Cancel Back as described in Rule 11.6(b). The Exchange also proposes to remove the reference to the EDGA Only Order because it is no longer classified as a standalone order type.

The Exchange also proposes to amend Exchange Rule 11.9(b)(1)(C), Routing of Market Orders (renumbered as Rule 11.11(e)) to be consistent with current System functionality. Currently, Rule 11.9(b)(1)(C) states, in part, that where a Market Order is routed to an away Trading Center for execution, any unexecuted portion returned to the Exchange will be treated as follows:

> Depending on parameters set by the User when the incoming order was originally entered, the System will either: (i) Process the unfilled balance of an order as a EDGA Only Order pursuant to Rule 11.5(c)(4), or (ii) repeat the process described in paragraph (a)(4) above and this paragraph (b)(1)(C) by executing against the EDGA Book and/or routing orders to other market centers until the original, incoming order is executed in its entirety.

The Exchange proposes to delete this language from Rule 11.9(b)(1)(C) and to add new language to proposed renumbered Rule 11.11(e) to reflect that any unexecuted portion of a Market Order that is returned to the System will be cancelled back to the User. This

language reflects current System functionality.

2. Statutory Basis

The Exchange believes that its proposal to amend and reorganize its rules to provide additional specificity regarding the functionality of the Exchange's System, including the operation of its order types and order instructions, 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.[72] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[73] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[74] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The Exchange believes that the reorganized and enhanced descriptions of the Exchange's order types, order instructions, and System functionality would promote just and equitable principles of trade and remove impediments to a free and open market by providing greater transparency concerning the operation of the Exchange. The Exchange also believes that the proposed amendments will contribute to the protection of investors and the public interest by making the Exchange's rules easier to understand. Moreover, the Exchange believes that the additional clarity, transparency and readability of the proposed rule change would promote the efficient execution of investor transactions, and thus strengthen investor confidence in the market. In addition, the Exchange believes that additional specificity in its rules will lead to a better understanding of the Exchange's operation, thereby facilitating fair competition among brokers and dealers and among exchange markets. In particular, the Exchange believes that the revised descriptions of the Exchange's order types, order instructions, and System functionality will provide Members, Users, and the investing public further clarification about how the Exchange operates.

Opening Process

The newly added description of the Opening Process in Rule 11.7 is designed to promote just and equitable principles of trade and remove impediments to, and perfect the mechanism of, a free and open market system because it would describe: (i) Which orders may participate in the process; (ii) how the price of the Opening Transaction is determined; and (iii) the process for late openings and re-openings.

The Exchange believes setting the price of the Opening Process at the midpoint of the first NBBO disseminated after 9:30:00 a.m. Eastern Time will promote just and equitable principles of trade, removes impediments to, and perfect the mechanism of, a free and open market and a national market system because it enables the System to execute the Opening Process at a price that is objectively established by the market for the security. In addition, the Exchange believes that it is reasonable to set the price of the Opening Process for securities listed on either the NYSE or NYSE MKT at the midpoint of the: (i) First NBBO subsequent to the first reported trade on the listing exchange after 9:30:00 a.m. Eastern Time; or (ii) then prevailing NBBO when the first two-sided quotation published by the listing exchange after 9:30:00 a.m. Eastern Time, but before 9:45:00 a.m. Eastern Time if no first trade is reported within one second of publication of the first two-sided quotation by the listing exchange. The Exchange believes it is reasonable to require a first reported trade or two-sided quotation for securities listed on the NYSE or NYSE MKT because those markets do not operate a pre-market trading session during which Members, Users, and the investing public may discover the market price for a security. Therefore, the Exchange believes utilizing the first NBBO subsequent to the first reported trade or then prevailing NBBO when the first two-sided quotation is published promotes just and equitable principles of trade because it ensures a midpoint price that the Exchange believes accurately reflects the market for the security. The Exchange also believes it is reasonable to set the price of the Opening Process for NYSE and NYSE MKT securities at the then prevailing NBBO when the first two-sided quotation is published by the listing exchange when no first trade is reported within one second of publication of the first two-sided quotation. At times, no first trade is reported immediately following the publication of the first two-sided quotation. This is common in less liquid securities. Setting the price of the Opening Process at the then prevailing midpoint in such circumstances would permit the System to open the security in a timely manner at a price that is objectively determined by the market for the security.

In addition, the Exchange believes the Opening Process following a halt, suspension, or pause is designed to promote just and equitable principles of trade. Under proposed Rule 11.7(e), re-openings will occur at the midpoint of the: (i) First NBBO subsequent to the first reported trade on the listing exchange following a halt, suspension, or pause; or (ii) then prevailing NBBO when the first two-sided quotation is published by the listing exchange following the resumption of trading after a halt, suspension, or pause if no first trade is reported within one second of publication of the first two-sided quotation by the listing exchange. Like when pricing the Opening Process for securities listed on the NYSE and NYSE MKT discussed above, the Exchange also believes it is reasonable to require a first reported trade or two-sided quotation prior to opening a security because no trading occurs during a halt, suspension or pause during which Members, Users, and the investing public may gauge the market for a security. Therefore, the Exchange believes calculating a midpoint price at which to re-open a security following a halt, suspension, or pause as described above promotes just and equitable principles of trade because it ensures a midpoint price that accurately reflects the market for the security.

The operation of the Contingent Open under proposed Rule 11.7 is designed to promote just and equitable principles of trade and remove impediments to, and perfect the mechanism of, and free and open market system because it would enable the System to transition to the Regular Session in a timely manner where a security has not opened on the relevant listing exchange. In the Exchange's experience, most securities are open by 9:45:00 a.m. Eastern Time. However, at times, a security may not open by 9:45:00 a.m. This is common in less liquid securities. The Exchange notes that other exchanges that do not employ an opening process may begin trading the security at 9:30:00 a.m. Eastern Time despite the security not being open on the relevant listing exchange.[75] The Exchange believes it is

[72] 15 U.S.C. 78f(b).

[73] 15 U.S.C. 78f(b)(5).

[74] 15 U.S.C. 78k–1(a)(1).

[75] NSX Rule 1.5(R) defining ''Regular Trading Hours'' as ''the time between 9:30 a.m. and 4:00 p.m. Eastern Time.'' NSX Rules do not account for

Continued

reasonable to transition to the Regular Session pursuant to the Contingent Open process under proposed Rule 11.7 so that orders may be placed by the System on the EDGA Book, cancelled, executed, or routed to away Trading Centers in accordance with proposed renumbered Rule 11.11.

Lastly, proposed Exchange Rule 11.7 is similar to, and based on, ISE Rule 2106. Unlike, ISE Rule 2106, Exchange Rule 11.7(d) contains provisions for late openings if the conditions in proposed Rules 11.7(c)(1) and (2) are not satisfied.[76] Also unlike ISE Rule 2106, proposed Rule 11.7 permits the Exchange to alternatively set the price of the Opening Process for securities listed on either the NYSE or NYSE MKT at the midpoint of the then prevailing NBBO when the first two-sided quotation published by the relevant listing exchange after 9:30:00 a.m. Eastern Time, but before 9:45:00 a.m. Eastern Time if no first trade is reported by the listing exchange within one second of publication of the first two-sided quotation by the listing exchange.

Order Types and Order Instructions

Similarly, the Exchange believes that the proposed changes to its rulebook related to order types and order instructions provide further clarification to Members, Users, and the investing public regarding the operation of the Exchange's order types and order instructions. Unless otherwise stated, the Exchange is not proposing to substantively modify the operation of any of the current defined order types or instructions or the operation of the System. The Exchange believes the proposed amendments will provide greater transparency regarding the Exchange's order types, order instructions, and System functionality.

Re-Pricing

The Exchange believes that the proposed clarification of its re-pricing instructions are consistent with Section 6(b)(5) of the Act,[77] as well as Rule 610 of Regulation NMS [78] and Rule 201 of Regulation SHO.[79] The Exchange is not modifying the overall existing functionality of its re-pricing instructions, which, to avoid becoming a Locking Quotation or Crossing Quotation or to comply with Rule 201 of Regulation SHO, displays orders at permissible prices while in some cases retaining a different non-displayed, ranked price at which the User is willing to buy or sell. Instead, the Exchange proposes to describe the re-pricing instructions currently available to Users by renaming displayed price sliding under current Rule 11.5(c)(4) as Hide Not Slide and introducing and defining three new instructions in proposed Rule 11.6(l) with regard to Regulation NMS compliance—Price Adjust, Single Re-Price,[80] and Routed and Returned Re-Pricing, and three new instructions with regard to Regulation SHO compliance—Short Sale Price Adjust, Short Sale Price Sliding, and Short Sale Single Re-Price.[81] The Exchange also proposes to describe in its rules the re-pricing instruction for orders with a Non-Displayed instruction. The Exchange believes these further clarifications of its re-pricing instructions will provide increased transparency to Members, Users, and the investing public regarding how orders with a re-pricing instruction are to be handled and displayed by the System.

Rule 610(d) of Regulation NMS requires exchanges to establish, maintain, and enforce rules that require members reasonably to avoid ''[d]isplaying quotations that lock or cross any protected quotation in an NMS stock.'' [82] Such rules must be ''reasonably designed to assure the reconciliation of locked or crossed quotations in an NMS stock,'' and must ''prohibit . . . members from engaging in a pattern or practice of displaying quotations that lock or cross any quotation in an NMS stock.'' [83] Similarly, Rule 201 of Regulation SHO [84] requires trading centers to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the execution or display of a short sale order at a price at or below the current NBB under certain circumstances. Thus, the re-pricing instructions offered by the Exchange are designed to comply with Rule 610(d) and Rule 201 by assisting Users in displaying and executing orders at permissible prices. In addition, as described in further detail below, the Exchange notes that other exchanges offer similar functionality.[85]

The Exchange notes that an order that, if displayed at its limit price, would be a Locking Quotation or Crossing Quotation, would be automatically defaulted by the System to the Hide Not Slide instruction, unless the User affirmatively elects an alternative instruction: (i) The Cancel Back instruction; (ii) the Price Adjust instruction; or (iii) the Single Re-Price instruction. Users who do not prefer the defaulted re-pricing instruction are free to select another re-pricing instruction or to select the Cancel Back instruction. The Exchange believes it is reasonable to default orders to the Hide Not Slide instruction because an order with the Hide Not Slide instruction ranks the order at the most aggressive price as possible, the Locking Price, thereby providing an increased probability of an execution at the order's limit price as compared to other re-pricing instructions. Because EDGA is currently a taker-maker market that charges liquidity providers, the Exchange believes that Users utilizing re-pricing functionality on EDGA would prefer a more aggressive re-pricing option that would increase the likelihood of execution, because such Users are expecting to pay a fee when acting as a liquidity provider. Therefore, the Exchange believes defaulting to the Hide Not Slide instruction is designed to promote just and equitable principles of trade because it is designed to assist a market participant in utilizing a re-pricing instruction most closely aligned with the User's intent to achieve an execution at the most aggressive price as possible.

The displayed price sliding process under current Rule 11.5(c)(4)(A) is essentially the same as the Hide Not Slide Process under proposed Rule 11.6(l)(1)(B). The only difference is that current Rule 11.5(c)(4)(A) incorrectly states that an order subject to the displayed price sliding process would receive a new time stamp where the NBBO changes such that the order would no longer lock or cross the market and is displayed at the Locking

an opening process. CHX Article 20, Rule 1 stating that the regular trading session begins at 8:30 Central Time. Like the NSX, CHX Rules do not account for an opening process.

[76] *See* Securities Exchange Act Release No. 54287 (August 8, 2006), 71 FR 46947 (August 15, 2006) (SR–ISE–2006–48).

[77] *Id.*

[78] 17 CFR 242.610.

[79] 17 CFR 242.201.

[80] The Exchange notes that other exchanges offer similar functionality. *See* Nasdaq Rule 4751(f)(7) (Price to Comply Order), BZX Rule 11.9(g)(1) (Display-Price Sliding), BYX 11.9(g)(1) (Display-Price Sliding), and CHX Rule Art. I, Rule 2(b)(1)(C)(i) (NMS Price Sliding).

[81] Other exchanges utilize similar re-pricing processes. *See e.g.,* CHX Art. I, Rule 2(b)(1)(C), BZX Rules 11.9(c)(4), (6) and 11.9(g)(2), BYX Rules 11.9(c)(4), (6) and 11.9(g)(2), and Nasdaq's ''Re-pricing of Orders during Short Sale Period'' described in Nasdaq Rule 4763(e).

[82] 17 CFR 242.610(d).

[83] *Id.*

[84] 17 CFR 242.201.

[85] *See* Nasdaq Rule 4751(f)(7) (Price to Comply Order), BZX Rule 11.9(g)(1) (Display-Price Sliding), BYX 11.9(g)(1) (Display-Price Sliding), and CHX Rule Art. I, Rule 2(b)(1)(C)(i) (NMS Price Sliding). *See also* CHX Art. I, Rule 2(b)(1)(C), BZX Rules 11.9(c)(4), (6) and 11.9(g)(2), BYX Rules 11.9(c)(4), (6) and 11.9(g)(2), and Nasdaq's ''Re-pricing of Orders during Short Sale Period'' described in Nasdaq Rule 4763(e).

Price. Under Hide Not Slide, the Exchange proposes to correctly state that the order would retain its time stamp where the NBBO changes such that the order, if displayed by the System on the EDGA Book at the Locking Price would not be a Locking Quotation or Crossing Quotation, will be ranked and displayed by the System at the Locking Price. Under Hide Not Slide, the order retains its original time stamp because it remains ranked at the Locking Price. An order subject to the Hide Not Slide instruction will only receive a new time stamp when it is re-ranked by the System upon clearance of a Locking Quotation due to the receipt of an ISO with a TIF instruction of Day that establishes a new NBBO at the Locked Price in accordance with proposed Rule 11.9(a)(2)(B) described above. All other aspects of displayed price sliding and Hide Not Slide are similar.[86]

The Exchange also believes that ranking orders with a Non-Displayed instruction at the Locking Price where such order would trade through a Protected Quotation displayed on an external market is designed to promote just and equitable principles of trade and remove impediments to, and perfect the mechanism of, and free and open market system. Ranking to the Locking Price in such cases would enable the System to avoid trading though a Protected Quotation in compliance with Rule 611 of Regulation NMS. Therefore, the Exchange believes the proposed rule change will promote just and equitable principles of trade, removes impediments to, and perfects the mechanism of, a free and open market and a national market system.

The Exchange also believes that its proposed Routed and Returned Re-Pricing instruction promotes just and equitable principles of trade because it is designed to permit routed orders returned to the EDGA Book that, if displayed, would be a Locking Quotation or Crossing Quotation, to be displayed and re-displayed up to their limit price in response to changes in the NBBO. The Exchange believes that it is reasonable and appropriate to default an order returning to the EDGA Book after having routed to away destinations to the Routed and Returned Re-Pricing instruction because it can be presumed that such orders are aggressive price takers. The Routed and Returned Re-Pricing instruction provides such orders the ability to execute at the previously locked prices on the way to it being ranked to its limit price. The Exchange notes that Users who do not prefer the defaulted re-pricing instruction are free to select another re-pricing instruction or to select the Cancel Back instruction.

Likewise, the Exchange also believes it is reasonable to default Short Sale Orders to the Short Sale Price Adjust instruction because it would enable Short Sale Orders to be continuously re-ranked and displayed up to their limit price in response to declines in the NBB. An order subject to the Short Sale Price Adjust instruction would be re-ranked and displayed at the Permitted Price, which is one Minimum Price Variation above the current NBB. Following the initial re-ranking, the order will, to the extent the NBB declines, continue to be re-ranked and displayed at the Permitted Price down to the order's limit price. Orders subject to the Short Sale Price Sliding instruction are only re-ranked once following the initial ranking. Under the Short Sale Single Re-Price instruction, the Short Sale Order would not be adjusted further to reflect a decline in the NBB following its initial ranking. Therefore, the Exchange believes automatically defaulting Short Sale Orders to the Short Sale Price Adjust instruction promotes just and equitable principles of trade because it would enable the order to be displayed and re-displayed up to its limit price by being continuously re-priced in response to declines in the NBB. The Exchange notes that Users who do not prefer the defaulted re-pricing instruction are free to select another re-pricing instruction or to select the Cancel Back instruction.

In addition, the Exchange notes that other exchanges offer functionality similar to that proposed by this filing. The Price Adjust instruction under proposed Rule 11.6(l)(1)(A) and Hide Not Slide instruction under proposed Rule 11.6(l)(1)(B) are similar to Nasdaq's Price to Comply under Nasdaq Rule 4751(f)(7). Under Nasdaq Rule 4751(f)(7), a Price to Comply order is an order that, if, at the time of entry, would lock or cross the quotation of an external market, the order will be priced to the current low offer (for bids) or to the current best bid (for offers) and, like the Exchange's proposed Price Adjust instruction, displayed at a price one minimum price increment lower than the offer (for bids) or higher than the bid (for offers). Like Nasdaq's Price to Comply Order, under the Hide Not Slide instruction described in proposed Rule 11.6(l)(1)(B), a buy (sell) order that, if displayed by the System on the EDGA Book at the time of entry, would be a Locking Quotation or Crossing Quotation will also be displayed at a price that is one Minimum Price Variation lower (higher) than the Locking Price and ranked at the Locking Price. Unlike Nasdaq's Price to Comply order, a buy (sell) order subject to the Price Adjust instruction would also be ranked one Minimum Price Variation lower (higher) than the Locking Price.

The Price Adjust instruction under proposed Rule 11.6(l)(1)(A) and Hide Not Slide instruction under proposed Rule 11.6(l)(1)(B) are similar to the display-price sliding functionality set forth in BZX Rule 11.9(g) and BYX Rule 11.9(g). Like the functionality offered by BZX and BYX, under both the Price Adjust instruction and the Hide Not Slide instruction an order will be displayed at one Minimum Price Variation below the NBO (for bids) or above the NBB (for offers) and displayed at the Locking Price when that price no longer locks the Protected Quotation. Similar to BZX and BYX functionality, an order subject to the Hide Not Slide instruction is ranked at the Locking Price. The differences are as follows: BZX and BYX offers multiple price sliding, while the Exchange does not. Also, under the Price Adjust instruction, an order is ranked at its displayed price, whereas an order subject to display-price sliding is ranked at the Locking Price for BZX and BYX.

The Single Re-price instruction under proposed Rule 11.6(l)(1)(C) is similar to Nasdaq's Price to Comply Post Only under Nasdaq Rule 4751(f)(8). Like an order subject to the Exchange's Single Re-Price instruction, a Price to Comply Post Only Order that, ''at the time of entry, would create a violation of Rule 610(d) of Regulation NMS under the Act by locking or crossing the protected quotation of an external market or would cause a violation of Rule 611 of Regulation NMS under the Act, the order will also be re-priced and displayed by the System to one minimum price increment (i.e., $0.01 or $0.0001) below the current NBO (for bids) or to one penny above the current NBB (for offers).''

The Exchange's Short Sale Price Adjust instruction in Rule 11.6(l)(2) is functionally similar to BZX and BYX Short Sale Price Sliding in BZX Rule 11.9(g)(2) and BYX Rule 11.9(g)(2) and Nasdaq's ''Re-pricing of Orders during Short Sale Period'' described in Nasdaq Rule 4763(e). Under both the Exchange's Short Sale Price Adjust instruction and Nasdaq's Re-pricing of Orders during Short Sale Period, orders that cannot be executed or displayed in compliance with Rule 201 of Regulation SHO will be re-priced at one minimum price variation above the current NBB. The order will continue to be re-priced to reflect declines in the NBB down to the

[86] *See supra* section entitled ''*Hide Not Slide (Rule 11.6(l)(1)(B))*''.

order's original limit price. BZX and BYX's Short Sale Price Sliding under BZX Rule 11.9(g)(2) and BYX Rule 11.9(g)(2) operate in a similar manner but with one non-material difference: Members must elect that their order continue to be re-priced to reflect declines in the NBB down to the order's original limit price.

Priority

The Exchange also believes its further clarifications under proposed Rule 11.9 to reflect the priority of orders promotes just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system by providing Members, Users, and the investing public with greater transparency regarding how the System operates. The Exchange does not propose to modify the priority of orders at the same price or the operation of the System. The proposed rule change clearly delineates the three order priority scenarios that the Exchange utilizes, thereby providing valuable, clear information to Members, Users, and the investing public on how their orders would be executed. Specifically, proposed Rule 11.9 would describe execution priority for orders as well as how orders may be re-ranked when such orders utilize instructions that cause them to be ranked by the System upon clearance of a Locking Quotation. Furthermore, the Exchange believes that the proposed rule changes regarding order priority will provide greater transparency and further clarity on how the various order types will be assigned priority under various scenarios, thereby assisting Members, Users and the investing public in understanding the manner in which the System may execute their orders.

The first category of order priority is set forth under proposed Rule 11.9(a)(2)(A), which outlines the general priority of orders. The Exchange notes that the priority under proposed Rule 11.9(a)(2)(A) is substantively consistent with current Exchange Rule 11.8(a)(2). The Exchange is simply modifying the language to amend the description of order types under proposed Rules 11.9(a)(2)(A)(i)–(iv) to be consistent with proposed Rule 11.8, Order Types. As amended, proposed Rule 11.9(a)(2)(A) would state that the System will execute equally priced trading interest within the System in time priority in the following order: (i) The portion of a Limit Order with a Displayed instruction; (ii) Limit Orders with a Non-Displayed instruction and the Reserve Quantity of Limit Orders; (iii) MidPoint Discretionary Orders executed within their Discretionary Range and Limit Orders executed within their Discretionary Range; and (iv) Route Peg Orders. The priority scheme outlined in proposed Rule 11.9(a)(2)(A) does not modify the Exchange's existing functionality; it merely seeks to state that it applies to equally priced trading interest at prices other than the NBBO. Furthermore, the order priority set forth under Rule 11.9(a)(2)(A) is similar to the rules of other exchanges.[87]

The order priority set forth under proposed Rule 11.9(a)(2)(B) clarifies the priority of orders that utilize instructions that result in their being re-priced contingent upon a Locking Quotation or Crossing Quotation no longer existing. In such case, the System would re-price such orders to the Locking Price. Proposed Rule 11.9(a)(2)(C) would state that where an order is re-priced to the Locking Price after the Locking Quotation or Crossing Quotation no longer exists, the System will re-rank and display such orders at the Locking Price in time priority in the following order: (i) ISO with a TIF instruction of Day that establishes a new NBBO at the Locking Price; (ii) Limit Orders to which the Hide Not Slide or Routed and Returned instruction has been applied; (iii) Limit Orders to which the Price Adjust instruction has been applied; and (iv) orders with a Pegged instruction. The Exchange believes it is reasonable and appropriate to grant first priority in such circumstances to ISOs with a TIF instruction of Day because such orders cause the Locking Price to clear resulting in a new NBBO. The Exchange also believes that granting second priority to Limit Orders subject to the Hide Not Slide instruction is also appropriate because prior to the Locking Quotation or Crossing Quotation existing, these orders were eligible to be executed, Non-Displayed, at the Locking Price. In addition, Limit Orders subject to the Hide Not Slide instruction are more aggressively priced when a Locking Quotation or Crossing Quotation does not exist than orders subject to the Price Adjust instruction. Therefore, the Exchange believes the above priority promotes just and equitable principles of trade because it is designed to grant priority to orders that are the first to establish a new price point, thereby contributing to the price discovery process, and appropriately awards priority to orders based on the aggressiveness of their pricing.

The Exchange also believes that proposed Rule 11.9(a)(2)(D) furthers the objectives of Section 6(b)(5) of the Act,[88] because it is 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. Proposed Rule 11.9(a)(2(D) further clarifies current order priority of orders that are displayed on the EDGA Book due in certain circumstances. Specifically, proposed Rule 11.9(a)(2)(D) clarifies that, for purposes of priority under proposed Rule 11.9(a)(2)(A) and (B): (i) ISOs and NBBO Offset Peg Order are to be treated as Limit Orders; (ii) orders subject to a re-pricing instruction to comply with Rule 201 of Regulation SHO under proposed Rule 11.6(l)(2), including Market Orders that are displayed on the EDGA Book pursuant to proposed Rule 11.8(a)(4), maintain the same priority as Limit Orders with a Displayed instruction; and (iii) non-routable Market Orders that are posted by the System to the EDGA Book at the price of the Upper or Lower Price Band in accordance with proposed Rule 11.8(a)(4) and proposed re-numbered Rule 11.10(a)(3)(A) will maintain the same priority as a Limit Order with a Displayed Instruction at that price. The Exchange believes that the proposed Rule 11.9(a)(2)(D) provides greater transparency and further clarity on how the various orders are assigned priority equal to a Limit Order with a Displayed instruction under various scenarios, thereby assisting Members, Users and the investing public in understanding the manner in which the System may execute their orders.

Miscellaneous

The Exchange notes that several rules proposed by this filing and described above are based on or similar to the approved rules of other exchanges, as set forth below.

Discretionary Range under Exchange Rule 11.6(d) is similar to Nasdaq Rule 4751(f)(1), Discretionary Order. However, unlike Exchange Rule 11.6(d), Nasdaq Rule 4751(f)(1) states ''[t]he non-displayed trading interest is not entered into the System book but is, along with the displayed size, converted to an IOC buy (sell) order priced at the highest (lowest) price in the discretionary price range when displayed shares become available or an execution takes place at any price within the discretionary price range. The generation of this IOC order is triggered by the cancellation of the open shares of the Discretionary Order. If more than one Discretionary Order is available for conversion to an IOC order, the system will convert all such orders

[87] *See* BZX Rule 11.12(a)(2); NYSE Arca Rule 7.36(a)(1); and Nasdaq Rule 4757.

[88] 15 U.S.C. 78f(b)(5).

at the same time and priority will be given to the first IOC order(s) that reaches the trading interest on the other side of the market. If an IOC order is not executed in full, the unexecuted portion of the order is automatically re-posted and displayed in the System book with a new time stamp, at its original displayed price, and with its non-displayed discretionary price range.'' Also unlike Nasdaq Rule 4751, Exchange Rule 11.6(d) would state that the Discretionary Range of an order to buy (sell) cannot be more than $0.99 higher (lower) than the order's displayed price and that an order with a Discretionary Range instruction resting on the EDGA Book will execute at its least aggressive price when matched for execution against an incoming order that also contains a Discretionary Range instruction, as permitted by the terms of both the incoming and resting order.

The term, ''Locking Price'' under proposed Rule 11.6(f) is similarly defined in the BZX Rule 11.13(a)(1), which defines ''locking price'' as ''. . . prices equal to displayed orders on the other side of the market.''

Minimum Execution Quantity under proposed Rule 11.6(h) is similar to Nasdaq Rule 4751(f)(5) and NSX Rule 11.11(c)(2)(B). Proposed Exchange Rule 11.6(h) does differ from Nasdaq Rule 4751(f)(5) and NSX Rule 11.11(c)(2)(B) by providing additional specificity regarding the operation of an order with a Minimum Execution Quantity, partial executions, and when a Minimum Execution Quantity may no longer apply.

The Primary Peg and Market Peg instructions under proposed Rule 11.6(j) are similar to Nasdaq Rule 4751(f)(4). Under Nasdaq Rule 4751(f)(4), Pegged Orders are orders that, after entry, have their price automatically adjusted by the System in response to changes in the NBBO. Like the Primary Peg and Market Peg instructions under proposed Rule 11.6(j), the Nasdaq's Pegged Order under Nasdaq Rule 4751(f)(4) can ''specify that its price will equal the inside quote on the same side of the market ('Primary Peg'), or the opposite side of the market ('Market Peg').'' Like under proposed Exchange Rule 11.6(j), NYSE's Pegged Order may have a limit price beyond which the order shall not be executed and NYSE's Primary Peg and Market Peg Orders may also include an offset. Proposed Exchange Rule 11.6(j) does differ from NYSE Rule 13 by providing additional specificity regarding the operation of an offset, the order's functionality during a locked or crossed market, and where an order that contains both a Pegged and Non-Displayed instruction may be re-priced.

The replenishing of the displayed portion of an order from a Reserve Quantity under proposed Rule 11.6(m) is similar to, but contains more specificity than Nasdaq Rule 4751(f)(2) (Reserve Orders) and NYSE Rule 13 (Reserve Order Types). Under Exchange Rule 11.6(m), Nasdaq Rule 4751(f)(2), and NYSE Rule 13, the displayed portion is given a new time stamp when it is replenished while the non-displayed portion retains its original time stamp.

The proposed definition of Post Only under proposed Rule 11.6(n) is similar to the BATS Post Only Order under BZX Rule 11.9(c)(6) and BYX Rule 11.9(c)(6). Like proposed Rule 11.6(n), BZX Rule 11.9(c)(6), BYX Rule 11.9(c)(6) permit an execution where the price improvement associated with such execution equals or exceeds the sum of fees charged for such execution and the value of any rebate that would be provided if the order posted to the BATS Book and subsequently provided liquidity.

TIF instruction of GTT under proposed Rule 11.6(q) is similar to CHX Rules Art. 1, Rule 2(d)(3) (Good 'Til Date), BZX Rule 11.9(b)(4) (Good 'til Day), BYX Rule 11.9(b)(4) (Good 'til Day), and Nasdaq Rule 4751(h)(4) (System Hours Expire Time).

The operation of an ISO with a TIF instruction of Day is similar to the Post ISO order on the NSX under NSX Rule 11.11(c)(8)(ii), but for the NSX stating that is will reject a Post ISO if it is immediately marketable against a displayed order on the NSX Book, while the Exchange retains such orders where they include Price Adjust, Hide Not Slide, or the Single Re-Price instruction.

*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. Unless otherwise stated,[89] the Exchange does not propose to substantively modify the operation of any of the current defined order types or terms or the operation of the System; rather, it intends to enhance the clarity of the descriptions of what is currently provided in or implied by the rules regarding its current System functionality. The proposed rule change is not designed to address and competitive issues, but rather provide additional specificity and transparency to Members, Users, and the investing public regarding the Exchange's order types and system functionality, and to organize its rules in a more intuitive and less complex manner. Since the Exchange does not propose to substantively modify the operation of order types or system functionality, the proposed changes will not impose any burden on competition.

[89] *See supra* note 4.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

*III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action*

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–EDGA–2014–20 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGA–2014–20. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's

Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2014–20 and should be submitted on or before September 8, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[90]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–19415 Filed 8–15–14; 8:45 am]

**BILLING CODE 8011–01–P**

[90] 17 CFR 200.30–3(a)(12).

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Part III

## Department of Education

## Department of Health and Human Services

Applications for New Awards; Preschool Development Grants—Development Grants; Notice

## DEPARTMENT OF EDUCATION

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Applications for New Awards; Preschool Development Grants—Development Grants

**AGENCY:** Department of Education and Department of Health and Human Services.

**ACTION:** Notice.

*Overview Information:*

Preschool Development Grants—Development Grants

Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.419A.

**DATES:** *Applications Available:* August 18, 2014.

*Deadline for Notice of Intent to Apply:* September 11, 2014.

**Note:** Submission of a notice of intent to apply is optional.

*Deadline for Transmittal of Applications:* October 14, 2014.

**Full Text of Announcement**

**I. Funding Opportunity Description**

*Purpose of Program:* The purpose of the Preschool Development Grants program, which is jointly administered by the Departments of Education and Health and Human Services (Departments), is to support State and local efforts to build, develop, and expand High-Quality Preschool Programs [1] so that more children from low- and moderate-income families enter kindergarten ready to succeed in school and in life. All States, the District of Columbia, and Puerto Rico are eligible to apply for either a Preschool Development Grants—Development Grant or a Preschool Development Grants—Expansion Grant.

Preschool Development Grants—Development Grants will support States with either small or no State Preschool Programs. These grants will be awarded to States to develop or enhance preschool program infrastructure and capacity to deliver High-Quality Preschool Programs. These States will be expected to implement and sustain High-Quality Preschool Programs to reach and serve additional Eligible Children in one or more High-Need Communities. The States eligible to apply for a Preschool Development Grants—Development Grant are Alabama, Alaska, Arizona, Hawaii, Idaho, Indiana, Mississippi, Missouri, Montana, Nevada, New Hampshire, North Dakota, Puerto Rico, South Dakota, Utah, and Wyoming.

Preschool Development Grants—Expansion Grants will support States that have robust State Preschool Programs or that have been awarded a Race to the Top—Early Learning Challenge grant. These grants will be awarded to States to implement and sustain High-Quality Preschool Programs that reach and serve additional Eligible Children in two or more High-Need Communities. States will also be able to use a portion of their funds to make preschool program infrastructure and quality improvements needed to deliver High-Quality Preschool Programs. The States eligible to apply for a Preschool Development Grants—Expansion Grant are Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

*Background and Program Overview:*

*Preschool Development Grants—Development Grants*

Strong and consistent evidence demonstrates that participation in high-quality early learning programs can lead to both short- and long-term positive outcomes for all children, but especially children from low-income families.[2] Research has shown the multiple benefits of attending preschool programs that are of high-quality, including increased school readiness, lower rates of grade retention and special education placements, improved high school graduation rates, reduced interaction with law enforcement, and higher rates of college attendance and completion.[3]

We also know that children from low-income families, on average, start kindergarten 12 to 14 months behind their peers in pre-reading and language skills.[4] Results from the ''Early Childhood Longitudinal Study, Kindergarten Class of 2010–11,'' indicate that children's performance in reading and math were lowest for kindergartners in households with incomes below the Federal Poverty Line and highest for those in households with incomes at or above 200 percent of the Federal Poverty Line.[5] Increasing access to High-Quality Preschool Programs, particularly for at-risk children from low-income families, can help close, or even prevent, these achievement gaps prior to kindergarten entry.

The Consolidated Appropriations Act, 2014 (Pub. L. 113–76) provided $250 million for competitive grants to States for improving early childhood care and education, and help States develop, enhance, and expand preschool programs that are of high-quality. Of this amount, the Departments expect to dedicate approximately $80 million to Preschool Development Grants—Development Grants and $160 million to Preschool Development Grants—Expansion Grants. As explained more fully elsewhere in the notice, we are waiving notice-and-comment rulemaking for these competitions to ensure timely awards. However, the Departments welcomed comments from the public on the priorities, requirements, definitions, and selection criteria for this funding opportunity through a dedicated Web site and a public hearing. In all, the Departments received over 600 individual comments to consider as we drafted this notice to be consistent with the language in the Consolidated Appropriations Act, 2014, and accompanying report.[6]

In this notice, we announce the priorities, requirements, definitions, and selection criteria that the Departments will use in the FY 2014 Preschool Development Grants—Development Grants competition. We announce the priorities, requirements, definitions, and

[1] Defined terms are used throughout the notice and are indicated by capitalization.

[2] Yoshikawa, H., Weiland, C., Brooks-Gunn, J., Burchinal, M., Espinosa, L., Gormley, W., Ludwig, J.O., Magnuson, K.A., Phillips, D.A., & Zaslow, M.J. (2013). Investing in Our Future: The Evidence Base on Preschool Education. New York: Foundation for Child Development and Ann Arbor, MI: Society for Research in Child Development. Available at: *http://fcd-us.org/sites/default/files/Evidence%20Base%20on%20Preschool%20Education%20FINAL.pdf.*

[3] Barnett, W.S. (2008). Preschool Education and Its Lasting Effects: Research and Policy Implications. Boulder and Tempe: Education and the Public Interest Center & Education Policy Research Unit. Available at: *http://nieer.org/resources/research/PreschoolLastingEffects.pdf.*

[4] Committee on Integrating the Science of Early Childhood Development (2000). From Neurons to Neighborhoods: The Science of Early Childhood Development. Jack P. Shonkoff and Deborah A. Phillips, eds. Board on Children, Youth, and Families, Commission on Behavioral and Social Sciences and Education. Washington, DC: National Academy Press.

[5] Mulligan, G.M., Hastedt, S., and McCarroll, J.C. (July, 2012). First-Time Kindergartners in 2010–11: First Findings From the Kindergarten Rounds of the Early Childhood Longitudinal Study, Kindergarten Class of 2010–11 (ECLS–K:2011) (NCES 2012–049). U.S. Department of Education. Washington, DC: National Center for Education Statistics. Available at: *http://nces.ed.gov/pubsearch/.*

[6] *http://www2.ed.gov/programs/preschoolgrants/resources.html.*

selection criteria that we will use in the FY 2014 Preschool Development Grants—Expansion Grants competition in a separate notice inviting applications published elsewhere in this issue of the **Federal Register**.

The Departments will make Preschool Development Grants—Development Grants on a competitive basis to States to (1) develop or enhance preschool program infrastructure and capacity to deliver High-Quality Preschool Programs; and (2) implement and sustain High-Quality Preschool Programs that reach and serve additional Eligible Children in one or more High-Need Communities. For Preschool Development Grants—Development Grants, States may allocate up to 35 percent of the total Federal funds over the grant period for State-level infrastructure. The remainder of the Federal funds must be subgranted to Early Learning Providers in one or more High-Need Communities.

We intend High-Quality Preschool Programs to be delivered through a mixed-delivery system of providers that includes schools, licensed child care centers, Head Start programs, and community-based organizations. Preschool programs funded by the Preschool Development Grants program must meet program quality standards, including, at a minimum, the elements outlined in the definition of a ''High-Quality Preschool Program,'' such as high staff qualifications, low child-staff ratios and small class sizes, a Full-Day program, and Comprehensive Services for children. Though encouraged, other preschool programs within the State will not be required to meet these same criteria.

A State's application must include an ambitious and achievable plan covering a project period of up to four years. Depending on the availability of funds, the Departments will make continuation awards for years two, three, and four of the project period. The State's ambitious and achievable plan must describe, among other things, how the State will expand access to High-Quality Preschool Programs to children at or below 200 percent of the Federal Poverty Line; the applicant's strategy for ensuring the creation of new State Preschool Program slots and, as appropriate, the improvement of existing State Preschool Program slots as described in Selection Criterion (D)(4)(b); the reasons for selecting each High-Need Community; a system for monitoring programs for continuous improvement; how Local Educational Agencies and other Early Learning Providers will establish and maintain strong partnerships; how High-Quality Preschool Programs supported under this grant will be aligned with programs and systems that serve children from birth through third grade; and how the State will maintain High-Quality Preschool Programs for children after the grant period.

*Priorities:* We are establishing these priorities for the FY 2014 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition. These priorities are established in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

*Absolute Priority:* This priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

*Absolute Priority 1: Building Capacity to Deliver, and Increasing Access to, High-Quality Preschool Programs.* To meet this priority, the State must demonstrate in its application how it will build capacity to deliver, and increase access to, High-Quality Preschool Programs for Eligible Children by having an ambitious and achievable plan to—

(1) Begin serving Eligible Children no later than year two of the grant period;

(2) Subgrant at least 65 percent of its Federal grant funds received over the grant period to one or more Subgrantees to implement and sustain voluntary, High-Quality Preschool Programs for Eligible Children in one or more High-Need Communities in the State; and

(3) Use no more than 35 percent of its Federal grant funds received over the grant period to develop or enhance State Preschool Program infrastructure and make quality improvements at the State level, such as those described in selection criterion (C)(1), and build the capacity to deliver High-Quality Preschool Programs.

*Competitive Preference Priorities:* These priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 10 points to an application that meets Competitive Preference Priority 1 and up to an additional 10 points for an application that meets Competitive Preference Priority 2, depending on how well the application meets these competitive preference priorities. We also award an additional 10 points for an application that meets Competitive Preference Priority 3. An application can receive a maximum of 30 competitive preference priority points.

These priorities are:

*Competitive Preference Priority 1: Contributing Matching Funds (up to 10 points).*

*Background:* An applicant is not required to contribute non-Federal matching funds to support its ambitious and achievable plan. However, we will give competitive preference to applicants who address this priority and will award more points to applicants that commit to a larger matching contribution. Successful applicants that do not obtain or expend the matching funds they committed to in their applications may be subject to enforcement proceedings, including withholding of funds or denial of a continuation award.

*Priority:* To receive a competitive preference under this priority, the State must describe and submit appropriate evidence of a credible plan for obtaining and using non-Federal matching funds to support the implementation of its ambitious and achievable plan during the grant period. Matching funds may be comprised of State, local, and philanthropic funds and may also include increased State funding appropriated beginning in the State fiscal year prior to the first year of the grant period. Points will be awarded based on the following scale if the plan is determined to be credible:

| Percentage non-Federal match of the State's four-year total award | Competitive preference points |
|---|---|
| 50% or more | 10 |
| 40–49% | 8 |
| 30–39% | 6 |
| 20–29% | 4 |
| 10–19% | 2 |
| 0–9% | 0 |

*Competitive Preference Priority 2: Supporting a Continuum of Early Learning and Development (up to 10 points).*

*Background:* The integration of High-Quality Preschool Programs within a broader continuum of comprehensive high-quality supports and services helps to create smooth transitions for children and families to ensure continuous and consistent high-quality early learning opportunities critical to children's success. Transition services play a vital role, particularly in the transitions from infant and toddler services to preschool services, and services under part C of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 et seq.) to services under section 619 of part B of IDEA. States can support children and families through cross-sector partnerships and by leveraging resources from existing State and local agencies that provide early childhood

services, including part C and section 619 of part B of IDEA, Early Head Start and Head Start, home visiting, child care, preschool programs, family supports (e.g., those that strengthen and stabilize families) and engagement resources, adult education, and housing, health, and mental health services.

*Priority:* To receive a competitive preference under this priority, the State must describe an ambitious and achievable plan that addresses the creation of a more seamless progression of supports and interventions from birth through third grade, such as high-quality infant and toddler care, home visitation, Full-Day kindergarten, and before- and after-care services for, at a minimum, a defined cohort of Eligible Children and their families within each High-Need Community served by each Subgrantee.

*Competitive Preference Priority 3: Creating New High-Quality State Preschool Program Slots (0 or 10 points).*

*Background:* Many States have taken note of the short- and long-term benefits of early education and have launched efforts to expand the availability of State Preschool Programs. As of 2013, 40 States and the District of Columbia have at least one State Preschool Program in place.[7] Nevertheless, only about 28 percent of America's four-year-olds were enrolled in a State Preschool Program in the 2012–2013 school year.[8] The high costs of private preschool programs and the lack of State Preschool Programs narrow options for families, and especially so for low-income families. In 2011, four-year-olds under 200 percent of poverty were 16 percentage-points less likely than their higher-income peers (above 200 percent) to attend any preschool program, whether public or private.[9]

*Priority:* To receive a competitive preference under this priority, the State must demonstrate how it will use at least 50 percent of its Federal grant award to create new State Preschool Program slots that will increase the overall number of new slots in State Preschool Programs that meet the definition of High-Quality Preschool Programs.

*Application Requirements:* The following requirements apply to all applications submitted under this competition:

(a) The State's application must be signed by the Governor or an authorized representative and an authorized representative from the Lead Agency.

(b) The application must include a letter of support from an operational State Advisory Council on Early Childhood Education and Care that meets the requirements described in section 642B(b) of the Head Start Act (42 U.S.C. 9837(b)) and in paragraph (l) of the Program Requirements. If the State does not have an operational State Advisory Council, the application must include a letter of support from a similar State council on early childhood education and care established by the State's legislature or assigned the duties of the State Advisory Council on Early Childhood Education and Care by the State's Governor that meets the requirements described in section 642B(b) of the Head Start Act (42 U.S.C. 9837(b)) and in paragraph (l) of the Program Requirements. The letter must describe the council's level of support and, if applicable, participation in the grant.

(c) The State must include a budget narrative that details how it will use Federal grant funds awarded under this competition, and, if applicable, funds from other Federal, State, private, and local sources, to achieve—

(1) The goals outlined in its ambitious and achievable plan; and

(2) Its ambitious and achievable targets for increasing the number and percentage of Eligible Children who are enrolled in High-Quality Preschool Programs through, as applicable, newly created and improved State Preschool Program slots as described in selection criterion (D)(4)(b).

(d) The State must complete the Excel spreadsheets that are provided on the Preschool Development Grants Web site at *www.ed.gov/programs/preschooldevelopmentgrants* and upload to the Other Attachments Form in Grants.gov as explained in Part 5 of the application.

(e) The State must provide, for each selection criterion or priority in this notice that solicits an ambitious and achievable plan, a description of the following elements, at a minimum—

(1) The key goals of the plan;

(2) The key activities to be undertaken; the rationale for the activities; and, if applicable, where in the State the activities will be initially implemented, and where and how they will be scaled up over time;

(3) A realistic timeline, including key milestones, for implementing each key activity;

(4) The party or parties responsible for implementing each activity and other key personnel assigned to each activity;

(5) Appropriate financial resources to support successful implementation and sustainment of the plan;

(6) The information requested as supporting evidence, if any, together with any additional information the State believes will be helpful to peer reviewers in judging the credibility of the plan;

(7) The information requested in the performance measures, where applicable; and

(8) How the State will address the needs of Eligible Children, including those who may be in need of additional supports, such as children who have disabilities or developmental delays; who are English learners; who reside on ''Indian lands'' as that term is defined by section 8013(7) of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 6301 et seq.) (ESEA); who are migrant; who are ''homeless,'' as defined in subtitle VII–B of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(2)) (McKinney-Vento Act); whose families are involved in the child welfare system; who reside in rural areas; who are from military families; and other children as identified by the State, if applicable.

*Program Requirements:* States and each Subgrantee that receive funds under this grant program must meet the following requirements for, at a minimum, the duration of the grant period:

(a) The State must continue to participate in—

(1) The programs authorized by part C and section 619 of part B of IDEA;

(2) The Child Care and Development Fund (CCDF) program (pursuant to the Child Care and Development Block Grant Act (42 U.S.C. 9858 et seq.));

(3) The program authorized under section 418 of the Social Security Act (42 U.S.C. 618);

(4) The Maternal, Infant, and Early Childhood Home Visiting program (section 511 of title V of the Social Security Act, as amended by section 2951 of the Affordable Care Act of 2010 (Pub. L. 111–148)); and

(5) Subtitle VII–B of the McKinney-Vento Act.

(b) The State and each Subgrantee must use funds made available under this grant to supplement, not supplant, any Federal, State, or local funds (e.g., IDEA, title I, Head Start, CCDF, and any matching funds included as part of

[7] Based on current data from: Barnett, W.S., Carolan, M.E, Squires, J.H., and Clarke-Brown, K. (May 2014). State of Preschool 2013: First Look (NCES 2014–078). U.S. Department of Education. Washington, DC: National Center for Education Statistics. Available at: *http://nces.ed.gov/pubsearch.*

[8] Ibid.

[9] U.S. Department of Health and Human Services ASPE tabulations from the Current Population Survey, available at: *http://aspe.hhs.gov/hsp/14/EarlyCareEducation/rb_ece.cfm#_Toc373832432.*

Competitive Preference Priority 2) that, in the absence of the funds awarded under this grant, would be available for improving the quality of State Preschool Programs and increasing access to High-Quality Preschool Programs.

(c) The State must participate in grantee technical assistance activities facilitated by ED or HHS, individually or in collaboration with other State grantees, to share effective program practices and solutions and collaboratively solve problems, and must set aside a minimum of $25,000 annually from its grant funds for this purpose.

(d) The State and each Subgrantee must participate in any evaluation of the State's High-Quality Preschool Program, including any cross-State evaluation, if funded by ED or HHS.

(e) The State and each Subgrantee must comply with the requirements of all applicable Federal, State, and local privacy laws, including the requirements of the Family Educational Rights and Privacy Act (20 U.S.C. 1232g), the Health Insurance Portability Accountability Act (Pub. L. 104–191), and IDEA.

(f) The State and each Subgrantee must ensure that the grant project is implemented in accordance with all applicable Federal, State, and local laws and regulations, including the provisions of Section 504 of the Rehabilitation Act of 1973 and Title II and Title III of the Americans with Disabilities Act of 1990 that prohibit discrimination on the basis of disability and require that individuals with disabilities be served in the most integrated setting appropriate to their needs.

(g) The State and each Subgrantee must provide researchers with access, consistent with the requirements of all applicable Federal, State, and local privacy laws, to available data regarding the enrollment and school readiness of Eligible Children in State Preschool Programs.

(h) Unless otherwise protected as proprietary information by Federal or State laws or a specific written agreement, the State and each Subgrantee must make any work (e.g., materials, tools, processes, systems) developed under its grant freely available to the public. Any Web sites developed under this grant must meet government or industry-recognized standards for accessibility.

(i) The State must have a Statewide Longitudinal Data System that links early childhood data with the State's kindergarten through grade 12 (K–12) data system by the end of the grant period.

(j) The State must ensure that the State Advisory Council on Early Childhood Education and Care includes, in addition to the members of the State Advisory Council described in section 642B(b) of the Head Start Act (42 U.S.C. 9837(b)), the State's CCDF administrator, State agency coordinators from both part C and section 619 of part B of IDEA, the State Title I Director, the State Coordinator of Education for Homeless Children and Youth, State agency representatives responsible for health and mental health, and parent representatives.

(k) The State must establish policies and procedures that ensure—

(1) Collaboration between each Subgrantee and programs authorized by section 619 of part B of IDEA so that Eligible Children with disabilities in the High-Need Community are being appropriately identified and served in the least restrictive environment; and

(2) Ensure that the percentage of Eligible Children with disabilities served by the High-Quality Preschool Programs is not less than either the percentage of four-year-old children served statewide through part B, section 619 of IDEA (20 U.S.C. 1400 et seq.), or the current national average,[10] whichever is greater.

(l) The State and each Subgrantee are prohibited from spending grant funds, including any matching funds, if applicable, on construction, renovation, modernization, or related activities.

(m) For activities involved in improving existing State Preschool Program slots to meet the definition of High-Quality Preschool Programs, the State and each Subgrantee may only spend grant funds, including any matching funds, if applicable, on activities listed in selection criterion (D)(4)(b)(ii).

(n) Within 180 days of receipt of an award, the State must submit to the Departments a signed MOU (a model MOU is provided in Appendix B of this notice) or other binding agreement between the State's Lead Agency and each Subgrantee that, at a minimum—

(1) Includes a scope of work describing the portions of the State's plan that the Subgrantee will implement;

(2) Incorporates the State's ambitious and achievable plan, in particular the sections that the Subgrantee is responsible for implementing;

(3) Is signed by an authorized representative of the State's Lead Agency and the Subgrantee;

(4) Describes the roles and responsibilities of the State's Lead Agency and Subgrantee in implementing the project plan;

(5) Describes the method and process for making different types of decisions (e.g., policy, operational);

(6) Describes how the State and Subgrantee will exchange data; and

(7) Describes how the MOU can be amended.

(o) The State must submit scopes of work for the State within 90 days of the grant award notification date and for each Subgrantee within 180 days of the grant award notification date. These scopes of work must contain detailed work plans and budgets that are consistent with the State's grant application, and must include the State's and each Subgrantee's specific goals, activities, timelines, budgets, key personnel, and annual targets for key performance measures for the portions of the State's proposed plans that the Subgrantee is agreeing to implement.

*Definitions:* We are establishing the following definitions in this notice for the FY 2014 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1231(d)(1).

These definitions are:

*Comprehensive Early Learning Assessment System* means a coordinated and comprehensive system of multiple assessments, each of which is valid and reliable for its specified purpose and for the population with which it will be used, that organizes information about the process and context of young children's learning and development in order to help teachers make informed instructional and programmatic decisions and that conforms with the recommendations of the National Research Council report on early childhood assessments[11] by including, at a minimum:

(a) Screening Measures;

(b) Formative Assessments;

(c) Measures of Environmental Quality;

(d) Measures of the Quality of Adult-Child Interactions; and

(e) A Kindergarten Entry Assessment.

*Comprehensive Services* means services that include:

[10] Note: The current national percentage of four year-old-children receiving services through part B, section 619 of IDEA is 6.4%. Source: 2012 IDEA Part B Child Count (*www.ideadata.org*).

[11] One example of these reports is referenced here. National Research Council (2008). Early Childhood Assessment: Why, What, and How. Committee on Developmental Outcomes and Assessments for Young Children, C.E. Snow and S.B. Van Hemel, Editors. Board on Children, Youth, and Families, Board on Testing and Assessment, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press. Available at: *www.nap.edu/catalog.php?record_id=12446*.

(a) Screenings for hearing, vision, dental, health (including mental health), and development, as well as referrals and assistance obtaining services, when appropriate;

(b) Culturally and linguistically responsive family engagement opportunities (taking into account home language), such as parent conferences (including parent input about their child's development) and support services, such as parent education, and leadership opportunities, such as a Parent Advisory Committee;

(c) Nutrition services, including nutritious meals and snack options aligned with requirements set by the most recent Child and Adult Care Food Program guidelines promulgated by the Department of Agriculture, as well as regular, age-appropriate, nutrition education for children and their families;

(d) Services coordinated with LEAs and early intervention service providers and other entities providing services under part C and section 619 of part B of IDEA;

(e) Physical activity services aligned with evidence-based guidelines, such as those recommended by the Institute of Medicine,[12] and which take into account and accommodate children with disabilities;

(f) Partnerships with and linkages to community services to enhance family well-being, such as income supports, food pantries, housing, social services, and other services relating to health/mental health, domestic violence, substance abuse, adult literacy, education and training, and financial asset building;

(g) On-site coordination of services, to the maximum extent feasible; and

(h) Additional support services, determined by the State, as appropriate.

*Early Learning and Development Standards* means a set of expectations, guidelines, or developmental milestones that—

(a) Describes what all children from birth to kindergarten entry should know and be able to do and their disposition toward learning;

(b) Is appropriate for each age group (e.g., infants, toddlers, and preschoolers); for English learners; and for children with disabilities or developmental delays;

(c) Covers all Essential Domains of School Readiness; and

(d) Is universally designed and developmentally, culturally, and linguistically appropriate.

*Early Learning Intermediary Organization* means a national, statewide, regional, or community-based organization that represents one or more networks of early learning and development programs in the State and that has influence or authority over them. Such Early Learning Intermediary Organizations include, but are not limited to, child care resource and referral agencies; State Head Start associations; family child care associations; State affiliates of the National Association for the Education of Young Children; State affiliates of the Council for Exceptional Children's Division of Early Childhood; statewide or regional union affiliates that represent early childhood educators; affiliates of the National Migrant and Seasonal Head Start Association; the National Tribal, American Indian, and Alaskan Native Head Start Association; the National Indian Child Care Association; and the National Indian Education Association.

*Early Learning Provider* means an entity that carries out an early childhood education program, including an LEA, charter school, educational service agency, Head Start program, licensed child care provider, municipality or other local government agency, tribe or Indian organization, institution of higher education, library, museum, or other eligible licensed provider as defined by the State, or a consortium thereof.

*Eligible Children* means four-year-old children from families whose income is at or below 200 percent of the Federal Poverty Line.

*Eligible Children with Disabilities* means Eligible Children who have been determined by the local educational agency to be eligible for special education and related services under section 619 of the IDEA (20 U.S.C. 1400 et seq.)

*Essential Data Elements* means the critical child, program, and workforce data elements of a coordinated early learning data system, including—

(a) A unique statewide child identifier or another highly accurate, proven method to link data on that child, including Kindergarten Entry Assessment data, to and from the Statewide Longitudinal Data System and the coordinated early learning data system (if applicable);

(b) A unique statewide early childhood educator identifier;

(c) A unique program site identifier;

(d) Child and family demographic information;

(e) Early childhood educator demographic information, including data on educational attainment and State credentials or licenses held, as well as professional development information;

(f) Program-level data on the program's structure, quality, child suspension and expulsion rates, staff retention, staff compensation, work environment, and all applicable data reported as part of the State's Tiered Quality Rating and Improvement System; and

(g) Child-level program participation and attendance data.

*Essential Domains of School Readiness* means the domains of language and literacy development, cognition and general knowledge (including early mathematics and early scientific development), approaches toward learning (including the utilization of the arts), physical well-being and motor development (including adaptive skills), and social and emotional development.

*Federal Poverty Line* means a measure of income level issued annually by the Department of Health and Human Services and used to determine eligibility for certain programs and benefits.[13]

*Formative Assessment* (also known as a classroom-based or ongoing assessment) means assessment questions, tools, and processes—

(a) That are—

(1) Specifically designed to monitor children's progress in meeting the Early Learning and Development Standards;

(2) Valid and reliable for their intended purposes and their target populations; and

(3) Linked directly to the curriculum; and

(b) The results of which are used to guide and improve instructional practices.

*Full-Day* means a day that is—

(a) Equivalent to a full school day at the public elementary schools in the State; and

(b) Not fewer than five hours a day.

*High-Need Community* means a geographically defined area, such as a city, town, county, neighborhood, district, rural or tribal area, or consortium thereof, with a high level of need as determined by the State.

*High-Quality Preschool Program* means an early learning program that includes structural elements that are evidence-based and nationally recognized as important for ensuring program quality, including at a minimum—

[12] *www.iom.edu/Reports/2011/Early-Childhood-Obesity-Prevention-Policies/Recommendations.aspx.*

[13] The 2014 Federal Poverty Line, also known as poverty guidelines or ''Federal poverty level'' (FPL), can be found at *http://aspe.hhs.gov/poverty/14poverty.cfm.*

(a) High staff qualifications, including a teacher with a bachelor's degree in early childhood education or a bachelor's degree in any field with a State-approved alternate pathway, which may include coursework, clinical practice, and evidence of knowledge of content and pedagogy relating to early childhood, and teaching assistants with appropriate credentials;

(b) High-quality professional development for all staff;

(c) A child-to-instructional staff ratio of no more than 10 to 1;

(d) A class size of no more than 20 with, at a minimum, one teacher with high staff qualifications as outlined in paragraph (a) of this definition;

(e) A Full-Day program;

(f) Inclusion of children with disabilities to ensure access to and full participation in all opportunities;

(g) Developmentally appropriate, culturally and linguistically responsive instruction and evidence-based curricula, and learning environments that are aligned with the State Early Learning and Development Standards, for at least the year prior to kindergarten entry;

(h) Individualized accommodations and supports so that all children can access and participate fully in learning activities;

(i) Instructional staff salaries that are comparable to the salaries of local K–12 instructional staff;

(j) Program evaluation to ensure continuous improvement;

(k) On-site or accessible Comprehensive Services for children and community partnerships that promote families' access to services that support their children's learning and development; and

(l) Evidence-based health and safety standards.

*Kindergarten Entry Assessment* means an assessment that—

(a) Is administered to children during the first few months of their admission into kindergarten;

(b) Covers all Essential Domains of School Readiness;

(c) Is used in conformance with the recommendations of the National Research Council reports on early childhood; [14] and

(d) Is valid and reliable for its intended purposes and for the target populations and aligned to the Early Learning and Development Standards.

Results of the assessment should be used to inform efforts to close the school-readiness gap at kindergarten entry, to inform instruction in the early elementary school grades, and to inform parents about their children's status and involve them in decisions about their children's education. This assessment must not be used to prevent children's entry into kindergarten or as a single measure for high-stakes decisions.

*Lead Agency* means a State-level agency that administers public funds related to early learning and development and is participating in the State's ambitious and achievable plan; this agency is designated by the Governor for the administration of the Preschool Development Grants funds and is the fiscal agent for the grant.

*Local Educational Agency (LEA)* has the meaning given the term in section 9101 of the ESEA.

*Measures of Environmental Quality* means valid and reliable indicators of the overall quality of the early learning environment.

*Measures of the Quality of Adult-Child Interactions* means the measures obtained through valid and reliable processes for observing how teachers and caregivers interact with children, where such processes are designed to promote child learning and to identify strengths of and areas for improvement for early learning professionals.

*Program Standards* means the standards that serve as the basis for a TQRIS and define differentiated levels of quality for Early Learning and Development Programs. Program Standards must measure, at a minimum, the extent to which—

(a) Early Learning and Development Standards are implemented through evidence-based activities, interventions, or curricula that are appropriate for each age group of infants, toddlers, and preschoolers;

(b) Comprehensive Early Learning Assessment Systems are used routinely and appropriately to improve instruction and enhance program quality by providing robust and coherent evidence of—

(1) Children's learning and development outcomes; and

(2) Program performance;

(c) A qualified workforce improves young children's health, social, emotional, and educational outcomes;

(d) Culturally and linguistically responsive strategies are successfully used to engage families, help them build protective factors, and strengthen their capacity to support their children's development and learning. These strategies may include, but are not limited to, parent access to the program, ongoing two-way communication with families, parent education in child development, outreach to fathers and other family members, training and support for families as children move to preschool and kindergarten, social networks of support, intergenerational activities, linkages with community supports, adult and family literacy programs, parent involvement in decision making, and parent leadership development;

(e) Health promotion practices include health and safety requirements; developmental, behavioral, and sensory screening, referral, and follow up; the promotion of physical activity, healthy eating habits, oral health, and behavioral health; and health literacy of parents; and

(f) Data practices are effective and include gathering Essential Data Elements and entering them into the State's Statewide Longitudinal Data System or other early learning data system, using these data to guide instruction and program improvement, and making this information readily available to families.

*Screening Measures* means age and developmentally appropriate, valid, and reliable instruments that are used to identify children who may need follow-up services to address developmental, learning, or health needs in, at a minimum, the areas of physical health, behavioral health, oral health, child development, vision, and hearing.

*State* means any of the 50 States, the District of Columbia, and Puerto Rico.

*State Preschool Program* means a preschool program predominately supported with State funds that provides services to four-year-old children, including a State Head Start program.

*Statewide Longitudinal Data System* means the State's longitudinal education data system that collects and maintains detailed, high-quality, student- and staff-level data that are linked across entities and that over time provide a complete academic and performance history for each student. The Statewide Longitudinal Data System is typically housed within the State educational agency but includes or can be connected to early childhood, postsecondary, and labor data.

*Subgrantee* means an Early Learning Provider serving at least one High-Need Community that is receiving a subgrant from the State, and is participating in the State's ambitious and achievable plan.

*Tiered Quality Rating and Improvement System (TQRIS)* means the

[14] One example of these reports is referenced here. National Research Council (2008). Early Childhood Assessment: Why, What, and How. Committee on Developmental Outcomes and Assessments for Young Children, C.E. Snow and S.B. Van Hemel, Editors. Board on Children, Youth, and Families, Board on Testing and Assessment, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press. Available at: *www.nap.edu/catalog.php?record_id=12446.*

system through which the State uses a set of progressively higher Program Standards to evaluate the quality of an early learning and development program and to support program improvement. A Tiered Quality Rating and Improvement System consists of four components:

(a) Tiered Program Standards with multiple rating categories that clearly and meaningfully differentiate program quality levels.

(b) Monitoring to evaluate program quality based on the Program Standards.

(c) Supports to help programs meet progressively higher standards (e.g., through training, technical assistance, financial support).

(d) Program quality ratings that are publicly available and include a process for validating the system.

*Waiver of Proposed Rulemaking:* Under the Administrative Procedure Act (5 U.S.C. 553) we generally offer interested parties the opportunity to comment on proposed priorities, requirements, definitions, and selection criteria. Section 437(d)(1) of GEPA, however, allows the Secretary of Education to exempt from rulemaking requirements governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under the revised program authority in sections 14005 and 14006 of the ARRA, as amended by the Department of Education Appropriations Act, 2014 (title III of division H of Pub. L. 113–76, the Consolidated Appropriations Act, 2014), and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretaries have decided to forgo public comment under the waiver authority in section 437(d)(1) of GEPA. These priorities, selection criteria, requirements, and definitions will apply to the FY 2014 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition.

**Program Authority:** Sections 14005 and 14006 of the ARRA, as amended by section 1832(b) of division B of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112–10), the Department of Education Appropriations Act, 2012 (title III of division F of Pub. L. 112–74, the Consolidated Appropriations Act, 2012), and the Department of Education Appropriations Act, 2014 (title III of division H of Pub. L. 113–76, the Consolidated Appropriations Act, 2014).

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485.

## II. Award Information

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* $80 million.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2015 or subsequent fiscal years from the list of unfunded applicants from this competition.

The Departments may use any unused FY 2014 funds from the Preschool Development Grants—Expansion Grants competition in the FY 2014 Preschool Development Grants—Development Grants competition. Conversely, the Departments may use any unused FY 2014 funds from the Preschool Development Grants—Development Grants competition in the FY 2014 Preschool Development Grants—Expansion Grants competition.

*Estimated Range of Awards:* $5 million to $20 million.

*Budget Requirements:* To support States in planning their budgets, the Departments have developed the following annual budget caps for each State eligible for a Preschool Development Grants—Development Grant. We will not consider for funding an application from a State that proposes a budget in any year that exceeds the applicable cap set for that State. The Departments developed the following categories by ranking every State eligible for a Preschool Development Grants—Development Grant according to its relative share of Eligible Children who could be served by Preschool Development Grants—Development Grants and then identifying the natural breaks in the rank order. Then, based on population of Eligible Children,[15] budget caps were developed for each category.

Category 1—up to $20M—Arizona, Indiana;

Category 2—up to $17.5M—Alabama, Missouri, Puerto Rico;

Category 3—up to $15M—Idaho, Mississippi, Nevada, Utah;

Category 4—up to $10M—Alaska, Hawaii, Montana, New Hampshire, South Dakota;

Category 5—up to $5M—North Dakota, Wyoming.

*Estimated Number of Awards:* 5 to 8 awards.

**Note:** The Departments are not bound by any estimates in this notice.

*Project Period:* Up to 48 months.

## III. Eligibility Information

1. *Eligible Applicants:* To be eligible to compete for funding under this program a State must—

(a) Serve less than 10 percent of four-year-old children in a State Preschool Program or not have a State Preschool Program;[16] and

(b) Not have received an award under a Race to the Top—Early Learning Challenge competition.

Therefore, only the States of Alabama, Alaska, Arizona, Hawaii, Idaho, Indiana, Mississippi, Missouri, Montana, Nevada, New Hampshire, North Dakota, Puerto Rico, South Dakota, Utah, and Wyoming are eligible to apply for Preschool Development Grants—Development Grants.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching. However, applicants that describe and submit appropriate evidence of a credible plan for obtaining and using non-Federal matching funds to support the implementation of its ambitious and achievable plan during the grant period may be awarded additional points on a sliding scale as described in Competitive Preference Priority 1.

3. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements, as described in Program Requirement (b).

## IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Departments. To obtain a copy via the Internet, use the following address: *www.ed.gov/programs/preschooldevelopmentgrants.* To obtain a copy from the Departments, write, fax, call, or email: Rebecca Marek, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E344, Washington, DC 20202–6200. Telephone: (202) 260–0968. FAX: (202) 260–8969. Email: *PreschoolDevelopmentGrants.Competition@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package

[15] *http://www2.ed.gov/programs/preschooldevelopmentgrants/4-year-old-poverty-status-2012.pdf.*

[16] Based on current data from: Barnett, W.S., Carolan, M.E, Squires, J.H., and Clarke-Brown, K. (May 2014). State of Preschool 2013: First Look (NCES 2014–078). U.S. Department of Education. Washington, DC: National Center for Education Statistics. Available at: *http://nces.ed.gov/pubsearch.*

in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the program contact person listed under *Accessible Format* in section VIII of this notice.

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

Page Limit: The application narrative is where the applicant addresses the selection criteria that reviewers will use to evaluate applications. We recommend that the applicant limit its narrative responses to no more than 75 pages and limit its appendices to no more than 125 pages. We strongly request that applicants follow the recommended page limits. The following standards are recommended:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Each page is numbered.
- Line spacing is set to 1.5 spacing, and the font used is 12-point Times New Roman.

3. *Submission Dates and Times:*

*Applications Available:* August 18, 2014.

*Deadline for Notice of Intent to Apply:* September 11, 2014.

We will be able to develop a more efficient process for reviewing grant applications if we know the approximate number of applicants that intend to apply for funding under this competition. Therefore, the Departments strongly encourage each potential applicant to notify us of the applicant's intent to submit an application for funding by emailing Rebecca Marek at *PreschoolDevelopmentGrants.Competition@ed.gov* by September 11, 2014. This short email message should provide (1) the name of the State applying and (2) the contact person (name, phone number, and email). Applicants that do not submit an ''Intent to Apply'' email may still apply for funding.

To assist States in preparing the application and to respond to questions, ED and HHS intend to broadcast a Technical Assistance Planning Webinar live at *http://edstream.ed.gov* to review the priorities, requirements, and selection criteria for this competition. The purpose of the Webinar will be to allow individuals responsible for developing applications to review with Federal program staff the priorities, requirements, and selection criteria for this competition and to ask questions about the Preschool Development Grants—Development Grants competition. We strongly encourage all interested State applicants to participate in the Webinar. For those who cannot attend the live Webinar, a link to the Webinar will be available on the Preschool Development Grants Web site at *www.ed.gov/programs/preschooldevelopmentgrants.* The Departments may host additional conference calls, workshops, or Webinars to answer applicant questions and will be posting Frequently Asked Questions and responses on the Preschool Development Grant Web site. The Departments will make available all registration information and additional details for the Technical Assistance Planning Webinar and any other technical assistance events on the Preschool Development Grants Web site at *www.ed.gov/programs/preschooldevelopmentgrants.*

*Deadline for Transmittal of Applications:* October 14, 2014.

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

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

We will provide Congress with the names of the States that have submitted applications, and we will post the names of these States on ED's Web site. We will also post all applications submitted. Therefore, please ensure that your application does not include personally identifiable information, proprietary information, or other non-public information.

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

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make awards by December 31, 2014.

5. *Funding Restrictions:* We specify unallowable costs in paragraphs (l) and (m) of the Program Requirements in this notice.

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

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

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

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

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

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

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

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

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under this program administered by the Departments, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

**Note:** Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

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

Information about SAM is available at *www.SAM.gov.* To further assist you

with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.* In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/applicants/get_registered.jsp.*

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

*a. Electronic Submission of Applications.*

Applications for grants under the Preschool Development Grants—Development Grants CFDA number 84.419A, must be submitted electronically using the Government wide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.* You may access the electronic grant application for Preschool Development Grants—Development Grants at *www.Grants.gov.* You must search for the downloadable application package for this program [competition] by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.419, not 84.419A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *http://www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

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

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

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

**Note:** The extensions to which we refer in this section apply only to the unavailability

of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

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

• You do not have access to the Internet; or

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

*and*

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

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

Address and mail or fax your statement to: Rebecca Marek, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E344, LBJ Building, Washington, DC 20202–6200. FAX: (202) 260–8969.

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

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.419A, LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

If we receive an application after the application deadline, we will not consider that application.

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

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

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

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

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

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

(1) A private metered postmark.

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

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

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

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

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.419A, 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

In accordance with EDGAR § 75.216(b) and (c), an application will not be evaluated for funding if the applicant does not comply with all of the procedural rules that govern the submission of the application or the application does not contain the information required under the program.

*Note for Mail or Hand Delivery of Applications:* When you mail or hand deliver your application to the Departments—

(1) You must indicate on the envelope the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

## V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are set forth in sections (A)–(G). We also identify for each selection criterion any evidence that applicants must submit that is not already identified in the selection criterion. We will use the following selection criteria to evaluate applications submitted under the Preschool Development Grants—Development Grant competition. The maximum score for all the selection criteria and competitive preference priorities is 230 points. The maximum score for each selection criterion is indicated in parentheses. The reviewers will utilize the scoring rubric located in Appendix A of this notice when evaluating applications under the selection criteria:

A. Executive Summary (10 points)

The extent to which the State includes an ambitious and achievable plan for expanding access to High-Quality Preschool Programs that clearly articulates how the plans proposed under each criterion in this section, when taken together, will—

(1) Build on the State's progress to date as demonstrated in selection criterion (B);

(2) Provide voluntary, High-Quality Preschool Programs for Eligible Children through subgrants to each Subgrantee in one or more High-Need Communities;

(3) Increase the number and percentage of Eligible Children served in High-Quality Preschool Programs during each year of the grant period through the creation of new, and the improvement of existing State Preschool Program slots, as applicable;

(4) Have all the characteristics specified in the definition of High-Quality Preschool Programs;

(5) Set expectations for the school readiness of children upon kindergarten entry;

(6) Be supported by a broad group of stakeholders, including Early Learning Intermediary Organizations and, if applicable, State and local early learning councils; and

(7) Allocate funds between—

(a) Activities to build or enhance State Preschool Program infrastructure using no more than 35 percent of its Federal grant funds received over the grant period on State-level infrastructure including, but not limited to, monitoring and evaluation and other quality-enhancing activities that improve the delivery of High-Quality

Preschool Programs to Eligible Children; and

(b) Subgrants to Early Learning Providers to implement voluntary, High-Quality Preschool Programs for Eligible Children in one or more High-Need Communities, including how it will—

(i) Provide High-Quality Preschool Programs to Eligible Children no later than the end of year two of the grant period;

(ii) Subgrant at least 65 percent of its Federal grant funds to its Subgrantee or Subgrantees over the grant period; and

(iii) Support each Subgrantee in culturally and linguistically appropriate outreach and communication efforts in order to ensure that all families, including those who are isolated or otherwise hard to reach, are informed of the opportunity and encouraged to enroll their children in available programs.

*Evidence for selection criterion (A):*

- (A)(3) and (A)(7) Information contained in Table A for the number of Eligible Children to be served each year of the grant and the number and percentage of State Preschool Program slots (See Table A in the Excel Spreadsheets).
- (A)(4) Documentation of the structural elements in the definition of High-Quality Preschool Program.
- (A)(5) Set of expectations for school readiness.
- (A)(6) Letters of support from stakeholders, including Early Learning Intermediary Organizations and, if applicable, State and local early learning councils.
- Any other supporting evidence the State believes will be helpful to peer reviewers.

B. Commitment to High-Quality Preschool Programs (20 points)

The extent to which the State demonstrates its commitment to develop or enhance the State Preschool Program infrastructure and its capacity to both deliver and increase access to High-Quality Preschool Programs for Eligible Children and their families, as evidenced by—

(1) State Early Learning and Development Standards (2 points);

(2) The State's financial investment, if any, and the estimated number and percentage of children, including, if known, the estimated number and percentage of Eligible Children, served in State Preschool Programs over the last four years (6 points);

(3) Enacted and pending legislation, policies, or practices that demonstrate the State's current and future commitment to increasing access to High-Quality Preschool Programs for Eligible Children (4 points);

(4) The quality of existing early learning programs that receive State funding, including State Preschool Programs, as evidenced by policies and program data that demonstrate the State's commitment to the components of a High-Quality Preschool Program; compliance with Program Standards; and support for program monitoring and improvement, which may be accomplished through the use of a TQRIS (4 points);

(5) The State's coordination of preschool programs and services, in partnership with its Early Learning Advisory Council, with other State and Federal resources that may be used to serve preschool-aged children, including, if applicable, programs and services supported by title I of the ESEA, part C and section 619 of part B of IDEA, subtitle VII–B of the McKinney-Vento Act, the Head Start Act (42 U.S.C. 9831 et seq.), and the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) (2 points); and

(6) The State's role in promoting coordination of preschool programs and services at the State and local levels with other sectors that support the early learning and development of children, including child health, mental health, family support, nutrition, child welfare, and adult education and training sectors (2 points).

*Evidence for selection criterion (B):*

- (B)(1) Executive summary or brief description of the State's Early Learning and Development Standards, including how the definition is met.
- (B)(2) Completed Table B that describes the State's financial investment and number of children served in State Preschool Programs (See Table B in the Excel spreadsheets).
- (B)(3) Evidence of enacted and pending legislation, policies, or practices.
- Any other supporting evidence the State believes will be helpful to peer reviewers.

C. Ensuring Quality in Preschool Programs (30 points)

The extent to which the State has an ambitious and achievable plan to ensure program quality, including a description of how the State will (8 points)—

(1) Use no more than 35 percent of the funds received over the grant period for State Preschool Program infrastructure and quality improvements at the State level through activities such as—

(a) Enhancing or expanding Early Learning and Development Standards;

(b) Implementing Program Standards consistent with a High-Quality Preschool Program;

(c) Supporting programs in meeting the needs of children with disabilities and English learners, including in workforce development;

(d) Conducting a needs assessment to determine the current availability of High-Quality Preschool Programs, including private and faith-based providers and Head Start programs;

(e) Establishing or upgrading preschool teacher education and licensure requirements;

(f) Improving teacher and administrator early education training programs and professional development;

(g) Implementing a Statewide Longitudinal Data System to link preschool and elementary and secondary school data;

(h) Implementing a Comprehensive Early Learning Assessment System;

(i) Building preschool programs' capacity to engage parents in decisions about their children's education and development, help families build protective factors, and help parents support their children's learning at home;

(j) Building State- and community-level support for High-Quality Preschool Programs through systemic linkages to other early learning programs and resources to support families, such as child health, mental health, family support, nutrition, child welfare, and adult education and training sectors; and

(k) Other activities that would support the delivery of High-Quality Preschool Programs to Eligible Children.

(2) Implement a system for monitoring and supporting continuous improvement for each Subgrantee to ensure that each Subgrantee is providing High-Quality Preschool Programs (which may be accomplished through the use of leveraging a TQRIS and other existing monitoring systems), including the extent to which the State (10 points)—

(a) Has the capacity to measure preschool quality, including parent satisfaction measures, and provide performance feedback to inform and drive State and local continuous program improvement efforts;

(b) Is using a Statewide Longitudinal Data System that is able to track student progress from preschool through third grade; and

(c) Clearly specifies the measureable outcomes, including school readiness, to be achieved by the program.

(3) Measure the outcomes of participating children across the five

Essential Domains of School Readiness during the first few months of their admission into kindergarten using an assessment or assessments, such as a Kindergarten Entry Assessment, to achieve the purposes for which the assessment was developed and that conform with the recommendations of the National Research Council report on early childhood assessments (12 points).[17]

*Evidence for selection criterion (C):*

• (C)(2)(a) Evidence of a monitoring protocol used to drive continuous program improvement.

• (C)(2)(c) Evidence of State targets with measurable outcomes, including school readiness achieved by the program.

• Any other supporting evidence the State believes will be helpful to peer reviewers.

D. Expanding High-Quality Preschool Programs in Each High-Need Community (56 or 60 points)

The extent to which the State articulates an ambitious and achievable plan for expanding High-Quality Preschool Programs in one or more High-Need Communities, including a description of how—

(1) The State—

(a) Has selected each High-Need Community that will be served, including a description of each High-Need Community and its geographic diversity, such as whether the community is located in rural and tribal areas; or

(b) Will select each High-Need Community that will be served, including a description of how the State will ensure their geographic diversity, such as whether the community is located in a rural or tribal area.

**Note:** Applicants should address either (D)(1)(a) or (D)(1)(b). Applicants may receive up to eight points for addressing (D)(1)(a) or up to four points for addressing (D)(1)(b).

(2) Each High-Need Community is currently underserved, including the number and percentage of four-year-olds in State Preschool Programs and other publically funded preschool programs (8 points).

(3) The State conducted outreach, including consultation with tribes, if applicable, to potential Subgrantees and the process used in selecting each Subgrantee (4 points).

(4) The State will subgrant at least 65 percent of its Federal grant award over the grant period to its Subgrantee or Subgrantees to implement and sustain voluntary, High-Quality Preschool Programs in one or more High-Need Communities, and—

(a) Set ambitious and achievable annual targets for the number and percentage of additional Eligible Children to be served during each year of the grant period (16 points); and

(b) Incorporate in its plan (12 points):

(i) Ambitious expansion of the number of new slots in State Preschool Programs that meet the definition of High-Quality Preschool Program; and

(ii) Ambitious improvement of existing State Preschool Program slots to bring them to the level of a High-Quality Preschool Program by extending programs from half-day to Full-Day; limiting class size and decreasing child to staff ratios; employing and compensating a teacher with a bachelor's degree; providing in-service, evidence-based professional development such as coaching; or providing Comprehensive Services.

**Note:** Applicants may receive up to the full 12 points if they address only (D)(4)(b)(i) or (b)(ii) or if they address both (D)(4)(b)(i) and (b)(ii).

(5) The State, in coordination with each Subgrantee, intends to sustain High-Quality Preschool Programs after the grant period, including any non-Federal support that the State or each Subgrantee commits to contribute (12 points).

*Evidence for selection criterion (D):*

• A letter of support or preliminary binding agreement, such as a preliminary MOU, from each identified Subgrantee, if applicant addressed (D)(1)(a), attesting to the Subgrantee's participation.

• Table (D)(4) and Table A (See Tables (D)(4) and A in the Excel spreadsheets).

• Any other supporting evidence the State believes will be helpful to peer reviewers.

E. Collaborating with Each Subgrantee and Ensuring Strong Partnerships (50 points)

The extent to which the State has an ambitious and achievable plan to ensure that each Subgrantee is effectively implementing High-Quality Preschool Programs, including a description of—

(1) The roles and responsibilities of the State and Subgrantee in implementing the project plan (2 points).

(2) How the State plans to implement High-Quality Preschool Programs, including the organizational capacity and existing infrastructure of the Subgrantee to provide High-Quality Preschool Programs, either directly or indirectly through an Early Learning Provider or Providers, and coordinate the delivery of High-Quality Preschool Programs (6 points).

(3) How the State will ensure that each Subgrantee minimizes local administrative costs (2 points).

(4) How the State and Subgrantee will monitor the Early Learning Providers to ensure they are delivering High-Quality Preschool Programs (4 points).

(5) How the State and the Subgrantee will coordinate plans related to assessments, data sharing, instructional tools, family engagement, cross-sector and comprehensive services efforts, professional development, and workforce and leadership development (4 points).

(6) How the State and Subgrantee will coordinate, but not supplant, the delivery of High-Quality Preschool Programs funded under this grant with existing services for preschool-aged children including, if applicable, State Preschool Programs and programs and services supported through title I of the ESEA, part C and section 619 of part B of IDEA, subtitle VII–B of the McKinney-Vento Act, the Head Start Act, and the Child Care and Development Block Grant Act (6 points).

(7) How the Subgrantee will integrate, to the extent practicable, High-Quality Preschool Programs for Eligible Children within economically diverse, inclusive settings, including those that serve children from families with incomes above 200 percent of the Federal Poverty Line (6 points).

(8) How the Subgrantee will deliver High-Quality Preschool Programs to Eligible Children, including Eligible Children who may be in need of additional supports, such as those who have disabilities or developmental delays; who are English learners; who reside on ''Indian lands'' as that term is defined by section 8013(7) of the ESEA; who are migrant; who are ''homeless,'' as defined in subtitle VII–B of the McKinney-Vento Act; who are in the child welfare system; who reside in rural or tribal areas; who are from military families; and other children as identified by the State (6 points).

(9) How the State will ensure the Subgrantee implements culturally and linguistically responsive outreach and communication efforts to enroll children from families with Eligible Children, including isolated or hard-to-reach families; helps families build

[17] One example of these reports is referenced here. National Research Council (2008). Early Childhood Assessment: Why, What, and How. Committee on Developmental Outcomes and Assessments for Young Children, C.E. Snow and S.B. Van Hemel, Editors. Board on Children, Youth, and Families, Board on Testing and Assessment, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press. Available at: *www.nap.edu/catalog.php?record_id=12446.*

protective factors; and engages parents and families (e.g., builds capacity to support children's learning and development) as decision-makers in their children's education (4 points).

(10) How the State will ensure strong partnerships between each Subgrantee and LEAs or other Early Learning Providers, as appropriate, including a description of how the State will ensure that each Subgrantee (10 points)—

(a) Partners with LEAs or other Early Learning Providers, as appropriate, to carry out activities that provide children and their families with successful transitions from preschool into kindergarten; and

(b) Coordinates and collaborates with LEAs or other Early Learning Providers, as appropriate, in—

(i) Providing opportunities for early educators to participate in professional development on early learning and kindergarten standards, assessments, curricula, and culturally and linguistically responsive strategies to help families build protective factors, build parents' capacity to support their children's learning and development, and engage parents as decision-makers in their children's education;

(ii) Providing family engagement, support, nutrition, and other Comprehensive Services and coordinating with other community partners to ensure families' access to needed supports;

(iii) Supporting full inclusion of Eligible Children with disabilities and developmental delays to ensure access to and full participation in the High-Quality Preschool Program;

(iv) Supporting the inclusion of children who may be in need of additional supports, such as children who are English learners; who reside on ''Indian lands'' as that term is defined by section 8013(7) of the ESEA; who are migrant; who are ''homeless,'' as defined in subtitle VII–B of the McKinney-Vento Act; who are in the child welfare system; who reside in rural areas; who are from military families; and other children as identified by the State;

(v) Ensuring that High-Quality Preschool Programs have age-appropriate facilities to meet the needs of Eligible Children;

(vi) Developing and implementing a systematic procedure for sharing data and other records consistent with Federal and State law; and

(vii) Utilizing community-based learning resources, such as libraries, arts and arts education programs, and family literacy programs.

*Evidence for selection criterion (E):*

- Any supporting evidence the State believes will be helpful to peer reviewers.

F. Alignment within a Birth through Third Grade Continuum (20 points)

The extent to which the State has an ambitious and achievable plan to align High-Quality Preschool Programs supported by this grant with programs and systems that serve children from birth through third grade to, among other things, improve transitions for children across this continuum.

(1) For birth through age-five programs, these activities include—

(a) Coordinating with other early education and care programs and child care family service providers supported through Federal, State, and local resources to build a strong continuum of learning for children from birth through age five and their families that expands families' choices, facilitates or improves their access to programs and supports in their own communities, and engages all families with Eligible Children, including isolated or hard-to-reach families that might not otherwise participate; and

(b) Ensuring that the provision of High-Quality Preschool Programs will not lead to a diminution of other services or increased cost to families for programs serving children from birth through age five; and

(2) For kindergarten through third grade, these activities may include—

(a) Ensuring that Eligible Children are well-prepared for kindergarten;

(b) Sustaining the educational and developmental gains of Eligible Children by—

(i) Promoting collaboration between preschool and kindergarten teachers;

(ii) Expanding access to Full-Day kindergarten; and

(iii) Increasing the percentage of children who are able to read and do math at grade level by the end of third grade; and

(c) Sustaining a high level of parent and family engagement as children move from High-Quality Preschool Programs into the early elementary school years;

(d) Taking steps, or building upon the steps it has taken, to align, at a minimum—

(i) Child learning standards and expectations;

(ii) Teacher preparation, credentials, and workforce competencies;

(iii) Comprehensive Early Learning Assessment Systems;

(iv) Data systems; and

(v) Family engagement strategies.

*Evidence for selection criterion (F):*

- Any supporting evidence the State believes will be helpful to peer reviewers.

G. Budget and Sustainability (10 points)

The extent to which the budget narrative and budget tables demonstrate that the State will—

(1) Use the funds from this grant and any matching contributions to serve the number of children described in its ambitious and achievable plan for each year, including using the funds for the projected per child costs for new and improved State Preschool Program slots that are reasonable and sufficient, and that the projected per child costs for new and improved State Preschool Program slots are reasonable and sufficient to ensure High-Quality Preschool Programs;

(2) Coordinate the use of existing funds from Federal sources that support early learning and development, such as title I of the ESEA, part C and section 619 of part B of IDEA, subtitle VII–B of the McKinney-Vento Act, the Head Start Act, and the Child Care and Development Block Grant Act of 1990, and State, private, local, foundation, or other private funding sources for activities and services that help expand High-Quality Preschool Programs; and

(3) Sustain the High-Quality Preschool Programs supported by this grant after the grant period ends to ensure that the number and percentage of Eligible Children with access to High-Quality Preschool Programs in the State will be maintained or expanded, including to additional High-Need Communities.

*Evidence for selection criterion (G):*

- Budget narrative and budget tables.
- Any other supporting evidence the State believes will be helpful to peer reviewers.

2. *Review and Selection Process:* The Departments will screen applications that are received by the deadline for transmittal of applications and will determine which States are eligible based on whether they have met the eligibility requirements in section III (*Eligibility Information*) of this notice; the Departments will not consider further those applicants deemed ineligible.

The Departments intend to use a peer review process with panels of three reviewers per application. Review panels will be created based on the number of applications received. All applicants will receive their reviewers' comments and scores.

We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary of Education may consider,

under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous reward, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary of Education may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary of Education also requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

We intend to post all submitted applications (both successful and unsuccessful) on ED's Web site, together with the final scores each application received. We will post each reviewer's final scores and comments on reviewed applications, with the names of reviewers redacted.

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary of Education may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

## VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Departments. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary of Education under 34 CFR 75.118. The Secretary of Education may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Departments have developed the following performance measures for measuring the overall effectiveness of this program:

(1) The number and percentage of Eligible Children served in High-Quality Preschool Programs funded by the grant;

(2) The number and percentage of children served overall in the State Preschool Program;

(3) The number and percentage of children in the High-Need Communities served by the grant that are ready for kindergarten as determined by the State's Kindergarten Entry Assessment or, if the State does not yet have a Kindergarten Entry Assessment, other valid and reliable means of determining school readiness; and

(4) The number of States that collect and analyze data on State Preschool Program quality, including the structural elements of quality specified in the definition of High-Quality Preschool Programs.

5. *Continuation Awards:* Grants awarded under this competition may be for a project period of up to four years. Depending on the availability of funds, the Departments will make continuation awards for years two, three, and four of the project period in accordance with section 75.253 of EDGAR (34 CFR 75.253). Consistent with this provision, the Departments will determine the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application,'' which will include a review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. To ensure that continuation funds will be used only for high-quality and effective projects, in determining whether or not to award continuation grants, the Departments will also consider the extent to which the grantee is achieving the intended outcomes of the grant and progress in areas demonstrates the following:

(a) The development, enhancement, or expansion of High-Quality Preschool Programs in each designated High-Need Community to be served by each Subgrantee, including in the improvement of the State Preschool Program's infrastructure, and in the development of community partnerships, needed to ensure the delivery of High-Quality Preschool Programs to participating Eligible Children and their families and the culturally and linguistically appropriate outreach activities and procedures needed to encourage and maintain enrollment of children in isolated or otherwise hard-to-reach families in the designated communities;

(b) Holding each Subgrantee accountable for fully adhering to all the program quality components that are part of the definition of a High-Quality Preschool Program;

(c) Coordination of Federal and State funds and programs to support a coherent approach to effective High-Quality Preschool Programs and supporting and engaging parents;

(d) Providing high-quality technical assistance to each Subgrantee and implementing a rigorous monitoring process to ensure the delivery of High-Quality Preschool Programs;

(e) Collecting, analyzing, and using high-quality and timely data, especially on Subgrantee program quality, including data regarding program outcomes, family engagement, school readiness of Eligible Children in High-Quality Preschool Programs, and student progress through third grade;

(f) Improvement on the program performance measures, to the extent such data are available;

(g) Holding each Subgrantee accountable for engaging and supporting parents, helping them build protective factors, facilitating families' links to services in their community, enhancing their capacity to support their children's education and development, and involving parents in decisions about their children's education; and

(h) If applicable, obtaining and expending matching contributions as described in its application.

In making a continuation grant, the Secretary of Education also considers whether the grantee is operating in compliance with the assurances in its

approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

## VII. Agency Contact

**FOR FURTHER INFORMATION CONTACT:** Rebecca Marek, U.S. Department of Education, 400 Maryland Ave. SW., Room 3E344, Washington, DC 20202–6200. Telephone: 202–260–0968 or by email: *PreschoolDevelopmentGrants.Competition@ed.gov*.

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

## VIII. Other Information

*Accessible Format:* Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: August 12, 2014.

**Deborah S. Delisle,**

*Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education.*

**Mark Greenberg,**

*Assistant Secretary for Children and Families, U.S. Department of Health and Human Services.*

## Appendix A—Scoring Rubric

### I. Introduction

To help ensure inter-reviewer reliability and transparency for the Preschool Development Grants—Development Grant applicants, the Departments have created and are publishing a rubric for scoring State applications. The pages that follow detail the rubric and allocation of point values that reviewers will be using. The rubric will be used by reviewers to ensure consistency across and within review panels.

The rubric allocates points to each selection criterion. In all, the Preschool Development Grants—Development Grant scoring rubric includes seven selection criteria and three competitive preference priorities. These collectively add up to 230 points.

Reviewers will be required to make thoughtful judgments about the quality of a State's application and will be assessing, based on the selection criteria, the comprehensiveness, feasibility, and likely impact of the State's application. Reviewers will also be asked to evaluate, for example, the extent to which the State has set ambitious and achievable annual targets in its application. Reviewers will also need to make informed judgments about the State's goals, the activities the State has chosen to undertake, and the timelines and credibility of the State's plan.

This appendix includes information about the point values for each selection criterion and priority, guidance on scoring, and the rubric that we will provide to reviewers.

### II. Points Overview

The chart below shows the maximum number of points and the percent of total points available that are assigned to each selection criterion.

| Preschool Development Grants—Development Grants: Points Overview | Points Available | Percent |
|---|---|---|
| A. Executive Summary: | | |
| (A)(1) The State's progress to date. | | |
| (A)(2) Provide High-Quality Preschool Programs in one or more High-Need Communities. | | |
| (A)(3) Increase the number and percentage of Eligible Children served in High-Quality Preschool Programs. | | |
| (A)(4) Characteristics of High-Quality Preschool Programs. | | |
| (A)(5) Set expectations for school readiness. | | |
| (A)(6) Supported by a broad group of stakeholders. | | |
| (A)(7) Allocate funds between— | | |
| (a) Activities to build or enhance infrastructure using no more than 35% of funds; and | | |
| (b) Subgrants using at least 65% of funds. | | |
| Subtotal | 10 | 5% |
| B. Commitment to High-Quality Preschool Programs: | | |
| (B)(1) Early Learning and Development Standards | 2 | 1% |
| (B)(2) State's financial investment | 6 | 3% |
| (B)(3) Enacted and pending legislation, policies, and/or practices | 4 | 2% |
| (B)(4) Quality of existing early learning programs | 4 | 2% |
| (B)(5) Coordination of preschool programs and services | 2 | 1% |
| (B)(6) Role in promoting coordination of preschool programs with other sectors | 2 | 1% |
| Subtotal | 20 | 10% |
| C. Ensuring Quality in Preschool Programs: | | |
| (C)(1) Use no more than 35% of funds for infrastructure and quality improvements | 8 | 4% |
| (C)(2) Implement a system for monitoring | 10 | 5% |
| (C)(3) Measure the outcomes of participating children | 12 | 6% |
| Subtotal | 30 | 15% |
| D. Expanding High-Quality Preschool Programs in Each High-Need Community: | | |
| (D)(1) How the State—. | | |
| (a) Has selected each High-Need Community. | | |
| (b) Will select each High-Need Community. | | |

| Preschool Development Grants—Development Grants: Points Overview | Points Available | Percent |
|---|---|---|
| Note: Applicants should address either (D)(1)(a) or (D)(1)(b). Applicants will receive up to 8 points for addressing (D)(1)(a) or up to 4 points for addressing (D)(1)(b). | 4 or 8 | 4% |
| (D)(2) How each High-Need Community is currently underserved | 8 | 4% |
| (D)(3) How the State will conduct outreach to each potential Subgrantees | 4 | 2% |
| (D)(4) How the State will subgrant at least 65% of its Federal grant award to its Subgrantee or Subgrantees to implement and sustain voluntary, High-Quality Preschool Programs in one or more High-Need Communities, and—. | | |
| (a) Set ambitious and achievable targets; and | 16 | 8% |
| (b) Incorporate in its plan—. | | |
| (i) Expansion of the number of new high-quality State Preschool Program slots; and. | | |
| (ii) Improvement of existing State Preschool Program slots. | | |
| Note: Applicants may receive up to the full 12 points if they address only (D)(4)(b)(i) or (b)(ii) or if they address both (D)(4)(b)(i) and (b)(ii); | 12 | 6% |
| (5) How the State, in coordination with the Subgrantees, plans to sustain High-Quality Preschool Programs after the grant period | 12 | 6% |
| D. Subtotal | 56 or 60 | 30% |
| E. Collaborating with Each Subgrantee and Ensuring Strong Partnerships: | | |
| (E)(1) Roles and responsibilities of the State and Subgrantee in implementing the project plan | 2 | 1% |
| (E)(2) How High-Quality Preschool Programs will be implemented | 6 | 3% |
| (E)(3) How the Subgrantee will minimize local administrative costs | 2 | 1% |
| (E)(4) How the State and Subgrantee will monitor Early Learning Providers | 4 | 2% |
| (E)(5) How the State and the Subgrantee will coordinate plans | 4 | 2% |
| (E)(6) How the State and the Subgrantee will coordinate, but not supplant, the delivery of High-Quality Preschool Programs funded under this grant with existing services for preschool-aged children | 6 | 3% |
| (E)(7) How the Subgrantees will integrate High-Quality Preschool Programs for Eligible Children within economically diverse, inclusive settings | 6 | 3% |
| (E)(8) How the Subgrantees will deliver High-Quality Preschool Programs to Eligible Children who may be in need of additional supports | 6 | 3% |
| (E)(9) How the State will ensure outreach to enroll isolated or hard-to-reach families; help families build protective factors; and engage parents and families | 4 | 2% |
| (E)(10) How the State will ensure strong partnerships between each Subgrantee and LEAs or other Early Learning Providers | 10 | 5% |
| Subtotal | 50 | 25% |
| F. Alignment within a Birth Through Third Grade Continuum: | | |
| (F)(1) Birth through age-five programs. | | |
| (F)(2) Kindergarten through third grade. | | |
| Subtotal | 20 | 10% |
| G. Budget and Sustainability:. | | |
| (G)(1) Use the funds from this grant and any matching contributions to serve the number of Eligible Children described in its ambitious and achievable plan each year. | | |
| (G)(2) Coordinate the uses of existing funds from Federal sources that support early learning and development. | | |
| (G)(3) Sustain the High-Quality Preschool Programs provided by this grant after the grant period ends. | | |
| Subtotal | 10 | 5% |
| Total Points Available for Selection Criteria | 200 | 100% |
| Competitive Priority 1: Contributing Matching Funds | 10 | |
| Competitive Priority 2: Supporting a Continuum of Early Learning and Development | 10 | |
| Competitive Priority 3: Creating New High-Quality State Preschool Program Slots | 0 or 10 | |
| Total for All Priorities | 30 | |
| Grand Total | 230 | |

## III. About Scoring

*General Notes About Scoring*

*Ambitious and Achievable.* In determining whether a State has ambitious and achievable goals or targets for a given selection criterion, reviewers will examine the State's goals or targets in the context of the State's plan and the evidence submitted (if any) in support of the plan. Reviewers will not be looking for any specific targets nor will they necessarily reward higher targets above lower ones with higher scores. Rather, reviewers will reward States for developing goals and targets that, in light of each State's plan and the current context and status of the work in that State, are shown to be ambitious and achievable.

Additionally, there is a term that we use repeatedly in the notice: Ambitious and achievable plan. This is an anchor term for applicants to understand and reviewers to use in guiding their scoring. In determining the quality of a State's plan for a given selection criterion or competitive preference priority, reviewers will assess the extent to which the plan is ambitious and achievable, including whether it is feasible and has a high probability of successful

implementation and contains the following components—

(1) The key goals of the plan;

(2) The key activities to be undertaken; the rationale for the activities; and, if applicable, where in the State the activities will be initially implemented, and where and how they will be scaled up over time;

(3) A realistic timeline, including key milestones, for implementing each key activity;

(4) The party or parties responsible for implementing each activity and other key personnel assigned to each activity;

(5) Appropriate financial resources to support successful implementation and sustainment of the plan;

(6) The information requested as supporting evidence, if any, together with any additional information the State believes will be helpful to peer reviewers in judging the credibility of the plan;

(7) The information requested in the performance measures, where applicable; and

(8) How the State will address the needs of Eligible Children, including those who may be in need of additional supports, such as children who have disabilities or developmental delays; who are English learners; who reside on ''Indian lands'' as that term is defined by section 8013(7) of the ESEA; who are migrant; who are ''homeless,'' as defined in subtitle VII–B of the McKinney-Vento Act; who are involved in the child welfare system; who reside in rural areas; who are from military families; and any other children identified by the State.

*Rubric*

The following scoring rubric will be used to guide the reviewers in scoring selection criteria and priorities. (See ''General Notes about Scoring'' for more information about how reviewers will assess ambitious and achievable plans.)

| | Percentage of available points awarded |
|---|---|
| High-quality response | 80–100 |
| Medium/high-quality response | 50–80 |
| Medium/low-quality response | 20–50 |
| Low-quality response | 0–20 |

*About Priorities*

There are two types of priorities in the Preschool Development Grants—Development Grant competition: absolute and competitive.

• Applicants should address the absolute priority across the entire application and should not address it separately. It will be assessed by reviewers after they have fully reviewed and evaluated the entire application, to ensure that the application has met the priority. If an application has not met the priority, it will be eliminated from the competition. A State meets the absolute priority if a majority of reviewers determines that the State has met the absolute priority.

• Applicants may choose whether to address the competitive preference priorities. Additional points will be awarded to an application to the extent that reviewers determine it has met a competitive preference priority. Applicants earn points under the competitive preference priorities in a manner similar to how they earn points under the selection criteria.

○ Competitive Preference Priority 1 (Contributing Matching Funds) is worth up to 10 points.

| State match of projected four-year total award amount | Possible points |
|---|---|
| 50% or more | 10 |
| 40% to 49% | 8 |
| 30% to 39% | 6 |
| 20% to 29% | 4 |
| 10% to 19% | 2 |
| Less than 10% | 0 |

○ Competitive Preference Priority 2 (Supporting a Continuum of Early Learning and Development) is worth up to 10 points.

○ Competitive Preference Priority 3 (Creating New High-Quality State Preschool Program Slots) is worth 0 or 10 points. If the applicant proposes to use at least 50 percent of its Federal grant award to create new State Preschool Program slots, 10 points will be awarded.

*In the Event of a Tie*

If two or more applications have the same score and there is not sufficient funding to support all of the tied applicants, the applicants' overall scores on Selection Criterion (D) will be used to break the tie.

## Appendix B—Subgrantee

### Model Memorandum of Understanding

States do not need to submit Memoranda of Understanding (MOU) from each Subgrantee at the time of application, but, if awarded funds, States that receive Preschool Development Grants—Development Grants will have 180 days to submit signed MOUs or other binding agreements from each Subgrantee (see Program Requirement (i)). Applicants may choose to submit *preliminary* agreements at the time of application, but they are not required to do so. The following is an example of a *final* agreement.

*Background for Memorandum of Understanding*

Within 180 days of receipt of a Preschool Development Grants—Development Grant award, the State must submit to the Departments a final signed MOU or other binding agreement with each Subgrantee. The purpose of the MOU or other binding agreement is to define a relationship between the State's Lead Agency and the Subgrantee that is specific to the Preschool Development Grants—Development Grant Competition; the MOU or other binding agreement is not meant to detail all typical aspects of grant coordination or administration.

To support States in working efficiently with their Subgrantees to affirm each Subgrantee's participation in the State Plan, the Departments have produced a model MOU, which is attached. This model MOU may serve as a template for States; however, States are not required to use it. States may use a document other than the model MOU, as long as it includes the key features noted below and in the model MOU. States should consult with their State attorneys on what is most appropriate. States may allow multiple Subgrantees to sign a single MOU or other binding agreement, with customized exhibits for each Subgrantee, if the State so chooses.

At a minimum, a Preschool Development Grants—Development Grant MOU or other binding agreement should include the following key features, each of which is described in detail below and exemplified in the attached model MOU: (i) Terms and conditions; (ii) a scope of work; and (iii) authorized signatures.

(i) Terms and conditions: Each Subgrantee must sign a standard set of terms and conditions that includes, at a minimum: Key roles and responsibilities of the Lead Agency and the Subgrantee; method and process for making different types of decisions; mechanism for exchanging of data; the Subgrantee's role in implementing the State's ambitious and achievable plan; State recourse for non-performance by the Subgrantee; and assurances that make clear what the Subgrantee is agreeing to do.

(ii) Scope of work: Preschool Development Grants—Development Grants MOUs or other binding agreements must include a scope of work (included in the model MOU as Exhibit I) that is completed by each Subgrantee. The scope of work must be signed and dated by an authorized Subgrantee official and an authorized Lead Agency official. The scope of work for the State and the Subgrantee, which must contain detailed work plans and budgets consistent with the State's grant application, must include the State's and each Subgrantee's specific goals, activities, timelines, budgets, key personnel, and annual targets for key performance measures for the portions of the State's proposed plans that the Subgrantee is agreeing to implement.

(iii) Authorized Signatures: The signatures on the MOU or other binding agreement demonstrate an acknowledgement of the relationship between the Subgrantee and the Lead Agency. With respect to the relationship between the Subgrantee and the Lead Agency, the Lead Agency's counter-signature on the MOU or other binding agreement indicates that the Subgrantee's commitment is consistent with the requirement that a Subgrantee implement all applicable portions of the State Plan.

### Model Subgrantee

### Memorandum of Understanding

(To be submitted 180 days after State receives award) This Memorandum of Understanding (''MOU'') is entered into by and between _____ (''Lead Agency'') and _____ (''Subgrantee''). The purpose of this agreement is to establish a framework of collaboration, as well as articulate specific roles and responsibilities in support of the State in its implementation of an approved Preschool Development Grants—Development Grant.

### I. Assurances

The Subgrantee hereby certifies and represents that it:

(1) Agrees to implement those portions of the State Plan indicated in Exhibit I.

(2) Has all requisite power and authority to execute and fulfill the terms of this MOU;

(3) Is familiar with the State's Preschool Development Grants—Development Grant Application and is supportive of and committed to working on all applicable portions of the State Plan;

(4) Will implement the Scope of Work in Exhibit I consistent with the Budget included in section VIII of the State Plan (including existing funds, if any, that the Subgrantee is using for activities and services that help achieve the outcomes of the State Plan); and

(5) Will comply with all of the terms of the Preschool Development Grants—Development Grant, this agreement, and all applicable Federal and State laws and regulations, including laws and regulations applicable to the Preschool Development Grants—Development Grant, and the applicable provisions of EDGAR (34 CFR Parts 75, 77, 79, 80, 82, 84, 86, 97, 98 and 99), and the debarment and suspension regulations in 2 CFR Part 3485.

**II. Project Administration**

*A. Subgrantee Responsibilities*

In assisting the Lead Agency in implementing the tasks and activities described in the State's Preschool Development Grants—Development Grant application, the Subgrantee will:

(1) Implement the Subgrantee Scope of Work as identified in Exhibit I of this agreement;

(2) Make arrangements for High-Quality Preschool Programs to be provided by Early Leaning Providers and will appropriately monitor such entities;

(3) Abide by the State's Budget included in section VIII of the State Plan (including the existing funds from Federal, State, private, and local sources, if any, that the Subgrantee is using to achieve the outcomes in the Preschool Development Grants—Development Grant Plan) and with the Subgrantee's Budget included in Exhibit II of this agreement;

(4) Actively participate in all relevant meetings or other events that are organized or sponsored by the State, by the U.S. Department of Education (''ED''), or by the U.S. Department of Health and Human Services (''HHS'');

(5) Post to any Web site specified by the State, ED, or HHS, in a timely manner, all non-proprietary products and lessons learned developed using Federal funds awarded under the Preschool Development Grants—Development Grant;

(6) Participate, as requested, in any evaluations of this grant conducted by the State, ED, or HHS;

(7) Be responsive to State, ED, or HHS requests for project information including on the status of the project, project implementation, outcomes, and any problems anticipated or encountered, consistent with applicable local, State, and Federal privacy laws;

(8) Provide researchers with access, consistent with requirements of all applicable Federal, State, and local privacy laws, to available data regarding the enrollment and school readiness of Eligible Children in State Preschool Programs;

(9) Implement culturally and linguistically responsive outreach and communication efforts to enroll isolated or hard-to-reach families; help families build protective factors; and engage parents and families as decision-makers in their children's education;

(10) Minimize local administrative costs; and

(11) Partner with LEAs or other Early Learning Providers, as appropriate, to carry out activities that will provide children and their families with successful transitions from preschool into kindergarten.

*B. Lead Agency Responsibilities*

In assisting the Subgrantee in implementing its tasks and activities described in the Preschool Development Grants—Development Grant application, the Lead Agency will:

(1) Work collaboratively with the Subgrantee and support the Subgrantee in carrying out the Subgrantee's Scope of Work, as identified in Exhibit I of this agreement;

(2) Award in a timely manner the portion of Preschool Development Grants—Development Grant funds designated for the Subgrantee in the Plan during the course of the project period and in accordance with the Subgrantee Scope of Work, as identified in Exhibit I, and in accordance with the Subgrantee's Budget, as identified in Exhibit II;

(3) Provide feedback on the Subgrantee's status updates, any interim reports, and project plans and products;

(4) Keep the Subgrantee informed of the status of the State's Preschool Development Grants—Development Grant project and seek input from the Subgrantee, where relevant to the portion of the State plan that the Subgrantee is implementing;

(5) Facilitate coordination across Subgrantees necessary to implement the State Plan;

(6) Identify sources of technical assistance for the project; and

(7) Monitor Subgrantee's Implementation of High-Quality Preschool Programs.

*C. Joint Responsibilities*

(1) The Lead Agency and the Subgrantee will implement the State Plan consistent with the description of the roles and responsibilities outlined in the State's application and in the Scope of Work in Exhibit I;

(2) The Lead Agency and the Subgrantee will each appoint a key contact person for the Preschool Development Grants—Development Grant;

(3) These key contacts from the Lead Agency and the Subgrantee will maintain frequent communication to facilitate cooperation under this MOU, consistent with the State Plan and governance structure.

(4) Lead Agency and Subgrantee personnel will work together to determine appropriate timelines for project updates and status reports throughout the grant period;

(5) Lead Agency and Subgrantee personnel will negotiate in good faith toward achieving the overall goals of the State's Preschool Development Grants—-Development Grant, including when the State Plan requires modifications that affect the Subgrantee, or when the Subgrantee's Scope of Work requires modifications;

(6) The Lead Agency and the Subgrantee will devise plans to sustain High-Quality Preschool Programs after the grant period, including any non-Federal support that the State or Subgrantees plan to contribute;

(7) The Lead Agency and the Subgrantee will coordinate plans related to assessments, data sharing, instructional tools, family engagement, cross-sector and comprehensive services efforts, professional development, and workforce and leadership development; and

(8) The Lead Agency and the Subgrantee will coordinate, but not supplant, the delivery of High-Quality Preschool Programs funded under this grant with existing services for preschool-aged children including, if applicable, programs and services supported through title I of the ESEA, part C and section 619 of part B of IDEA, subtitle VII–B of the McKinney-Vento Act, the Head Start Act, and the Child Care and Development Block Grant Act.

*D. State Recourse in the Event of Subgrantee's Failure to Perform*

If the Lead Agency determines that the Subgrantee is not meeting its goals, timelines, budget, or annual targets, or is in some other way not fulfilling applicable requirements, the Lead Agency will take appropriate enforcement action, which could include initiating a collaborative process by which they attempt to resolve the disagreements between the Lead Agency and the Subgrantee, or initiating such enforcement measures as are available to the Lead Agency, under applicable State or Federal law.

**III. Modifications**

This Memorandum of Understanding may be amended only by written agreement signed by each of the parties involved, in consultation with ED and HHS.

**IV. Duration**

This Memorandum of Understanding shall be effective, beginning with the date of the last signature hereon and ending upon the expiration of the Preschool Development Grants—-Development Grant project period.

**V. Signatures**

Authorized Representative of Lead Agency:

| Signature | Date |
|---|---|
| Print Name | Title |

Authorized Representative of Subgrantee:

| Signature | Date |
|---|---|
| Print Name | Title |

**Exhibit I—State Lead Agency and Subgrantee Scope of Work**

The State Lead Agency and Subgrantee hereby agree to participate in the State Plan, as described in the State's application, and more specifically commit to undertake the

tasks and activities described in detail below. In addition, the Lead Agency and Subgrantee will collaborate to establish Performance Measures for any aspects of the State Plan that the Subgrantee is implementing.

| Selection criterion | Participating party | Type of participation | Performance measure (if applicable) |
|---|---|---|---|
| *Example Row—shows an example of criterion (E)(10)(b)(ii) for the Subgrantees.* | • *Subgrantees* ..... | *Providing family engagement, support, nutrition, and other Comprehensive Services and coordinating with other community partners to ensure families' access to needed supports.* | |
| *Example Row—shows an example of criterion (F)(2)(d)(i) for the State Lead Agency.* | • *State Lead Agency* | *Taking steps, or building upon the steps it has taken, to align, at a minimum—.* *(i) Child learning standards and expectations* | |
| (D)(4). | | | |
| (D)(5). | | | |
| (E)(1). | | | |
| (E)(2). | | | |
| (E)(3). | | | |
| (E)(4). | | | |
| (E)(5). | | | |
| (E)(6). | | | |
| (E)(7). | | | |
| (E)(8). | | | |
| (E)(9). | | | |
| (E)(10). | | | |
| (F)(1). | | | |
| (F)(2). | | | |
| (G)(1). | | | |
| (G)(2). | | | |
| (G)(3). | | | |

**Exhibit II—Subgrantee Budget**

*The MOU must contain a Subgrantee budget clearly explaining how each Subgrantee will expend funds, including any matching funds, if applicable. The Departments will provide grantees with model budget spreadsheets after grants are awarded.*

Signature Date
*(Authorized Representative of Lead Agency)*

Signature Date
*(Authorized Representative of Subgrantee, if applicable)*

Signature Date
*(Authorized Representative of Subgrantee, if applicable)*

[FR Doc. 2014–19426 Filed 8–15–14; 8:45 am]

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# FEDERAL REGISTER

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Part IV

## Department of Education

## Department of Health and Human Services

Applications for New Awards; Preschool Development Grants—Expansion Grants; Notice

## DEPARTMENT OF EDUCATION

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Applications for New Awards; Preschool Development Grants—Expansion Grants

**AGENCY:** Department of Education and Department of Health and Human Services.

**ACTION:** Notice.

*Overview Information:* Preschool Development Grants—Expansion Grants Notice inviting applications for new awards for fiscal year (FY) 2014.
Catalog of Federal Domestic Assistance (CFDA) Number: 84.419B.

**DATES:** Applications Available: August 18, 2014.

Deadline for Notice of Intent to Apply: September 11, 2014.

**Note:** Submission of a notice of intent to apply is optional.

Deadline for Transmittal of Applications: October 14, 2014.

**Full Text of Announcement**

**I. Funding Opportunity Description**

*Purpose of Program:* The purpose of the Preschool Development Grants program, which is jointly administered by the Departments of Education and Health and Human Services (Departments), is to support State and local efforts to build, develop, and expand High-Quality Preschool Programs [1] so that more children from low- and moderate-income families enter kindergarten ready to succeed in school and in life. All States, the District of Columbia, and Puerto Rico are eligible to apply for either a Preschool Development Grants—Development Grant or a Preschool Development Grants—Expansion Grant.

Preschool Development Grants—Expansion Grants will support States that have robust State Preschool Programs or that have been awarded a Race to the Top—Early Learning Challenge grant. These grants will be awarded to States to implement and sustain High-Quality Preschool Programs that reach and serve additional Eligible Children in two or more High-Need Communities. States will also be able to use a portion of their funds to make preschool program infrastructure and quality improvements needed to deliver High-Quality Preschool Programs. The States eligible to apply for a Preschool Development Grants—Expansion Grant are Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

Preschool Development Grants—Development Grants will support States with either small or no State Preschool Programs. These grants will be awarded to States to develop or enhance preschool program infrastructure and capacity to deliver High-Quality Preschool Programs. These States will be expected to implement and sustain High-Quality Preschool Programs to reach and serve additional Eligible Children in one or more High-Need Communities. The States eligible to apply for a Preschool Development Grants—Development Grant are Alabama, Alaska, Arizona, Hawaii, Idaho, Indiana, Mississippi, Missouri, Montana, Nevada, New Hampshire, North Dakota, Puerto Rico, South Dakota, Utah, and Wyoming.

*Background and Program Overview:*

*Preschool Development Grants—Expansion Grants*

Strong and consistent evidence demonstrates that participation in high-quality early learning programs can lead to both short- and long-term positive outcomes for all children, but especially children from low-income families.[2] Research has shown the multiple benefits of attending preschool programs that are of high-quality, including increased school readiness, lower rates of grade retention and special education placements, improved high school graduation rates, reduced interaction with law enforcement, and higher rates of college attendance and completion.[3]

We also know that children from low-income families, on average, start kindergarten 12 to 14 months behind their peers in pre-reading and language skills.[4] Results from the ''Early Childhood Longitudinal Study, Kindergarten Class of 2010–11,'' indicate that children's performance in reading and math were lowest for kindergartners in households with incomes below the Federal Poverty Line and highest for those in households with incomes at or above 200 percent of the Federal Poverty Line.[5] Increasing access to High-Quality Preschool Programs, particularly for at-risk children from low-income families, can help close, or even prevent, these achievement gaps prior to kindergarten entry.

The Consolidated Appropriations Act, 2014 (Pub. L. 113–76) provided $250 million for competitive grants to States for improving early childhood care and education, and help States develop, enhance, and expand preschool programs that are of high-quality. Of this amount, the Departments expect to dedicate approximately $160 million to Preschool Development Grants—Expansion Grants and $80 million to Preschool Development Grants—Development Grants. As explained more fully elsewhere in the notice, we are waiving notice-and-comment rulemaking for these competitions to ensure timely awards. However, the Departments welcomed comments from the public on the priorities, requirements, definitions, and selection criteria for this funding opportunity through a dedicated Web site and a public hearing. In all, the Departments received over 600 individual comments to consider as we drafted this notice to be consistent with the language in the Consolidated Appropriations Act, 2014, and accompanying report.[6]

In this notice, we announce the priorities, requirements, definitions, and selection criteria that the Departments will use in the FY 2014 Preschool Development Grants—Expansion Grants competition. We announce the priorities, requirements, definitions, and selection criteria that we will use in the

[1] Defined terms are used throughout the notice and are indicated by capitalization.

[2] Yoshikawa, H., Weiland, C., Brooks-Gunn, J., Burchinal, M., Espinosa, L., Gormley, W., Ludwig, J.O., Magnuson, K.A., Phillips, D.A., & Zaslow, M.J. (2013). Investing in Our Future: The Evidence Base on Preschool Education. New York: Foundation for Child Development and Ann Arbor, MI: Society for Research in Child Development. Available at: *http://fcd-us.org/sites/default/files/Evidence%20Base%20on%20Preschool%20Education%20FINAL.pdf.*

[3] Barnett, W.S. (2008). Preschool Education and Its Lasting Effects: Research and Policy Implications. Boulder and Tempe: Education and the Public Interest Center & Education Policy Research Unit. Available at: *http://nieer.org/resources/research/PreschoolLastingEffects.pdf.*

[4] Committee on Integrating the Science of Early Childhood Development (2000). From Neurons to Neighborhoods: The Science of Early Childhood Development. Jack P. Shonkoff and Deborah A. Phillips, eds. Board on Children, Youth, and Families, Commission on Behavioral and Social Sciences and Education. Washington, DC: National Academy Press.

[5] Mulligan, G.M., Hastedt, S., and McCarroll, J.C. (July, 2012). First-Time Kindergartners in 2010–11: First Findings From the Kindergarten Rounds of the Early Childhood Longitudinal Study, Kindergarten Class of 2010–11 (ECLS–K:2011) (NCES 2012–049). U.S. Department of Education. Washington, DC: National Center for Education Statistics. Available at: *http://nces.ed.gov/pubsearch/.*

[6] *http://www2.ed.gov/programs/preschoolgrants/resources.html.*

FY 2014 Preschool Development Grants—Development Grants competition in a separate notice inviting applications published elsewhere in this issue of the **Federal Register**.

The Departments will make Preschool Development Grants—Expansion Grants on a competitive basis to States to (1) implement and sustain High-Quality Preschool Programs that reach and serve additional Eligible Children in two or more High-Need Communities; and (2) enhance preschool program infrastructure and capacity to deliver High-Quality Preschool Programs. For Preschool Development Grants—Expansion Grants, States may allocate up to five percent of the total Federal funds over the grant period for State-level infrastructure. The remainder of the Federal funds must be subgranted to Early Learning Providers in two or more High-Need Communities.

We intend High-Quality Preschool Programs to be delivered through a mixed-delivery system of providers that includes schools, licensed child care centers, Head Start programs, and community-based organizations. Preschool programs funded by the Preschool Development Grants program must meet program quality standards, including, at a minimum, the elements outlined in the definition of a ''High-Quality Preschool Program,'' such as high staff qualifications, low child-staff ratios and small class sizes, a Full-Day program, and Comprehensive Services for children. Though encouraged, other preschool programs within the State will not be required to meet these same criteria.

A State's application must include an ambitious and achievable plan covering a project period of up to four years. Depending on the availability of funds, the Departments will make continuation awards for years two, three, and four of the project period. The State's ambitious and achievable plan must describe, among other things, how the State will expand access to High-Quality Preschool Programs to children at or below 200 percent of the Federal Poverty Line; the applicant's strategy for ensuring the creation of, as appropriate, new State Preschool Program slots and the improvement of existing State Preschool Program slots as described in Selection Criterion (D)(4)(b); the reasons for selecting each High-Need Community; a system for monitoring programs for continuous improvement; how Local Educational Agencies and other Early Learning Providers will establish and maintain strong partnerships; how High-Quality Preschool Programs supported under this grant will be aligned with programs and systems that serve children from birth through third grade; and how the State will maintain High-Quality Preschool Programs for children after the grant period.

*Priorities:* We are establishing these priorities for the FY 2014 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition. These priorities are established in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

*Absolute Priorities:* These priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet Absolute Priority 1 *and* either Absolute Priority 2 *or* Absolute Priority 3.

These priorities are:

*Absolute Priority 1: Increasing Access to High-Quality Preschool Programs in High-Need Communities.* To meet this priority, the State must demonstrate in its application how it will increase access to High-Quality Preschool Programs for Eligible Children by having an ambitious and achievable plan to—

(1) Begin serving Eligible Children no later than in year one of the grant period;

(2) Subgrant at least 95 percent of its Federal grant funds received over the grant period to one or more Subgrantees to implement and sustain voluntary, High-Quality Preschool Programs for Eligible Children in two or more High-Need Communities in the State; and

(3) Use no more than five percent of its Federal grant funds received during the grant period for State-level infrastructure and quality improvements, such as those described in selection criterion (C)(1).

*Absolute Priority 2: Race to the Top—Early Learning Challenge States.*

To meet this priority, an applicant must have received an award under a Race to the Top—Early Learning Challenge competition.

**Note:** These States are California, Colorado, Delaware, Georgia, Illinois, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, North Carolina, Ohio, Pennsylvania, Rhode Island, Oregon, Vermont, Washington, and Wisconsin.

*Absolute Priority 3: Non-Race to the Top—Early Learning Challenge States with More Robust State Preschool Programs.*

To meet this priority, the applicant must not have received an award under a Race to the Top—Early Learning Challenge competition and serve 10 percent or more of four-year-old children in a State Preschool Program.

**Note:** These States are Arkansas, Connecticut, District of Columbia, Florida, Iowa, Kansas, Louisiana, Maine, Nebraska, New York, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.[7]

*Competitive Preference Priorities:* These priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award up to an additional 10 points to an application that meets Competitive Preference Priority 1 and up to an additional 10 points for an application that meets Competitive Preference Priority 2, depending on how well the application meets these competitive preference priorities. We also award an additional 10 points for an application that meets Competitive Preference Priority 3. An application can receive a maximum of 30 competitive preference priority points.

These priorities are:

*Competitive Preference Priority 1: Contributing Matching Funds (up to 10 points).*

*Background:* An applicant is not required to contribute non-Federal matching funds to support its ambitious and achievable plan. However, we will give competitive preference to applicants who address this priority and will award more points to applicants that commit to a larger matching contribution. Successful applicants that do not obtain or expend the matching funds they committed to in their applications may be subject to enforcement proceedings, including withholding of funds or denial of a continuation award.

*Priority:* To receive a competitive preference under this priority, the State must describe and submit appropriate evidence of a credible plan for obtaining and using non-Federal matching funds to support the implementation of its ambitious and achievable plan during the grant period. Matching funds may be comprised of State, local, and philanthropic funds and may also include increased State funding appropriated beginning in the State fiscal year prior to the first year of the grant period. Points will be awarded based on the following scale if the plan is determined to be credible:

[7] Based on current data from: Barnett, W.S., Carolan, M.E, Squires, J.H., and Clarke-Brown, K. (May 2014). State of Preschool 2013: First Look (NCES 2014–078). U.S. Department of Education. Washington, DC: National Center for Education Statistics. Available at: *http://nces.ed.gov/pubsearch.*

| Percentage non-Federal match of the State's four-year total award | Competitive reference points |
|---|---|
| 50% or more | 10 |
| 40–49% | 8 |
| 30–39% | 6 |
| 20–29% | 4 |
| 10–19% | 2 |
| 0–9% | 0 |

*Competitive Preference Priority 2: Supporting a Continuum of Early Learning and Development (up to 10 points).*

*Background:* The integration of High-Quality Preschool Programs within a broader continuum of comprehensive high-quality supports and services helps to create smooth transitions for children and families to ensure continuous and consistent high-quality early learning opportunities critical to children's success. Transition services play a vital role, particularly in the transitions from infant and toddler services to preschool services, and services under part C of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 et seq.) to services under section 619 of part B of IDEA. States can support children and families through cross-sector partnerships and by leveraging resources from existing State and local agencies that provide early childhood services, including part C and section 619 of part B of IDEA, Early Head Start and Head Start, home visiting, child care, preschool programs, family supports (e.g., those that strengthen and stabilize families) and engagement resources, adult education, and housing, health, and mental health services.

*Priority:* To receive a competitive preference under this priority, the State must describe an ambitious and achievable plan that addresses the creation of a more seamless progression of supports and interventions from birth through third grade, such as high-quality infant and toddler care, home visitation, Full-Day kindergarten, and before- and after-care services for, at a minimum, a defined cohort of Eligible Children and their families within each High-Need Community served by each Subgrantee.

*Competitive Preference Priority 3: Creating New High-Quality State Preschool Program Slots (0 or 10 points).*

*Background:* Many States have taken note of the short- and long-term benefits of early education and have launched efforts to expand the availability of State Preschool Programs. As of 2013, 40 States and the District of Columbia have at least one State Preschool Program in place.[8] Nevertheless, only about 28 percent of America's four-year-olds were enrolled in a State Preschool Program in the 2012–2013 school year.[9] The high costs of private preschool programs and the lack of State Preschool Programs narrow options for families, and especially so for low-income families. In 2011, four-year-olds under 200 percent of poverty were 16 percentage-points less likely than their higher-income peers (above 200 percent) to attend any preschool program, whether public or private.[10]

*Priority:* To receive a competitive preference under this priority, the State must demonstrate how it will use at least 50 percent of its Federal grant award to create new State Preschool Program slots that will increase the overall number of new slots in State Preschool Programs that meet the definition of High-Quality Preschool Programs.

*Application Requirements:* The following requirements apply to all applications submitted under this competition:

(a) The State's application must be signed by the Governor or an authorized representative and an authorized representative from the Lead Agency.

(b) The application must include a letter of support from an operational State Advisory Council on Early Childhood Education and Care that meets the requirements described in section 642B(b) of the Head Start Act (42 U.S.C. 9837(b)) and in paragraph (l) of the Program Requirements. If the State does not have an operational State Advisory Council, the application must include a letter of support from a similar State council on early childhood education and care established by the State's legislature or assigned the duties of the State Advisory Council on Early Childhood Education and Care by the State's Governor that meets the requirements described in section 642B(b) of the Head Start Act (42 U.S.C. 9837(b)) and in paragraph (l) of the Program Requirements. The letter must describe the council's level of support and, if applicable, participation in the grant.

(c) The State must include a budget narrative that details how it will use Federal grant funds awarded under this competition, and, if applicable, funds from other Federal, State, private, and local sources, to achieve—

(1) The goals outlined in its ambitious and achievable plan; and

(2) Its ambitious and achievable targets for increasing the number and percentage of Eligible Children who are enrolled in High-Quality Preschool Programs through, as applicable, newly created and improved State Preschool Program slots as described in selection criterion (D)(4)(b).

(d) The State must complete the Excel spreadsheets that are provided on the Preschool Development Grants Web site at *www.ed.gov/programs/preschooldevelopmentgrants* and upload to the Other Attachments Form in Grants.gov as explained in Part 5 of the application.

(e) The State must provide, for each selection criterion or priority in this notice that solicits an ambitious and achievable plan, a description of the following elements, at a minimum—

(1) The key goals of the plan;

(2) The key activities to be undertaken; the rationale for the activities; and, if applicable, where in the State the activities will be initially implemented, and where and how they will be scaled up over time;

(3) A realistic timeline, including key milestones, for implementing each key activity;

(4) The party or parties responsible for implementing each activity and other key personnel assigned to each activity;

(5) Appropriate financial resources to support successful implementation and sustainment of the plan;

(6) The information requested as supporting evidence, if any, together with any additional information the State believes will be helpful to peer reviewers in judging the credibility of the plan;

(7) The information requested in the performance measures, where applicable; and

(8) How the State will address the needs of Eligible Children, including those who may be in need of additional supports, such as children who have disabilities or developmental delays; who are English learners; who reside on ''Indian lands'' as that term is defined by section 8013(7) of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 6301 et seq.) (ESEA); who are migrant; who are ''homeless,'' as defined in subtitle VII–B of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a(2)) (McKinney-Vento Act); whose families are involved in the child welfare system; who reside in rural areas; who

[8] Based on current data from: Barnett, W.S., Carolan, M.E, Squires, J.H., and Clarke-Brown, K. (May 2014). State of Preschool 2013: First Look (NCES 2014–078). U.S. Department of Education. Washington, DC: National Center for Education Statistics. Available at: *http://nces.ed.gov/pubsearch.*

[9] Ibid.

[10] U.S. Department of Health and Human Services ASPE tabulations from the Current Population Survey, available at: *http://aspe.hhs.gov/hsp/14/EarlyCareEducation/rb_ece.cfm#_Toc373832432.*

are from military families; and other children as identified by the State, if applicable.

(f) The State must provide a letter of support or preliminary binding agreement, such as a preliminary memorandum of understanding (MOU), from each Subgrantee attesting to the Subgrantee's participation (a model MOU is provided in the Appendix B of this notice).

*Program Requirements:* States and each Subgrantee that receive funds under this grant program must meet the following requirements for, at a minimum, the duration of the grant period:

(a) The State must continue to participate in—

(1) The programs authorized by part C and section 619 of part B of IDEA;

(2) The Child Care and Development Fund (CCDF) program (pursuant to the Child Care and Development Block Grant Act (42 U.S.C. 9858 et seq.));

(3) The program authorized under section 418 of the Social Security Act (42 U.S.C. 618);

(4) The Maternal, Infant, and Early Childhood Home Visiting program (section 511 of title V of the Social Security Act, as amended by section 2951 of the Affordable Care Act of 2010 (Pub. L. 111–148)); and

(5) Subtitle VII–B of the McKinney-Vento Act.

(b) Funds made available under this grant must be used to supplement, not supplant, any Federal, State, or local funds (e.g., IDEA, title I, Head Start, CCDF, and any matching funds included as part of Competitive Preference Priority 2) that, in the absence of the funds awarded under this grant, would be available for improving the quality of State Preschool Programs and increasing access to High-Quality Preschool Programs.

(c) The State must participate in grantee technical assistance activities facilitated by ED or HHS, individually or in collaboration with other State grantees, to share effective program practices and solutions and collaboratively solve problems, and must set aside a minimum of $25,000 annually from its grant funds for this purpose.

(d) The State and each Subgrantee must participate in any evaluation of the State's High-Quality Preschool Program, including any cross-State evaluation, if funded by ED or HHS.

(e) The State and each Subgrantee must comply with the requirements of all applicable Federal, State, and local privacy laws, including the requirements of the Family Educational Rights and Privacy Act (20 U.S.C. 1232g), the Health Insurance Portability Accountability Act (Pub. L. 104–191), and IDEA.

(f) The State and each Subgrantee must ensure that the grant project is implemented in accordance with all applicable Federal, State, and local laws and regulations, including the provisions of Section 504 of the Rehabilitation Act of 1973 and Title II and Title III of the Americans with Disabilities Act of 1990 that prohibit discrimination on the basis of disability and require that individuals with disabilities be served in the most integrated setting appropriate to their needs.

(g) The State and each Subgrantee must provide researchers with access, consistent with the requirements of all applicable Federal, State, and local privacy laws, to available data regarding the enrollment and school readiness of Eligible Children in State Preschool Programs.

(h) Unless otherwise protected as proprietary information by Federal or State laws or a specific written agreement, the State and each Subgrantee must make any work (e.g., materials, tools, processes, systems) developed under its grant freely available to the public. Any Web sites developed under this grant must meet government or industry-recognized standards for accessibility.

(i) The State must have a Statewide Longitudinal Data System that links early childhood data with the State's kindergarten through grade 12 (K–12) data system by the end of the grant period.

(j) The State must ensure that the State Advisory Council on Early Childhood Education and Care must includes, in addition to the members of the State Advisory Council described in section 642B(b) of the Head Start Act (42 U.S.C. 9837(b)), the State's CCDF administrator, State agency coordinators from both part C and section 619 of part B of IDEA, the State Title I Director, the State Coordinator of Education for Homeless Children and Youth, State agency representatives responsible for health and mental health, and parent representatives.

(k) The State must establish policies and procedures that ensure—

(1) Collaboration between each Subgrantee and programs authorized by section 619 of part B of IDEA so that Eligible Children with disabilities in the High-Need Community are being appropriately identified and served in the least restrictive environment; and

(2) Ensure that the percentage of Eligible Children with disabilities served by the High-Quality Preschool Programs is not less than either the percentage of four-year-old children served statewide through part B, section 619 of IDEA (20 U.S.C. 1400 et seq.), or the current national average,[11] whichever is greater.

(l) The State and each Subgrantee are prohibited from spending grant funds, including any matching funds, if applicable, on construction, renovation, modernization, or related activities.

(m) For activities involved in improving existing State Preschool Program slots to meet the definition of High-Quality Preschool Programs, the State and each Subgrantee may only spend grant funds, including any matching funds, if applicable, on activities listed in selection criterion (D)(4)(b).

(n) Within 90 days of receipt of an award, the State must submit to the Departments a signed MOU (a model MOU is provided in Appendix B of this notice) or other binding agreement between the State's Lead Agency and each Subgrantee that, at a minimum—

(1) Includes a scope of work describing the portions of the State's plan that the Subgrantee will implement;

(2) Incorporates the State's ambitious and achievable plan, in particular the sections that the Subgrantee is responsible for implementing;

(3) Is signed by an authorized representative of the State's Lead Agency and the Subgrantee;

(4) Describes the roles and responsibilities of the State's Lead Agency and Subgrantee in implementing the project plan;

(5) Describes the method and process for making different types of decisions (e.g., policy, operational);

(6) Describes how the State and Subgrantee will exchange data; and

(7) Describes how the MOU can be amended.

(o) The State must submit scopes of work for the State and each Subgrantee within 90 days of the grant award notification date. These scopes of work must contain detailed work plans and budgets that are consistent with the State's grant application, and must include the State's and each Subgrantee's specific goals, activities, timelines, budgets, key personnel, and annual targets for key performance measures for the portions of the State's proposed plans that the Subgrantee is agreeing to implement.

*Definitions:* We are establishing the following definitions in this notice for

[11] **Note:** The current national percentage of four year-old-children receiving services through part B, section 619 of IDEA is 6.4%. Source: 2012 IDEA Part B Child Count (*www.ideadata.org*).

the FY 2014 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1231(d)(1).

These definitions are:

*Comprehensive Early Learning Assessment System* means a coordinated and comprehensive system of multiple assessments, each of which is valid and reliable for its specified purpose and for the population with which it will be used, that organizes information about the process and context of young children's learning and development in order to help teachers make informed instructional and programmatic decisions and that conforms with the recommendations of the National Research Council report on early childhood assessments [12] by including, at a minimum:

(a) Screening Measures;

(b) Formative Assessments;

(c) Measures of Environmental Quality;

(d) Measures of the Quality of Adult-Child Interactions; and

(e) A Kindergarten Entry Assessment.

*Comprehensive Services* means services that include:

(a) Screenings for hearing, vision, dental, health (including mental health), and development, as well as referrals and assistance obtaining services, when appropriate;

(b) Culturally and linguistically responsive family engagement opportunities (taking into account home language), such as parent conferences (including parent input about their child's development) and support services, such as parent education, and leadership opportunities, such as a Parent Advisory Committee;

(c) Nutrition services, including nutritious meals and snack options aligned with requirements set by the most recent Child and Adult Care Food Program guidelines promulgated by the Department of Agriculture, as well as regular, age-appropriate, nutrition education for children and their families;

(d) Services coordinated with LEAs and early intervention service providers and other entities providing services under part C and section 619 of part B of IDEA;

(e) Physical activity services aligned with evidence-based guidelines, such as those recommended by the Institute of Medicine,[13] and which take into account and accommodate children with disabilities;

(f) Partnerships with and linkages to community services to enhance family well-being, such as income supports, food pantries, housing, social services, and other services relating to health/mental health, domestic violence, substance abuse, adult literacy, education and training, and financial asset building;

(g) On-site coordination of services, to the maximum extent feasible; and

(h) Additional support services, determined by the State, as appropriate.

*Early Learning and Development Standards* means a set of expectations, guidelines, or developmental milestones that—

(a) Describes what all children from birth to kindergarten entry should know and be able to do and their disposition toward learning;

(b) Is appropriate for each age group (e.g., infants, toddlers, and preschoolers); for English learners; and for children with disabilities or developmental delays;

(c) Covers all Essential Domains of School Readiness; and

(d) Is universally designed and developmentally, culturally, and linguistically appropriate.

*Early Learning Intermediary Organization* means a national, statewide, regional, or community-based organization that represents one or more networks of early learning and development programs in the State and that has influence or authority over them. Such Early Learning Intermediary Organizations include, but are not limited to, child care resource and referral agencies; State Head Start associations; family child care associations; State affiliates of the National Association for the Education of Young Children; State affiliates of the Council for Exceptional Children's Division of Early Childhood; statewide or regional union affiliates that represent early childhood educators; affiliates of the National Migrant and Seasonal Head Start Association; the National Tribal, American Indian, and Alaskan Native Head Start Association; the National Indian Child Care Association; and the National Indian Education Association.

*Early Learning Provider* means an entity that carries out an early childhood education program, including an LEA, charter school, educational service agency, Head Start program, licensed child care provider, municipality or other local government agency, tribe or Indian organization, institution of higher education, library, museum, or other eligible licensed provider as defined by the State, or a consortium thereof.

*Eligible Children* means four-year-old children from families whose income is at or below 200 percent of the Federal Poverty Line.

*Eligible Children with Disabilities* means Eligible Children who have been determined by the local educational agency to be eligible for special education and related services under section 619 of the IDEA (20 U.S.C. 1400 et seq.)

*Essential Data Elements* means the critical child, program, and workforce data elements of a coordinated early learning data system, including—

(a) A unique statewide child identifier or another highly accurate, proven method to link data on that child, including Kindergarten Entry Assessment data, to and from the Statewide Longitudinal Data System and the coordinated early learning data system (if applicable);

(b) A unique statewide early childhood educator identifier;

(c) A unique program site identifier;

(d) Child and family demographic information;

(e) Early childhood educator demographic information, including data on educational attainment and State credentials or licenses held, as well as professional development information;

(f) Program-level data on the program's structure, quality, child suspension and expulsion rates, staff retention, staff compensation, work environment, and all applicable data reported as part of the State's Tiered Quality Rating and Improvement System; and

(g) Child-level program participation and attendance data.

*Essential Domains of School Readiness* means the domains of language and literacy development, cognition and general knowledge (including early mathematics and early scientific development), approaches toward learning (including the utilization of the arts), physical well-being and motor development (including adaptive skills), and social and emotional development.

*Federal Poverty Line* means a measure of income level issued annually by the

[12] One example of these reports is referenced here. National Research Council (2008). Early Childhood Assessment: Why, What, and How. Committee on Developmental Outcomes and Assessments for Young Children, C.E. Snow and S.B. Van Hemel, Editors. Board on Children, Youth, and Families, Board on Testing and Assessment, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press. Available at: *www.nap.edu/catalog.php?record_id=12446.*

[13] *www.iom.edu/Reports/2011/Early-Childhood-Obesity-Prevention-Policies/Recommendations.aspx.*

Department of Health and Human Services and used to determine eligibility for certain programs and benefits.[14]

*Formative Assessment* (also known as a classroom-based or ongoing assessment) means assessment questions, tools, and processes—

(a) That are—

(1) Specifically designed to monitor children's progress in meeting the Early Learning and Development Standards;

(2) Valid and reliable for their intended purposes and their target populations; and

(3) Linked directly to the curriculum; and

(b) The results of which are used to guide and improve instructional practices.

*Full-Day* means a day that is—

(a) Equivalent to a full school day at the public elementary schools in the State; and

(b) Not fewer than five hours a day.

*High-Need Community* means a geographically defined area, such as a city, town, county, neighborhood, district, rural or tribal area, or consortium thereof, with a high level of need as determined by the State.

*High-Quality Preschool Program* means an early learning program that includes structural elements that are evidence-based and nationally recognized as important for ensuring program quality, including at a minimum—

(a) High staff qualifications, including a teacher with a bachelor's degree in early childhood education or a bachelor's degree in any field with a State-approved alternate pathway, which may include coursework, clinical practice, and evidence of knowledge of content and pedagogy relating to early childhood, and teaching assistants with appropriate credentials;

(b) High-quality professional development for all staff;

(c) A child-to-instructional staff ratio of no more than 10 to 1;

(d) A class size of no more than 20 with, at a minimum, one teacher with high staff qualifications as outlined in paragraph (a) of this definition;

(e) A Full-Day program;

(f) Inclusion of children with disabilities to ensure access to and full participation in all opportunities;

(g) Developmentally appropriate, culturally and linguistically responsive instruction and evidence-based curricula, and learning environments that are aligned with the State Early Learning and Development Standards, for at least the year prior to kindergarten entry;

(h) Individualized accommodations and supports so that all children can access and participate fully in learning activities;

(i) Instructional staff salaries that are comparable to the salaries of local K–12 instructional staff;

(j) Program evaluation to ensure continuous improvement;

(k) On-site or accessible Comprehensive Services for children and community partnerships that promote families' access to services that support their children's learning and development; and

(l) Evidence-based health and safety standards.

*Kindergarten Entry Assessment* means an assessment that—

(a) Is administered to children during the first few months of their admission into kindergarten;

(b) Covers all Essential Domains of School Readiness;

(c) Is used in conformance with the recommendations of the National Research Council reports on early childhood;[15] and

(d) Is valid and reliable for its intended purposes and for the target populations and aligned to the Early Learning and Development Standards.

Results of the assessment should be used to inform efforts to close the school-readiness gap at kindergarten entry, to inform instruction in the early elementary school grades, and to inform parents about their children's status and involve them in decisions about their children's education. This assessment must not be used to prevent children's entry into kindergarten or as a single measure for high-stakes decisions.

*Lead Agency* means a State-level agency that administers public funds related to early learning and development and is participating in the State's ambitious and achievable plan; this agency is designated by the Governor for the administration of the Preschool Development Grants funds and is the fiscal agent for the grant.

*Local Educational Agency (LEA)* has the meaning given the term in section 9101 of the ESEA.

*Measures of Environmental Quality* means valid and reliable indicators of the overall quality of the early learning environment.

*Measures of the Quality of Adult-Child Interactions* means the measures obtained through valid and reliable processes for observing how teachers and caregivers interact with children, where such processes are designed to promote child learning and to identify strengths of and areas for improvement for early learning professionals.

*Program Standards* means the standards that serve as the basis for a TQRIS and define differentiated levels of quality for Early Learning and Development Programs. Program Standards must measure, at a minimum, the extent to which—

(a) Early Learning and Development Standards are implemented through evidence-based activities, interventions, or curricula that are appropriate for each age group of infants, toddlers, and preschoolers;

(b) Comprehensive Early Learning Assessment Systems are used routinely and appropriately to improve instruction and enhance program quality by providing robust and coherent evidence of—

(1) Children's learning and development outcomes; and

(2) Program performance;

(c) A qualified workforce improves young children's health, social, emotional, and educational outcomes;

(d) Culturally and linguistically responsive strategies are successfully used to engage families, help them build protective factors, and strengthen their capacity to support their children's development and learning. These strategies may include, but are not limited to, parent access to the program, ongoing two-way communication with families, parent education in child development, outreach to fathers and other family members, training and support for families as children move to preschool and kindergarten, social networks of support, intergenerational activities, linkages with community supports, adult and family literacy programs, parent involvement in decision making, and parent leadership development;

(e) Health promotion practices include health and safety requirements; developmental, behavioral, and sensory screening, referral, and follow up; the promotion of physical activity, healthy eating habits, oral health, and behavioral health; and health literacy of parents; and

(f) Data practices are effective and include gathering Essential Data Elements and entering them into the

[14] The 2014 Federal Poverty Line, also known as poverty guidelines or ''Federal poverty level'' (FPL), can be found at *http://aspe.hhs.gov/poverty/14poverty.cfm.*

[15] One example of these reports is referenced here. National Research Council (2008). Early Childhood Assessment: Why, What, and How. Committee on Developmental Outcomes and Assessments for Young Children, C.E. Snow and S.B. Van Hemel, Editors. Board on Children, Youth, and Families, Board on Testing and Assessment, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press. Available at: *www.nap.edu/catalog.php?record_id=12446.*

State's Statewide Longitudinal Data System or other early learning data system, using these data to guide instruction and program improvement, and making this information readily available to families.

*Screening Measures* means age and developmentally appropriate, valid, and reliable instruments that are used to identify children who may need follow-up services to address developmental, learning, or health needs in, at a minimum, the areas of physical health, behavioral health, oral health, child development, vision, and hearing.

*State* means any of the 50 States, the District of Columbia, and Puerto Rico.

*State Preschool Program* means a preschool program predominately supported with State funds that provides services to four-year-old children, including a State Head Start program.

*Statewide Longitudinal Data System* means the State's longitudinal education data system that collects and maintains detailed, high-quality, student- and staff-level data that are linked across entities and that over time provide a complete academic and performance history for each student. The Statewide Longitudinal Data System is typically housed within the State educational agency but includes or can be connected to early childhood, postsecondary, and labor data.

*Subgrantee* means an Early Learning Provider serving at least one High-Need Community that is receiving a subgrant from the State, and is participating in the State's ambitious and achievable plan.

*Tiered Quality Rating and Improvement System (TQRIS)* means the system through which the State uses a set of progressively higher Program Standards to evaluate the quality of an early learning and development program and to support program improvement. A Tiered Quality Rating and Improvement System consists of four components:

(a) Tiered Program Standards with multiple rating categories that clearly and meaningfully differentiate program quality levels.

(b) Monitoring to evaluate program quality based on the Program Standards.

(c) Supports to help programs meet progressively higher standards (e.g., through training, technical assistance, financial support).

(d) Program quality ratings that are publicly available and include a process for validating the system.

*Waiver of Proposed Rulemaking:* Under the Administrative Procedure Act (5 U.S.C. 553) we generally offer interested parties the opportunity to comment on proposed priorities, requirements, definitions, and selection criteria. Section 437(d)(1) of GEPA, however, allows the Secretary of Education to exempt from rulemaking requirements governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under the revised program authority in sections 14005 and 14006 of the ARRA, as amended by the Department of Education Appropriations Act, 2014 (title III of division H of Pub. L. 113–76, the Consolidated Appropriations Act, 2014), and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretaries have decided to forgo public comment under the waiver authority in section 437(d)(1) of GEPA. These priorities, selection criteria, requirements, and definitions will apply to the FY 2014 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition.

*Program Authority:* Sections 14005 and 14006 of the ARRA, as amended by section 1832(b) of division B of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112–10), the Department of Education Appropriations Act, 2012 (title III of division F of Pub. L. 112–74, the Consolidated Appropriations Act, 2012), and the Department of Education Appropriations Act, 2014 (title III of division H of Pub. L. 113–76, the Consolidated Appropriations Act, 2014).

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485.

## II. Award Information

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* $160 million.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2015 or subsequent fiscal years from the list of unfunded applicants from this competition.

The Departments may use any unused FY 2014 funds from the Preschool Development Grants—Expansion Grants competition in the FY 2014 Preschool Development Grants—Development Grants competition. Conversely, the Departments may use any unused FY 2014 funds from the Preschool Development Grants—Development Grants competition in the FY 2014 Preschool Development Grants—Expansion Grants competition.

*Estimated Range of Awards:* $10 million to $35 million.

*Budget Requirements:* To support States in planning their budgets, the Departments have developed the following annual budget caps for each State eligible for a Preschool Development Grants—Expansion Grant. We will not consider for funding an application from a State that proposes a budget in any year that exceeds the applicable cap set for that State. The Departments developed the following categories by ranking every State eligible for a Preschool Development Grants—Expansion Grant according to its relative share of Eligible Children who could be served by Preschool Development Grants—Expansion Grants and then identifying the natural breaks in the rank order. Then, based on population of Eligible Children,[16] budget caps were developed for each category.

Category 1—up to $35M—California;

Category 2—up to $30M—Texas;

Category 3—up to $25M—Florida, New York;

Category 4—up to $20M—Georgia, Illinois, Michigan, North Carolina, Ohio, and Pennsylvania;

Category 5—up to $17.5M—New Jersey, South Carolina, Tennessee, Virginia, and Washington;

Category 6—up to $15M—Arkansas, Colorado, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Oklahoma, Oregon, and Wisconsin;

Category 7—up to $12.5M—Connecticut, Iowa, Maine, Nebraska, New Mexico, and West Virginia;

Category 8—up to $10M—Delaware, District of Columbia, Rhode Island, and Vermont.

*Estimated Number of Awards:* 7 to 12 awards.

**Note:** The Departments are not bound by any estimates in this notice.

*Project Period:* Up to 48 months.

## III. Eligibility Information

1. *Eligible Applicants:* To be eligible to compete for funding under this program a State must—

(a) Serve 10 percent or more of four-year-old children in a State Preschool Program; [17] or

[16] *http://www2.ed.gov/programs/preschooldevelopmentgrants/4-year-old-poverty-status-2012.pdf.*

[17] Based on current data from: Barnett, W.S., Carolan, M.E, Squires, J.H., and Clarke-Brown, K. (May 2014). State of Preschool 2013: First Look (NCES 2014–078). U.S. Department of Education. Washington, DC: National Center for Education Statistics. Available at: *http://nces.ed.gov/pubsearch.*

(b) Have received an award under a Race to the Top—Early Learning Challenge competition.

Therefore, only the States of Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin are eligible to apply for Preschool Development Grants—Expansion Grants.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching. However, applicants that describe and submit appropriate evidence of a credible plan for obtaining and using non-Federal matching funds to support the implementation of its ambitious and achievable plan during the grant period may be awarded additional points on a sliding scale as described in Competitive Preference Priority 1.

3. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements, as described in Program Requirement (b).

## IV. Application and Submission Information

1. *Address To Request Application Package:* You can obtain an application package via the Internet or from the Departments. To obtain a copy via the Internet, use the following address: *www.ed.gov/programs/preschool developmentgrants.* To obtain a copy from the Departments, write, fax, call, or email: Rebecca Marek, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E344, Washington, DC 20202–6200. Telephone: (202) 260–0968. FAX: (202) 260–8969. Email: *PreschoolDevelopment Grants.Competition@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

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

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

Page Limit: The application narrative is where the applicant addresses the selection criteria that reviewers will use to evaluate applications. We recommend that the applicant limit its narrative responses to no more than 75 pages and limit its appendices to no more than 125 pages. We strongly request that applicants follow the recommended page limits. The following standards are recommended:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Each page is numbered.
- Line spacing is set to 1.5 spacing, and the font used is 12-point Times New Roman.

3. *Submission Dates and Times:*

Applications Available: August 18, 2014.

Deadline for Notice of Intent To Apply: September 11, 2014.

We will be able to develop a more efficient process for reviewing grant applications if we know the approximate number of applicants that intend to apply for funding under this competition. Therefore, the Departments strongly encourage each potential applicant to notify us of the applicant's intent to submit an application for funding by emailing Rebecca Marek at *PreschoolDevelopment Grants.Competition@ed.gov* by September 11, 2014. This short email message should provide (1) the name of the State applying and (2) the contact person (name, phone number, and email). Applicants that do not submit an ''Intent to Apply'' email may still apply for funding.

To assist States in preparing the application and to respond to questions, ED and HHS intend to broadcast a Technical Assistance Planning Webinar live at *http://edstream.ed.gov* to review the priorities, requirements, and selection criteria for this competition. The purpose of the Webinar will be to allow individuals responsible for developing applications to review with Federal program staff the priorities, requirements, and selection criteria for this competition and to ask questions about the Preschool Development Grants—Development Grants competition. We strongly encourage all interested State applicants to participate in the Webinar. For those who cannot attend the live Webinar, a link to the Webinar will be available on the Preschool Development Grants Web site at *www.ed.gov/programs/preschooldevelopmentgrants.* The Departments may host additional conference calls, workshops, or Webinars to answer applicant questions and will be posting Frequently Asked Questions and responses on the Preschool Development Grant Web site. The Departments will make available all registration information and additional details for the Technical Assistance Planning Webinar and any other technical assistance events on the Preschool Development Grants Web site at *www.ed.gov/programs/preschooldevelopmentgrants.*

Deadline for Transmittal of Applications: October 14, 2014.

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

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

We will provide Congress with the names of the States that have submitted applications, and we will post the names of these States on ED's Web site. We will also post all applications submitted. Therefore, please ensure that your application does not include personally identifiable information, proprietary information, or other non-public information.

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

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make awards by December 31, 2014.

5. *Funding Restrictions:* We specify unallowable costs in paragraphs (l) and (m) of the Program Requirements in this notice.

We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award*

*Management:* To do business with the Department of Education, you must—

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

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

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

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

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

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

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under this program administered by the Departments, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

**Note:** Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

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

Information about SAM is available at *www.SAM.gov*. To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html*. In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/applicants/get_registered.jsp*.

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

a. *Electronic Submission of Applications.*

Applications for grants under the Preschool Development Grants—Expansion Grants, CFDA number 84.419B, must be submitted electronically using the Government wide Grants.gov Apply site at *www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement*. You may access the electronic grant application for Preschool Development Grants—Expansion Grants at *www.Grants.gov*. You must search for the downloadable application package for this program [competition] by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.419, not 84.419B).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program [competition] to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *http://www.G5.gov*.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.]
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of

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

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

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

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

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

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

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

• You do not have access to the Internet; or

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

*and*

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

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

Address and mail or fax your statement to: Rebecca Marek, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E344, Washington, DC 20202–6200.

FAX: (202) 260–8969.

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

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.419A, LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

If we receive an application after the application deadline, we will not consider that application.

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

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

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

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

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

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

(1) A private metered postmark.

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

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

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

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

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.419A, 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

In accordance with EDGAR § 75.216(b) and (c), an application will not be evaluated for funding if the applicant does not comply with all of the procedural rules that govern the submission of the application or the application does not contain the information required under the program.

**Note for Mail or Hand Delivery of Applications:** When you mail or hand deliver your application to the Departments—

(1) You must indicate on the envelope the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

## V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are set forth in sections (A)–(G). We also identify for each selection criterion any evidence that applicants must submit that is not already identified in the selection

criterion. We will use the following selection criteria to evaluate applications submitted under the Preschool Development Grants—Development Grant competition. The maximum score for all the selection criteria and competitive preference priorities is 232 points. The maximum score for each selection criterion is indicated in parentheses. The reviewers will utilize the scoring rubric located in Appendix A of this notice when evaluating applications under the selection criteria:

*A. Executive Summary (10 points).*

The extent to which the State includes an ambitious and achievable plan for expanding access to High-Quality Preschool Programs that clearly articulates how the plans proposed under each criterion in this section, when taken together, will—

(1) Build on the State's progress to date as demonstrated in selection criterion (B);

(2) Provide voluntary, High-Quality Preschool Programs for Eligible Children through subgrants to each Subgrantee in two or more High-Need Communities;

(3) Increase the number and percentage of Eligible Children served in High-Quality Preschool Programs during each year of the grant period through the creation of new, and the improvement of existing State Preschool Program slots, as applicable;

(4) Have all the characteristics specified in the definition of High-Quality Preschool Programs;

(5) Set expectations for the school readiness of children upon kindergarten entry;

(6) Be supported by a broad group of stakeholders, including Early Learning Intermediary Organizations and, if applicable, State and local early learning councils; and

(7) Allocate funds between—

(a) Activities to build or enhance State Preschool Program infrastructure using no more than five percent of its Federal grant funds received over the grant period on State-level infrastructure including, but not limited to, monitoring and evaluation and other quality-enhancing activities that improve the delivery of High-Quality Preschool Programs to Eligible Children; and

(b) Subgrants to Early Learning Providers to implement voluntary, High-Quality Preschool Programs for Eligible Children in one or more High-Need Communities, including how it will—

(i) Provide High-Quality Preschool Programs to Eligible Children no later than the end of year one of the grant period;

(ii) Subgrant at least 95 percent of its Federal grant funds to its Subgrantee or Subgrantees over the grant period; and

(iii) Support each Subgrantee in culturally and linguistically appropriate outreach and communication efforts in order to ensure that all families, including those who are isolated or otherwise hard to reach, are informed of the opportunity and encouraged to enroll their children in available programs.

*Evidence for selection criterion (A):*

- (A)(3) and (A)(7) Information contained in Table A for the number of Eligible Children to be served each year of the grant and the number and percentage of State Preschool Program slots (See Table A in the Excel spreadsheets).
- (A)(4) Documentation of the structural elements in the definition of High-Quality Preschool Program.
- (A)(5) Set of expectations for school readiness.
- (A)(6) Letters of support from stakeholders, including Early Learning Intermediary Organizations and, if applicable, State and local early learning councils.
- Any other supporting evidence the State believes will be helpful to peer reviewers.

*B. Commitment to State Preschool Programs (20 points)*

The extent to which the State has demonstrated its commitment to develop or enhance the State Preschool Program infrastructure and its capacity to both deliver and increase access to High-Quality Preschool Programs for Eligible Children, as evidenced by—

(1) State Early Learning and Development Standards (2 points);

(2) The State's financial investment, if any, and the estimated number and percentage of children, including if known, the estimated number and percentage of Eligible Children, served in State Preschool Programs over the last four years (6 points);

(3) Enacted and pending legislation, policies, or practices that demonstrate the State's current and future commitment to increasing access to High-Quality Preschool Programs for Eligible Children (4 points);

(4) The quality of existing State Preschool Programs, as evidenced by policies and program data that demonstrate the State's commitment to the components of a High-Quality Preschool Program; compliance with Program Standards; and support for program monitoring and improvement, which may be accomplished through the use of a TQRIS (4 points);

(5) The State's coordination of preschool programs and services, in partnership with its Early Learning Advisory Council, with other State and Federal resources that may be used to serve preschool-aged children, including, if applicable, programs and services supported by title I of the ESEA, part C and section 619 of part B of IDEA, subtitle VII–B of the McKinney-Vento Act, the Head Start Act (42 U.S.C. 9831 et seq.), and the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) (2 points); and

(6) The State's role in promoting coordination of preschool programs and services at the State and local levels with other sectors that support the early learning and development of children, including child health, mental health, family support, nutrition, child welfare, and adult education and training sectors (2 points).

*Evidence for selection criterion (B):*

- (B)(1) Executive summary or brief description of the State's Early Learning and Development Standards, including how the definition is met.
- (B)(2) Completed Table B that describes the State's financial investment and number of children served in State Preschool Programs (See Table B in the Excel Spreadsheets).
- (B)(3) Evidence of enacted and pending legislation, policies, or practices.
- Any other supporting evidence the State believes will be helpful to peer reviewers.

*C. Ensuring Quality in Preschool Programs (30 points).*

The extent to which the State has an ambitious and achievable plan to ensure program quality, including a description of how the State will (8 points)—

(1) Use no more than five percent of the funds received over the grant period for State Preschool Program infrastructure and quality improvements at the State level through activities such as—

(a) Enhancing or expanding Early Learning and Development Standards;

(b) Implementing Program Standards consistent with a High-Quality Preschool Program;

(c) Supporting programs in meeting the needs of children with disabilities and English learners, including in workforce development;

(d) Conducting a needs assessment to determine the current availability of High-Quality Preschool Programs, including private and faith-based providers and Head Start programs;

(e) Establishing or upgrading preschool teacher education and licensure requirements;

(f) Improving teacher and administrator early education training programs and professional development;

(g) Implementing a Statewide Longitudinal Data System to link preschool and elementary and secondary school data;

(h) Implementing a Comprehensive Early Learning Assessment System;

(i) Building preschool programs' capacity to engage parents in decisions about their children's education and development, help families build protective factors, and help parents support their children's learning at home;

(j) Building State- and community-level support for High-Quality Preschool Programs through systemic linkages to other early learning programs and resources to support families, such as child health, mental health, family support, nutrition, child welfare, and adult education and training sectors; and

(k) Other activities that would support the delivery of High-Quality Preschool Programs to Eligible Children.

(2) Implement a system for monitoring and supporting continuous improvement for each Subgrantee to ensure that each Subgrantee is providing High-Quality Preschool Programs (which may be accomplished through the use of leveraging a TQRIS and other existing monitoring systems), including the extent to which the State (10 points)—

(a) Has the capacity to measure preschool quality, including parent satisfaction measures, and provide performance feedback to inform and drive State and local continuous program improvement efforts;

(b) Is using a Statewide Longitudinal Data System that is able to track student progress from preschool through third grade; and

(c) Clearly specifies the measureable outcomes, including school readiness, to be achieved by the program.

(3) Measure the outcomes of participating children across the five Essential Domains of School Readiness during the first few months of their admission into kindergarten using an assessment or assessments, such as a Kindergarten Entry Assessment, to achieve the purposes for which the assessment was developed and that conform with the recommendations of the National Research Council report on early childhood assessments (12 points).[18]

*Evidence for selection criterion (C):*

- (C)(2)(a) Evidence of a monitoring protocol used to drive continuous program improvement.
- (C)(2)(c) Evidence of State targets with measurable outcomes, including school readiness achieved by the program.
- Any other supporting evidence the State believes will be helpful to peer reviewers.

*D. Expanding High-Quality Preschool Programs in Each High-Need Community (60 points)*

The extent to which the State articulates an ambitious and achievable plan for expanding High-Quality Preschool Programs in two or more High-Need Communities, including a description of how—

(1) The State has selected each Subgrantee and each High-Need Community that will be served, including a description of each High-Need Community and its geographic diversity, such as whether the community is located in a rural or tribal area, and whether it is located in a federally designated Promise Zone[19] (8 or 6 points).

**Note:** Applicants that have federally designated Promise Zones in their States as of July 31, 2014 must propose to serve and coordinate with a High-Need Community located in that Promise Zone in order to be eligible for up to the full 8 points under sub-criterion (D)(1). If they do not propose to serve and coordinate with a High-Need Community in that Promise Zone, they are eligible for up to 6 points under this sub-criterion. Applicants that do not have federally designated Promise Zones in their State are eligible for up to the full 8 points under this sub-criterion.

(2) Each High-Need Community is currently underserved, including the number and percentage of four-year-olds in State Preschool Programs and other publically funded preschool programs (8 points).

(3) The State conducted outreach, including consultation with tribes, if applicable, to potential Subgrantees and the process used in selecting each Subgrantee (4 points).

(4) The State will subgrant at least 95 percent of its Federal grant award over the grant period to its Subgrantee or Subgrantees to implement and sustain voluntary, High-Quality Preschool Programs in two or more High-Need Communities, and—

(a) Set ambitious and achievable annual targets for the number and percentage of additional Eligible Children to be served during each year of the grant period through, as applicable, the (16 points); and

(b) Incorporate in their plan (12 points):

(i) Ambitious expansion of the number of new slots in State Preschool Programs that meet the definition of High-Quality Preschool Program; and

(ii) Ambitious improvement of existing State Preschool Program slots to bring them to the level of a High-Quality Preschool Program by extending programs from half-day to Full-Day; limiting class size and decreasing child to staff ratios; employing and compensating a teacher with a bachelor's degree; providing in-service, evidence-based professional development such as coaching; or providing Comprehensive Services.

**Note:** Applicants may receive up to the full 12 points if they address only (D)(4)(b)(i) or (D)(4)(ii) or if they address both (D)(4)(i) and (ii);

(5) The State, in coordination with each Subgrantee, intends to sustain High-Quality Preschool Programs after the grant period, including any non-Federal support that the State or each Subgrantee commits to contribute (12 points).

*Evidence for selection criterion (D):*

- A letter of support or preliminary binding agreement, such as a preliminary MOU, from each Subgrantee attesting to the Subgrantee's participation.
- Table (D)(4) and Table A (See Tables (D)(4) and A in the Excel spreadsheets).
- Any other supporting evidence the State believes will be helpful to peer reviewers.

*E. Collaborating With Each Subgrantee and Ensuring Strong Partnerships (50 points)*

The extent to which the State has an ambitious and achievable plan to ensure that each Subgrantee is effectively

[18] One example of these reports is referenced here. National Research Council (2008). Early Childhood Assessment: Why, What, and How. Committee on Developmental Outcomes and Assessments for Young Children, C.E. Snow and S.B. Van Hemel, Editors. Board on Children, Youth, and Families, Board on Testing and Assessment, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press. Available at: *www.nap.edu/catalog.php?record_id=12446*.

[19] The first five Promise Zones are located in San Antonio, Texas (Eastside Neighborhood); Philadelphia, Pennsylvania (West Philadelphia); Los Angeles, California (Neighborhoods of Pico Union, Westlake, Koreatown, Hollywood, and East Hollywood); Southeastern Kentucky (Kentucky Highlands); and the Choctaw Nation of Oklahoma. For additional information on Promise Zones, see *www.whitehouse.gov/the-press-office/2014/01/08/fact-sheet-president-obama-s-promise-zones-initiative*.

implementing High-Quality Preschool Programs, including a description of—

(1) The roles and responsibilities of the State and Subgrantee in implementing the project plan (2 points).

(2) How the State plans to implement High-Quality Preschool Programs, including the organizational capacity and existing infrastructure of the Subgrantee to provide High-Quality Preschool Programs, either directly or indirectly through an Early Learning Provider or Providers, and coordinate the delivery of High-Quality Preschool Programs (6 points).

(3) How the State will ensure that each Subgrantee minimizes local administrative costs (2 points).

(4) How the State and Subgrantee will monitor the Early Learning Providers to ensure they are delivering High-Quality Preschool Programs (4 points).

(5) How the State and the Subgrantee will coordinate plans related to assessments, data sharing, instructional tools, family engagement, cross-sector and comprehensive services efforts, professional development, and workforce and leadership development (4 points).

(6) How the State and Subgrantee will coordinate, but not supplant, the delivery of High-Quality Preschool Programs funded under this grant with existing services for preschool-aged children including, if applicable, State Preschool Programs and programs and services supported through title I of the ESEA, part C and section 619 of part B of IDEA, subtitle VII–B of the McKinney-Vento Act, the Head Start Act, and the Child Care and Development Block Grant Act (6 points).

(7) How the Subgrantee will integrate, to the extent practicable, High-Quality Preschool Programs for Eligible Children within economically diverse, inclusive settings, including those that serve children from families with incomes above 200 percent of the Federal Poverty Line (6 points).

(8) How the Subgrantee will deliver High-Quality Preschool Programs to Eligible Children, including Eligible Children who may be in need of additional supports, such as those who have disabilities or developmental delays; who are English learners; who reside on ''Indian lands'' as that term is defined by section 8013(7) of the ESEA; who are migrant; who are ''homeless,'' as defined in subtitle VII–B of the McKinney-Vento Act; who are in the child welfare system; who reside in rural or tribal areas; who are from military families; and other children as identified by the State (6 points).

(9) How the State will ensure the Subgrantee implements culturally and linguistically responsive outreach and communication efforts to enroll children from families with Eligible Children, including isolated or hard-to-reach families; helps families build protective factors; and engages parents and families (e.g., builds capacity to support children's learning and development) as decision-makers in their children's education (4 points).

(10) How the State will ensure strong partnerships between each Subgrantee and LEAs or other Early Learning Providers, as appropriate, including a description of how the State will ensure that each Subgrantee (10 points)—

(a) Partners with LEAs or other Early Learning Providers, as appropriate, to carry out activities that provide children and their families with successful transitions from preschool into kindergarten; and

(b) Coordinates and collaborates with LEAs or other Early Learning Providers, as appropriate, in—

(i) Providing opportunities for early educators to participate in professional development on early learning and kindergarten standards, assessments, curricula, and culturally and linguistically responsive strategies to help families build protective factors, build parents' capacity to support their children's learning and development, and engage parents as decision-makers in their children's education;

(ii) Providing family engagement, support, nutrition, and other Comprehensive Services and coordinating with other community partners to ensure families' access to needed supports;

(iii) Supporting full inclusion of Eligible Children with disabilities and developmental delays to ensure access to and full participation in the High-Quality Preschool Program;

(iv) Supporting the inclusion of children who may be in need of additional supports, such as children who are English learners; who reside on ''Indian lands'' as that term is defined by section 8013(7) of the ESEA; who are migrant; who are ''homeless,'' as defined in subtitle VII–B of the McKinney-Vento Act; who are in the child welfare system; who reside in rural areas; who are from military families; and other children as identified by the State;

(v) Ensuring that High-Quality Preschool Programs have age-appropriate facilities to meet the needs of Eligible Children;

(vi) Developing and implementing a systematic procedure for sharing data and other records consistent with Federal and State law; and

(vii) Utilizing community-based learning resources, such as libraries, arts and arts education programs, and family literacy programs.

*Evidence for selection criterion (E):*

- Any supporting evidence the State believes will be helpful to peer reviewers.

*F. Alignment Within a Birth Through Third Grade Continuum (20 points)*

The extent to which the State has an ambitious and achievable plan to align High-Quality Preschool Programs supported by this grant with programs and systems that serve children from birth through third grade to, among other things, improve transitions for children across this continuum.

(1) For birth through age-five programs, these activities include—

(a) Coordinating with other early education and care programs and child care family service providers supported through Federal, State, and local resources to build a strong continuum of learning for children from birth through age five and their families that expands families' choices, facilitates or improves their access to programs and supports in their own communities, and engages all families with Eligible Children, including isolated or hard-to-reach families that might not otherwise participate; and

(b) Ensuring that the provision of High-Quality Preschool Programs will not lead to a diminution of other services or increased cost to families for programs serving children from birth through age five; and

(2) For kindergarten through third grade, these activities may include—

(a) Ensuring that Eligible Children are well-prepared for kindergarten;

(b) Sustaining the educational and developmental gains of Eligible Children by—

(i) Promoting collaboration between preschool and kindergarten teachers;

(ii) Expanding access to Full-Day kindergarten; and

(iii) Increasing the percentage of children who are able to read and do math at grade level by the end of third grade; and

(c) Sustaining a high level of parent and family engagement as children move from High-Quality Preschool Programs into the early elementary school years;

(d) Taking steps, or building upon the steps it has taken, to align, at a minimum—

(i) Child learning standards and expectations;

(ii) Teacher preparation, credentials, and workforce competencies;

(iii) Comprehensive Early Learning Assessment Systems;

(iv) Data systems; and

(v) Family engagement strategies.

*Evidence for selection criterion (F):*

• Any supporting evidence the State believes will be helpful to peer reviewers.

*G. Budget and Sustainability (10 points)*

The extent to which the budget narrative and budget tables demonstrate that the State will—

(1) Use the funds from this grant and any matching contributions to serve the number of children described in its ambitious and achievable plan for each year, including using the funds for the projected per child costs for new and improved State Preschool Program slots that are reasonable and sufficient, and that the projected per child costs for new and improved State Preschool Program slots are reasonable and sufficient to ensure High-Quality Preschool Programs;

(2) Coordinate the use of existing funds from Federal sources that support early learning and development, such as title I of the ESEA, part C and section 619 of part B of IDEA, subtitle VII–B of the McKinney-Vento Act, the Head Start Act, and the Child Care and Development Block Grant Act of 1990, and State, private, local, foundation, or other private funding sources for activities and services that help expand High-Quality Preschool Programs; and

(3) Sustain the High-Quality Preschool Programs supported by this grant after the grant period ends to ensure that the number and percentage of Eligible Children with access to High-Quality Preschool Programs in the State will be maintained or expanded, including to additional High-Need Communities.

*Evidence for selection criterion (G):*

• Budget narrative and budget tables.

• Any other supporting evidence the State believes will be helpful to peer reviewers.

2. *Review and Selection Process:* The Departments will screen applications that are received by the deadline for transmittal of applications and will determine which States are eligible based on whether they have met the eligibility requirements in section III (*Eligibility Information*) of this notice; the Departments will not consider further those applicants deemed ineligible.

The Departments intend to use a peer review process with panels of three reviewers per application. Review panels will be created based on the number of applications received. All applicants will receive their reviewers' comments and scores.

In selecting grantees, the Secretaries may consider high-ranking applications meeting Absolute Priority 2 and Absolute Priority 3 separately to ensure that a variety of States benefit from the Preschool Development Grants program and that States that have received Race to the Top—Early Learning Challenge awards are not unfairly advantaged in this competition.

We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary of Education may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous reward, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary of Education may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary of Education also requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

We intend to post all submitted applications (both successful and unsuccessful) on ED's Web site, together with the final scores each application received. We will post each reviewer's final scores and comments on reviewed applications, with the names of reviewers redacted.

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary of Education may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

## VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Departments. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary of Education under 34 CFR 75.118. The Secretary of Education may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Departments have developed the following performance measures for measuring the overall effectiveness of this program:

(1) The number and percentage of Eligible Children served in High-Quality Preschool Programs funded by the grant;

(2) The number and percentage of children served overall in the State Preschool Program; and

(3) The number and percentage of children in the High-Need Communities served by the grant that are ready for kindergarten as determined by the State's Kindergarten Entry Assessment or, if the State does not yet have a Kindergarten Entry Assessment, other valid and reliable means of determining school readiness.

5. *Continuation Awards:* Grants awarded under this competition may be for a project period of up to four years. Depending on the availability of funds, the Departments will make continuation awards for years two, three, and four of the project period in accordance with section 75.253 of EDGAR (34 CFR

75.253). Consistent with this provision, the Departments will determine the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application,'' which will include a review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. To ensure that continuation funds will be used only for high-quality and effective projects, in determining whether or not to award continuation grants, the Departments will also consider the extent to which the grantee is achieving the intended outcomes of the grant and progress in areas demonstrates the following:

(a) The development, enhancement, or expansion of High-Quality Preschool Programs in each designated High-Need Community to be served by each Subgrantee, including in the improvement of the State Preschool Program's infrastructure, and in the development of community partnerships, needed to ensure the delivery of High-Quality Preschool Programs to participating Eligible Children and their families and the culturally and linguistically appropriate outreach activities and procedures needed to encourage and maintain enrollment of children in isolated or otherwise hard-to-reach families in the designated communities;

(b) Holding each Subgrantee accountable for fully adhering to all the program quality components that are part of the definition of a High-Quality Preschool Program;

(c) Coordination of Federal and State funds and programs to support a coherent approach to effective High-Quality Preschool Programs and supporting and engaging parents;

(d) Providing high-quality technical assistance to each Subgrantee and implementing a rigorous monitoring process to ensure the delivery of High-Quality Preschool Programs;

(e) Collecting, analyzing, and using high-quality and timely data, especially on Subgrantee program quality, including data regarding program outcomes, family engagement, school readiness of Eligible Children in High-Quality Preschool Programs, and student progress through third grade;

(f) Improvement on the program performance measures, to the extent such data are available;

(g) Holding each Subgrantee accountable for engaging and supporting parents, helping them build protective factors, facilitating families' links to services in their community, enhancing their capacity to support their children's education and development, and involving parents in decisions about their children's education; and

(h) If applicable, obtaining and expending matching contributions as described in its application.

In making a continuation grant, the Secretary of Education also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

## VII. Agency Contact

**FOR FURTHER INFORMATION CONTACT:** Rebecca Marek, U.S. Department of Education, 400 Maryland Ave. SW., Room 3E344, Washington, DC 20202–6200. Telephone: 202–260–0968 or by email: *PreschoolDevelopmentGrants.Competition@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

## VIII. Other Information

*Accessible Format:* Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: August 12, 2014.

**Deborah S. Delisle,**

*Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education.*

**Mark Greenberg,**

*Assistant Secretary for Children and Families, U.S. Department of Health and Human Services.*

## Appendix A—Scoring Rubric

### I. Introduction

To help ensure inter-reviewer reliability and transparency for the Preschool Development Grants—Expansion Grant applicants, the Departments have created and are publishing a rubric for scoring State applications. The pages that follow detail the rubric and allocation of point values that reviewers will be using. The rubric will be used by reviewers to ensure consistency across and within review panels.

The rubric allocates points to each selection criterion. In all, the Preschool Development Grants—Expansion Grant scoring rubric includes seven selection criteria and three competitive preference priorities. These collectively add up to 230 points.

Reviewers will be required to make thoughtful judgments about the quality of a State's application and will be assessing, based on the selection criteria, the comprehensiveness, feasibility, and likely impact of the State's application. Reviewers will also be asked to evaluate, for example, the extent to which the State has set ambitious and achievable annual targets in its application. Reviewers will also need to make informed judgments about the State's goals, the activities the State has chosen to undertake, and the timelines and credibility of the State's plan.

This appendix includes information about the point values for each selection criterion and priority, guidance on scoring, and the rubric that we will provide to reviewers.

### II. Points Overview

The chart below shows the maximum number of points and the percent of total points available that are assigned to each selection criterion.

| Preschool development grants—expansion grants: points overview | Points available | Percent |
|---|---|---|
| A. Executive Summary | | |
| (A)(1) The State's progress to date. | | |
| (A)(2) Provide High-Quality Preschool Programs in two or more High-Need Communities. | | |
| (A)(3) Increase the number and percentage of Eligible Children served in High-Quality Preschool Programs. | | |

| Preschool development grants—expansion grants: points overview | Points available | Percent |
|---|---|---|
| (A)(4) Characteristics of High-Quality Preschool Programs.<br>(A)(5) Set expectations for school readiness.<br>(A)(6) Supported by a broad group of stakeholders.<br>(A)(7) Allocate funds between—<br>(a) Activities to build or enhance infrastructure using no more than 5% of funds; and<br>(b) Subgrants using at least 95% of funds. | | |
| Subtotal | 10 | 5 |
| B. Commitment to State Preschool Programs | | |
| (B)(1) Early Learning and Development Standards | 2 | 1 |
| (B)(2) State's financial investment | 6 | 3 |
| (B)(3) Enacted and pending legislation, policies, and/or practices | 4 | 2 |
| (B)(4) Quality of existing State Preschool Programs | 4 | 2 |
| (B)(5) Coordination of preschool programs and services | 2 | 1 |
| (B)(6) Role in promoting coordination of preschool programs with other sectors | 2 | 1 |
| Subtotal | 20 | 10 |
| C. Ensuring Quality in Preschool Programs | | |
| (C)(1) Use no more than 5% of funds for infrastructure and quality improvements | 8 | 4 |
| (C)(2) Implement a system for monitoring | 10 | 5 |
| (C)(3) Measure the outcomes of participating children | 12 | 6 |
| Subtotal | 30 | 15 |
| D. Expanding High-Quality Preschool Programs in Each High-Need Community | | |
| (D)(1) How the State has selected each Subgrantee and each High-Need Community | 8 | 4 |
| Note: Applicants with federally designated Promise Zones must propose to serve and coordinate with a High-Need Community in that Promise Zone in order to be eligible for up to the full 8 points. If they do not, they are eligible for up to 6 points. Applicants that do not have federally designated Promise Zones in their State are eligible for up to the full 8 points. | | |
| (D)(2) How each High-Need Community is currently underserved | 8 | 4 |
| (D)(3) How the State will conduct outreach to potential Subgrantees | 4 | 2 |
| (D)(4) How the State will subgrant at least 95% of its Federal grant award to its Subgrantee or Subgrantees to implement and sustain voluntary, High-Quality Preschool Programs in two or more High-Need Communities, and— | | |
| (a) Set ambitious and achievable targets; and | 16 | 8 |
| (b) Incorporate in their plan— | | |
| (i) Expansion of the number of new high-quality State Preschool Program slots; and | | |
| (ii) Improvement of existing State Preschool Program slots. | | |
| Note: Applicants may receive up to the full 12 points if they address only (D)(4)(b)(i) or (b)(ii) or if they address both (D)(4)(b)(i) and (b)(ii); | 12 | 6 |
| (5) How the State, in coordination with the Subgrantees, plans to sustain High-Quality Preschool Programs after the grant period | 12 | 6 |
| D. Subtotal | 60 | 30 |
| E. Collaborating with Each Subgrantee and Ensuring Strong Partnerships | | |
| (E)(1) Roles and responsibilities of the State and Subgrantee in implementing the project plan | 2 | 1 |
| (E)(2) How High-Quality Preschool Programs will be implemented | 6 | 3 |
| (E)(3) How the Subgrantee will minimize local administrative costs | 2 | 1 |
| (E)(4) How the State and Subgrantee will monitor Early Learning Providers | 4 | 2 |
| (E)(5) How the State and the Subgrantee will coordinate plans | 4 | 2 |
| (E)(6) How the State and the Subgrantee will coordinate, but not supplant, the delivery of High-Quality Preschool Programs funded under this grant with existing services for preschool-aged children | 6 | 3 |
| (E)(7) How the Subgrantees will integrate High-Quality Preschool Programs for Eligible Children within economically diverse, inclusive settings | 6 | 2 |
| (E)(8) How the Subgrantees will deliver High-Quality Preschool Programs to Eligible Children who may be in need of additional supports | 6 | 3 |
| (E)(9) How the State will ensure outreach to enroll isolated or hard-to-reach families; help families build protective factors; and engage parents and families | 4 | 2 |
| (E)(10) How the State will ensure strong partnerships between each Subgrantee and LEAs or other Early Learning Providers | 10 | 5 |
| Subtotal | 50 | 25 |
| F. Alignment within a Birth Through Third Grade Continuum | | |
| (F)(1) Birth through age-five programs.<br>(F)(2) Kindergarten through third grade. | | |
| Subtotal | 20 | 10 |
| G. Budget and Sustainability | | |

| Preschool development grants—expansion grants: points overview | Points available | Percent |
|---|---|---|
| (G)(1) Use the funds from this grant and any matching contributions to serve the number of Eligible Children described in its ambitious and achievable plan each year.<br>(G)(2) Coordinate the uses of existing funds from Federal sources that support early learning and development.<br>(G)(3) Sustain the High-Quality Preschool Programs provided by this grant after the grant period ends. | | |
| Subtotal | 10 | 5 |
| Total Points Available for Selection Criteria | 200 | 100 |
| Competitive Priority 1: Contributing Matching Funds | 10 | |
| Competitive Priority 2: Supporting a Continuum of Early Learning and Development | 10 | |
| Competitive Priority 3: Creating New High-Quality State Preschool Program Slots | 0 or 10 | |
| Total for All Priorities | 30 | |
| Grand Total | 230 | |

**III. About Scoring**

*General Notes About Scoring*

*Ambitious and Achievable.* In determining whether a State has ambitious and achievable goals or targets for a given selection criterion, reviewers will examine the State's goals or targets in the context of the State's plan and the evidence submitted (if any) in support of the plan. Reviewers will not be looking for any specific targets nor will they necessarily reward higher targets above lower ones with higher scores. Rather, reviewers will reward States for developing goals and targets that, in light of each State's plan and the current context and status of the work in that State, are shown to be ambitious and achievable.

Additionally, there is a term that we use repeatedly in the notice: Ambitious and achievable plan. This is an anchor term for applicants to understand and reviewers to use in guiding their scoring. In determining the quality of a State's plan for a given selection criterion or competitive preference priority, reviewers will assess the extent to which the plan is ambitious and achievable, including whether it is feasible and has a high probability of successful implementation and contains the following components—

(1) The key goals of the plan;

(2) The key activities to be undertaken; the rationale for the activities; and, if applicable, where in the State the activities will be initially implemented, and where and how they will be scaled up over time;

(3) A realistic timeline, including key milestones, for implementing each key activity;

(4) The party or parties responsible for implementing each activity and other key personnel assigned to each activity;

(5) Appropriate financial resources to support successful implementation and sustainment of the plan;

(6) The information requested as supporting evidence, if any, together with any additional information the State believes will be helpful to peer reviewers in judging the credibility of the plan;

(7) The information requested in the performance measures, where applicable; and

(8) How the State will address the needs of Eligible Children, including those who may be in need of additional supports, such as children who have disabilities or developmental delays; who are English learners; who reside on ''Indian lands'' as that term is defined by section 8013(7) of the ESEA; who are migrant; who are ''homeless,'' as defined in subtitle VII–B of the McKinney-Vento Act; who are involved in the child welfare system; who reside in rural areas; who are from military families; and any other children identified by the State.

*Rubric*

The following scoring rubric will be used to guide the reviewers in scoring selection criteria and priorities. (See ''General Notes about Scoring'' for more information about how reviewers will assess ambitious and achievable plans.)

| | Percentage of available points awarded |
|---|---|
| High-quality response | 80–100 |
| Medium/high-quality response | 50–80 |
| Medium/low-quality response | 20–50 |
| Low-quality response | 0–20 |

*About Priorities*

There are two types of priorities in the Preschool Development Grants—Expansion Grant competition: absolute and competitive.

- Applicants must address Absolute Priority 1 the absolute priorities throughout their applications; they do not write separately to this priority. It will be assessed, after the proposal has been fully reviewed and evaluated, to ensure that the application has met the priority. Absolute Priority 1 must be met in order for an applicant to receive funding. If an application has not met the priority, it will be eliminated from the competition. A State meets the absolute priority if a majority of reviewers determines that the State has met the absolute priority. Absolute Priorities 2 and 3 are not judged by peer reviewers.
- Applicants may choose whether to address the competitive preference priorities. Additional points will be awarded to an application to the extent that reviewers determine it has met a competitive preference priority. Applicants earn points under the competitive preference priorities in a manner similar to how they earn points under the selection criteria.

○ Competitive Preference Priority 1 (Contributing Matching Funds) is worth up to 10 points.

| State match of projected four-year total award amount | Possible points |
|---|---|
| 50% or more | 10 |
| 40% to 49% | 8 |
| 30% to 39% | 6 |
| 20% to 29% | 4 |
| 10% to 19% | 2 |
| Less than 10% | 0 |

○ Competitive Preference Priority 2 (Supporting a Continuum of Early Learning and Development) is worth up to 10 points.

○ Competitive Preference Priority 3 (Creating New High-Quality State Preschool Program Slots) is worth 0 or 10 points. If the applicant proposes to use at least 50 percent of its Federal grant award to create new State Preschool Program slots, 10 points will be awarded.

*In the Event of a Tie*

If two or more applications have the same score and there is not sufficient funding to support all of the tied applicants, the applicants' overall scores on Selection Criterion (D) will be used to break the tie.

**Appendix B—Subgrantee**

*Model Memorandum of Understanding*

States do not need to submit Memoranda of Understanding (MOU) from each Subgrantee at the time of application, but, if awarded funds, States that receive Preschool Development Grants—Expansion Grants will have 90 days to submit signed MOUs or other binding agreements from each Subgrantee (see Program Requirement (i)). However, as stated in Application Requirement (e), States applying for Preschool Development Grants—Expansion Grants must submit a letter of support or preliminary MOU or other preliminary binding agreement from each

Subgrantee identified in its application. The following is an example of a *final* agreement.

*Background for Memorandum of Understanding*

Within 90 days of receipt of a Preschool Development Grants—Expansion Grant award, the State must submit to the Departments a final signed MOU or other binding agreement with each Subgrantee. The purpose of the MOU or other binding agreement is to define a relationship between the State's Lead Agency and the Subgrantee that is specific to the Preschool Development Grants—Expansion Grant Competition; the MOU or other binding agreement is not meant to detail all typical aspects of grant coordination or administration.

To support States in working efficiently with their Subgrantees to affirm each Subgrantee's participation in the State Plan, the Departments have produced a model MOU, which is attached. This model MOU may serve as a template for States; however, States are not required to use it. States may use a document other than the model MOU, as long as it includes the key features noted below and in the model MOU. States should consult with their State attorneys on what is most appropriate. States may allow multiple Subgrantees to sign a single MOU or other binding agreement, with customized exhibits for each Subgrantee, if the State so chooses.

At a minimum, a Preschool Development Grants—Expansion Grant MOU or other binding agreement should include the following key features, each of which is described in detail below and exemplified in the attached model MOU: (i) Terms and conditions; (ii) a scope of work; and (iii) authorized signatures.

(i) Terms and conditions: Each Subgrantee must sign a standard set of terms and conditions that includes, at a minimum: Key roles and responsibilities of the Lead Agency and the Subgrantee; method and process for making different types of decisions; mechanism for exchanging of data; the Subgrantee's role in implementing the State's ambitious and achievable plan; State recourse for non-performance by the Subgrantee; and assurances that make clear what the Subgrantee is agreeing to do.

(ii) Scope of work: Preschool Development Grants—Expansion Grants MOUs or other binding agreements must include a scope of work (included in the model MOU as Exhibit I) that is completed by each Subgrantee. The scope of work must be signed and dated by an authorized Subgrantee official and an authorized Lead Agency official. The scope of work for the State and the Subgrantee, which must contain detailed work plans and budgets consistent with the State's grant application, must include the State's and each Subgrantee's specific goals, activities, timelines, budgets, key personnel, and annual targets for key performance measures for the portions of the State's proposed plans that the Subgrantee is agreeing to implement.

(iii) Authorized Signatures: The signatures on the MOU or other binding agreement demonstrate an acknowledgement of the relationship between the Subgrantee and the Lead Agency. With respect to the relationship between the Subgrantee and the Lead Agency, the Lead Agency's counter-signature on the MOU or other binding agreement indicates that the Subgrantee's commitment is consistent with the requirement that a Subgrantee implement all applicable portions of the State Plan.

**Model Subgrantee Memorandum of Understanding**

(To be submitted 90 days after State receives award)

This Memorandum of Understanding (''MOU'') is entered into by and between __ _____ (''Lead Agency'') and _____ (''Subgrantee''). The purpose of this agreement is to establish a framework of collaboration, as well as articulate specific roles and responsibilities in support of the State in its implementation of an approved Preschool Development Grants—Expansion Grant.

**I. Assurances**

The Subgrantee hereby certifies and represents that it:

(1) Agrees to implement those portions of the State Plan indicated in Exhibit I.

(2) Has all requisite power and authority to execute and fulfill the terms of this MOU;

(3) Is familiar with the State's Preschool Development Grants—Expansion Grant Application and is supportive of and committed to working on all applicable portions of the State Plan;

(4) Will implement the Scope of Work in Exhibit I consistent with the Budget included in section VIII of the State Plan (including existing funds, if any, that the Subgrantee is using for activities and services that help achieve the outcomes of the State Plan); and

(5) Will comply with all of the terms of the Preschool Expansion Grants—Expansion Grant, this agreement, and all applicable Federal and State laws and regulations, including laws and regulations applicable to the Preschool Development Grants—Expansion Grant, and the applicable provisions of EDGAR (34 CFR parts 75, 77, 79, 80, 82, 84, 86, 97, 98 and 99), and the debarment and suspension regulations in 2 CFR part 3485.

**II. Project Administration**

*A. Subgrantee Responsibilities*

In assisting the Lead Agency in implementing the tasks and activities described in the State's Preschool Development Grants—Expansion Grant application, the Subgrantee will:

(1) Implement the Subgrantee Scope of Work as identified in Exhibit I of this agreement;

(2) Make arrangements for High-Quality Preschool programs to be provided by Early Learning Providers and will appropriately monitor such entities;

(3) Abide by the State's Budget included in section VIII of the State Plan (including the existing funds from Federal, State, private, and local sources, if any, that the Subgrantee is using to achieve the outcomes in the Preschool Development Grants—Expansion Grant Plan) and with the Subgrantee's Budget included in Exhibit II of this agreement;

(4) Actively participate in all relevant meetings or other events that are organized or sponsored by the State, by the U.S. Department of Education (''ED''), or by the U.S. Department of Health and Human Services (''HHS'');

(5) Post to any Web site specified by the State, ED, or HHS, in a timely manner, all non-proprietary products and lessons learned developed using Federal funds awarded under the Preschool Development Grants—Expansion Grant;

(6) Participate, as requested, in any evaluations of this grant conducted by the State, ED, or HHS;

(7) Be responsive to State, ED, or HHS requests for project information including on the status of the project, project implementation, outcomes, and any problems anticipated or encountered, consistent with applicable local, State, and Federal privacy laws;

(8) Provide researchers with access, consistent with requirements of all applicable Federal, State, and local privacy laws, to available data regarding the enrollment and school readiness of Eligible Children in State Preschool Programs;

(9) Implement culturally and linguistically responsive outreach and communication efforts to enroll isolated or hard-to-reach families; help families build protective factors; and engage parents and families as decision-makers in their children's education;

(10) Minimize local administrative costs; and

(11) Partner with LEAs or other Early Learning Providers, as appropriate, to carry out activities that will provide children and their families with successful transitions from preschool into kindergarten.

*B. Lead Agency Responsibilities*

In assisting the Subgrantee in implementing its tasks and activities described in the Preschool Development Grants—Expansion Grant application, the Lead Agency will:

(1) Work collaboratively with the Subgrantee and support the Subgrantee in carrying out the Subgrantee's Scope of Work, as identified in Exhibit I of this agreement;

(2) Award in a timely manner the portion of Preschool Development Grants—Expansion Grant funds designated for the Subgrantee in the Plan during the course of the project period and in accordance with the Subgrantee Scope of Work, as identified in Exhibit I, and in accordance with the Subgrantee's Budget, as identified in Exhibit II;

(3) Provide feedback on the Subgrantee's status updates, any interim reports, and project plans and products;

(4) Keep the Subgrantee informed of the status of the State's Preschool Development Grants—Expansion Grant project and seek input from the Subgrantee, where relevant to the portion of the State plan that the Subgrantee is implementing;

(5) Facilitate coordination across Subgrantees necessary to implement the State Plan;

(6) Identify sources of technical assistance for the project; and

(7) Monitor Subgrantee's Implementation of High-Quality Preschool Programs.

*C. Joint Responsibilities*

(1) The Lead Agency and the Subgrantee will implement the State Plan consistent with the description of the roles and responsibilities outlined in the State's application and in the Scope of Work in Exhibit I;

(2) The Lead Agency and the Subgrantee will each appoint a key contact person for the Preschool Development Grants—Expansion Grant;

(3) These key contacts from the Lead Agency and the Subgrantee will maintain frequent communication to facilitate cooperation under this MOU, consistent with the State Plan and governance structure.

(4) Lead Agency and Subgrantee personnel will work together to determine appropriate timelines for project updates and status reports throughout the grant period;

(5) Lead Agency and Subgrantee personnel will negotiate in good faith toward achieving the overall goals of the State's Preschool Development Grants—Expansion Grant, including when the State Plan requires modifications that affect the Subgrantee, or when the Subgrantee's Scope of Work requires modifications;

(6) The Lead Agency and the Subgrantee will devise plans to sustain High-Quality Preschool Programs after the grant period, including any non-Federal support that the State or Subgrantees plan to contribute;

(7) The Lead Agency and the Subgrantee will coordinate plans related to assessments, data sharing, instructional tools, family engagement, cross-sector and comprehensive services efforts, professional development, and workforce and leadership development; and

(8) The Lead Agency and the Subgrantee will coordinate, but not supplant, the delivery of High-Quality Preschool Programs funded under this grant with existing services for preschool-aged children including, if applicable, programs and services supported through title I of the ESEA, part C and section 619 of part B of IDEA, subtitle VII–B of the McKinney-Vento Act, the Head Start Act, and the Child Care and Development Block Grant Act.

*D. State Recourse in the Event of Subgrantee's Failure To Perform*

If the Lead Agency determines that the Subgrantee is not meeting its goals, timelines, budget, or annual targets, or is in some other way not fulfilling applicable requirements, the Lead Agency will take appropriate enforcement action, which could include initiating a collaborative process by which they attempt to resolve the disagreements between the Lead Agency and the Subgrantee, or initiating such enforcement measures as are available to the Lead Agency, under applicable State or Federal law.

**III. Modifications**

This Memorandum of Understanding may be amended only by written agreement signed by each of the parties involved, in consultation with ED and HHS.

**IV. Duration**

This Memorandum of Understanding shall be effective, beginning with the date of the last signature hereon and ending upon the expiration of the Preschool Development Grants—Expansion Grant project period.

**V. Signatures**

Authorized Representative of Lead Agency:

Signature Date

Print Name Title

Authorized Representative of Subgrantee:

Signature Date

Print Name Title

## Exhibit I—State Lead Agency and Subgrantee Scope of Work

The State Lead Agency and Subgrantee hereby agrees to participate in the State Plan, as described in the State's application, and more specifically commits to undertake the tasks and activities described in detail below. In addition, the Lead Agency and Subgrantee will collaborate to establish Performance Measures for any aspects of the State's plan that the Subgrantee is implementing.

| Selection criterion | Participating party | Type of participation | Performance measure (if applicable) |
|---|---|---|---|
| *Example Row—shows an example of criterion (E)(10)(b)(ii) for the Subgrantees.* | • *Subgrantees* | *Providing family engagement, support, nutrition, and other Comprehensive Services and coordinating with other community partners to ensure families' access to needed supports.* | |
| *Example Row—shows an example of criterion (F)(2)(d)(i) for the State Lead Agency.* | • *State Lead Agency* | *Taking steps, or building upon the steps it has taken, to align, at a minimum—* *(i) Child learning standards and expectations* | |
| (D)(4). | | | |
| (D)(5). | | | |
| (E)(1). | | | |
| (E)(2). | | | |
| (E)(3). | | | |
| (E)(4). | | | |
| (E)(5). | | | |
| (E)(6). | | | |
| (E)(7). | | | |
| (E)(8). | | | |
| (E)(9). | | | |
| (E)(10). | | | |
| (F)(1). | | | |
| (F)(2). | | | |
| (G)(1). | | | |
| (G)(2). | | | |
| (G)(3). | | | |

## Exhibit II—Subgrantee Budget

*The MOU must contain a Subgrantee budget clearly explaining how each Subgrantee will expend funds, including any matching funds, if applicable. The State and each Subgrantee must update the budgets submitted in Part VII of the application and submit them as part of the MOU.*

Signature Date
*(Authorized Representative of Lead Agency)*

Signature Date
*(Authorized Representative of Subgrantee, if applicable)*

Signature Date
*(Authorized Representative of Subgrantee, if applicable)*

[FR Doc. 2014–19427 Filed 8–15–14; 8:45 am]

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# FEDERAL REGISTER

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Part V

## Department of Homeland Security

Coast Guard

46 CFR Parts 2, 15, 61, et al.

Offshore Supply Vessels of at Least 6,000 GT ITC; Final Rule

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**46 CFR Parts 2, 15, 61, 62, 110, 111, 125, 126, 127, 128, 129, 130, 131, 132, 134, and 174**

**[Docket No. USCG–2012–0208]**

**RIN 1625–AB62**

# Offshore Supply Vessels of at Least 6,000 GT ITC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Coast Guard Authorization Act of 2010 (the Act) removed the statutory size limit previously placed on offshore supply vessels (OSVs), and required the Coast Guard to issue regulations to mitigate the risk created as a result, noting the need ''to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew'' on OSVs exceeding the previous size limit. In accordance with the Act, the Coast Guard is issuing this interim rule to ensure the safe carriage of oil, hazardous substances, and individuals other than crew by requiring U.S.-flagged OSVs of at least 6,000 gross tonnage as measured under the Convention Measurement System to comply with existing regulatory requirements and international standards for design, engineering, construction, operations and manning, inspections, and certification. This rule also will affect any vessel of at least 500 gross register tons as measured under the Regulatory Measurement System, if that vessel is not assigned a measurement under the Convention Measurement System and the owner desires to have the vessel certificated as an OSV. The Coast Guard intends to finalize this interim rule after considering, and incorporating to the extent appropriate, any comments from the public.

**DATES:** This interim rule is effective August 18, 2014. Comments on this interim rule must be submitted to the online docket or received by the Docket Management Facility by November 17, 2014. The Director of the Federal Register has approved the incorporation by reference of certain publications listed in this rule, effective August 18, 2014.

**ADDRESSES:** You may submit comments identified by docket number USCG–2012–0208 using any one of the following methods:

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

(2) Fax: 202–493–2251.

(3) Mail: 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.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

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

*Viewing incorporation by reference material.* You may inspect the material incorporated by reference at room 5R20, U.S. Coast Guard Headquarters, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593 between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–372–1360. Copies of the material are available as indicated in the ''Incorporation by Reference'' section of this preamble.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, email or call Lieutenant Anne Besser, CG–ENG–1, Coast Guard, email *Anne.Besser@uscg.mil,* telephone 202–372–1362. 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:**

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## I. Public Participation and Request for Comments

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

*A. Submitting Comments*

If you submit a comment, please include the docket number for this rulemaking (USCG–2012–0208), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* and insert ''USCG–2012–0208'' in the ''Search'' box. Click on ''Submit a Comment'' in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this rule based on your comments.

*B. Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* insert ''USCG–2012–0208'' in the ''Search'' box and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

*C. Privacy Act*

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

*D. Public Meeting*

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

## II. Abbreviations

The Act The Coast Guard Authorization Act of 2010 (Pub. L. 111–281)
ACP Alternate Compliance Program
ANSI American National Standards Institute
API RP American Petroleum Institute Recommended Practice
ASTM ASTM International (formerly American Society for Testing and Materials)
CFR Code of Federal Regulations
COI Certificate of Inspection
ExCB Ex Certification Body
FR Federal Register
GRT Gross register tons as measured under 46 U.S.C. 14502, Regulatory Measurement System
GT ITC Gross tonnage as measured under 46 U.S.C. 14302, Convention Measurement System
IBC Code International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk
ICLL International Convention on Load Lines, 1966, as amended
IEC International Electrotechnical Commission
IECEx IEC System for Certification to Standards Relating to Equipment for use in Explosive Atmospheres
IMCA International Marine Contractors Association
IMO International Maritime Organization
MARPOL 73/78 International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto
MISLE Marine Information for Safety and Law Enforcement
NAICS North American Industry Classification System
NEC National Electric Code
NFPA National Fire Protection Association
NLS Noxious liquid substances
NOSAC National Offshore Safety Advisory Committee
OCS Outer Continental Shelf
OCMI Officer in Charge, Marine Inspection
OICNW Officer in charge of the navigational watch
OSV Offshore supply vessel
Pub. L. Public Law
SBA Small Business Administration
STCW International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended
STCW Code Seafarers' Training, Certification, and Watchkeeping Code
SOLAS International Convention for the Safety of Life at Sea, 1974, as amended
U.S.C. United States Code

## III. Executive Summary

*A. Purpose and Authority*

In late 2010, Congress removed the statutory size limit on offshore supply vessels (OSVs) and directed the Coast Guard to issue regulations ''to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew'' on OSVs exceeding the previous size limit, taking ''into consideration the characteristics of offshore supply vessels, their methods of operation, and their service in support of exploration, exploitation, or production of offshore mineral or energy resources.'' As is explained below, developments in the U.S. offshore industry created demand for larger OSVs than previously were allowed, and safely increasing the size of OSVs requires modifications to existing OSV regulations in order to address hazards associated with larger vessels carrying more cargo and personnel. Accordingly, the Coast Guard developed this interim rule to address safety and environmental hazards associated with larger OSVs. This interim rule is authorized and required by section 617 of the Coast Guard Authorization Act of 2010 (Pub. L. 111–281) (the Act).

*B. Overview of Rule*

This interim rule only implements requirements for OSVs that exceed the pre-Act size limit for OSVs and are contracted for after the effective date of this rule (referred to in this document as ''large OSVs''). It does not affect OSVs that predate this rule or that do not meet the size threshold that defines large OSVs. In addition to carrying out statutory requirements explicitly noted in section 617 of the Act, such as statutory requirements for manning and oil spill protection, this rule addresses Congress' direction to meet safety needs by establishing design and operation standards for large OSVs. To develop these standards, the Coast Guard first evaluated existing requirements for OSVs (contained in 46 CFR subchapter L) to determine whether they were adequate for ensuring safety on the new, larger OSVs. Where not sufficient, the Coast Guard then used existing international standards that these large OSVs are highly likely to meet in order to compete on the international marketplace. For example, this rule requires large OSVs to hold certain international certificates, including Convention for the Safety of Life at Sea, 1974, as amended (SOLAS) and Convention for the Prevention of Pollution from Ships (MARPOL 73/78)

certificates, even if the OSV is certificated to operate only in U.S. waters. As discussed in more detail below, the safety requirements in these international standards align with the increased risk associated with large OSVs' capacity to carry cargo and passengers, and we also consider it very likely that large OSVs will comply with these international standards in order to engage in international commerce. Where needed, the Coast Guard used other, existing domestic standards for tank vessels and cargo vessels of similar size as these new, larger OSVs. For example, this rule requires that large OSVs meet the marine engineering requirements of 46 CFR subchapter F and the electrical engineering requirements of 46 CFR subchapter J, without the exceptions made for other OSVs, because of the increased capacity of large OSVs and the corresponding increase in the potential consequences of an incident involving a large OSV. Large OSVs require increased capacity to carry larger volumes of oil-based materials and hazardous materials, such as noxious liquid substances (NLS) used in drilling muds, which increases the risk to the environment if spilled. Existing OSV standards do not account for conditions found further offshore, such as larger and higher wave amplitude, or the capacity to carry more personnel. The additional requirements for large OSVs address safe operations in these conditions, with more cargo and more personnel.

This rule allows a large OSV to carry more than 36 offshore workers if the OSV meets stability, marine engineering, fire protection, and lifesaving provisions set forth in this interim rule. Large OSVs are capable of carrying more than the 36 offshore workers previously allowed and conducting operations requiring more workers, and this interim rule implements safety provisions intended to address the risk associated with carrying more personnel.

*C. Costs and Benefits*

This rule is not economically significant. We anticipate this rule will not result in additional costs to industry or government. Because of the previous size limit on OSVs, there currently are no U.S.-flagged vessels of at least 6,000 GT ITC or 500 GRT operating as OSVs and certificated under subchapter L requirements. Consequently, this rule will not directly impact any existing population of U.S.-flagged vessels.

Furthermore, the interim rule is based upon existing regulatory and technical standards from Titles 33 and 46 of the Code of Federal Regulations (CFR). Where existing regulations and technical standards do not account for the scale of operations of large OSVs, the Coast Guard supplemented them with standards from the International Maritime Organization (IMO) Conventions, and industry consensus engineering standards.

Owners and operators would comply with these standards even in the absence of this rule, in order to compete for international work. Therefore, no additional costs will be incurred by industry in the construction and the operation of a large U.S.-flagged OSV.

In addition to fulfilling Congressional direction to issue regulations ''to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew,'' the interim rule will standardize regulatory oversight by the Coast Guard. This is expected to reduce the time necessary for the approval process since standards will be transparent in regulation, which will lead to unquantifiable cost savings to both industry and government.

Additionally, the OSVs to which this interim rule applies can carry a large quantity of oil and hazardous material, as well as large numbers of persons on board. In comparison to OSVs of less than 6,000 GT ITC, these large vessels have decreased maneuverability and responsiveness due to the vessels' increased tonnage and length. These vessels operate in a high-risk environment near offshore units and other vessels, and a collision between a large OSV and an offshore unit or another vessel could result in a significant disaster. This interim rule provides a set of standards consistent with the risks and consequences of large OSVs. The costs and benefits of this rule are discussed in Section VIII.A. below and in the regulatory analysis available in the docket.

## IV. Regulatory History

The Coast Guard is issuing this interim rule without prior notice and opportunity to comment pursuant to section 617(f) of the Act, which directs the Secretary of the department in which the Coast Guard is operating to issue an interim rule ''as soon as is practicable and without regard to the provisions of chapters 5 and 6 of title 5, United States Code.'' By the same authority, the Coast Guard is making this interim rule effective immediately upon publication.

Although this interim rule is effective immediately, we invite public comments on it. We will consider public comments when developing a final rule that will supersede this interim rule, and we may make changes in response to public comments on any part of this interim rule.

In addition to revisions authorized by the Act, this rule makes a limited number of administrative changes to improve the readability and organization of the revised parts. These administrative changes include the standardization of tonnage acronyms, the insertion of clarifying language that was not necessary prior to this rule, the reorganization of several parts to accommodate new language, and the replacement of some terms with their functional equivalents. These administrative changes only clarify existing text and the distinction between tonnage-based requirements in place before and after the Act: they make no substantive change to regulatory requirements. Therefore, the Coast Guard finds good cause exists under 5 U.S.C. 553(b)(B) for forgoing a notice of proposed rulemaking with respect to these administrative changes, because the changes will have no substantive effect on the public, and notice and comment are therefore unnecessary. For the same reasons, the Coast Guard finds good cause under 5. U.S.C. 553(d)(3) to make these administrative changes effective fewer than 30 days after publication in the **Federal Register**.

## V. Basis and Purpose

As defined by statute, an OSV is a motor vessel that regularly carries goods, supplies, individuals in addition to the crew, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources (46 U.S.C. 2101(19)). OSVs may support the construction of offshore energy facilities, or may transport supplies and personnel to and from these facilities. OSVs carry offshore goods and supplies, handle anchors and mooring equipment, deliver excess fuel oil to oil production facilities, and perform other support functions.

Until recently, statute limited the size of OSVs to less than 500 gross register tons (GRT) as measured under 46 U.S.C 14502, or an alternate tonnage established as 6,000 gross tonnage as measured under 46 U.S.C. 14302 (GT ITC) (for background on the 6,000 GT ITC limit, see: 46 U.S.C. 14104 and 14302; 61 FR 66613, December 18, 1996; and 76 FR 77129, December 12, 2011). Because of the statutory size limit on OSVs, OSV regulations developed prior to the publication of this interim rule—referred to in this preamble as ''pre-2014'' regulations—contemplated smaller vessels making short trips and capable of carrying only limited amounts of cargo and numbers of

people. Therefore, those pre-2014 regulations for OSVs differ from regulations put in place for other, larger types of vessels.

The U.S. offshore industry has become more complex over time, however, creating a demand for larger, multi-purpose OSVs capable of operating at greater distances from shore and for more extended periods, using more advanced propulsion or machinery systems and carrying more cargo and more people on board. In response, Congress removed the size limit on OSVs (see section 617(a) of the Act) and made other statutory changes to effectively create a subgroup of OSVs distinguished by a tonnage assignment of at least 6,000 GT ITC (large OSVs). For example, the Act made it possible for large OSVs to be considered tank vessels (see section 617(a)(1)(B) of the Act) even though OSVs of less than 500 GRT or 6,000 GT ITC are deemed not to be tank vessels, and it specified oil fuel tank protection requirements for OSVs of at least 6,000 GT ITC (see section 617(e) of the Act). The Act also specified the number and qualifications of crew for large OSVs, and specified the division of watches (see sections 617(b), (c), and (d) of the Act).

As noted, the Coast Guard's pre-2014 OSV regulations were developed for smaller vessels conducting limited operations. Removing the cap on the size of OSVs requires additions to pre-2014 OSV regulations in order to address hazards associated with larger vessels carrying more cargo and personnel. Accordingly, Congress directed the Coast Guard to issue regulations to implement the Act with respect to OSVs of at least 6,000 GT ITC and ''to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on such vessels'' (section 617(f) of the Act). Congress also directed the Coast Guard to ''take into consideration the characteristics of OSVs, their methods of operation, and their service in support of exploration, exploitation, or production of offshore mineral or energy resources'' when developing these regulations (section 617(f) of the Act).

In developing this interim rule, the Coast Guard has provided necessary standards for the safe design, manning, and operation of large OSVs. In some cases, this has required additional regulatory text to maintain the distinction between pre-2014 regulations that may apply to some or all OSVs, and regulations implemented by this interim rule solely for large OSVs. After this rule is finalized, the Coast Guard may initiate a separate, broader rulemaking to address issues common to OSVs of all sizes.

## VI. Discussion of the Interim Rule

This rule implements requirements for OSVs of at least 6,000 GT ITC and, as explained below, may affect OSVs of at least 500 GRT that are not assigned a GT ITC. Because of the previous size limit on OSVs, there were no U.S.-flagged vessels of at least 6,000 GT ITC or 500 GRT operating as OSVs when the Act was promulgated, and this rule only applies to vessels contracted for or keels of which were laid after the date of publication. Consequently, this rule will not directly impact any existing population of U.S.-flagged vessels. The Coast Guard has issued certificates of inspection for two vessels already delivered pursuant to the interim certification provisions found in section 617(f)(3) of the Act, and we are aware that industry is considering others. It is possible that owners of existing cargo vessels may seek certification of these vessels as OSVs now that the statutory size limit is removed: These are provided for in new applicability language discussed below.

When developing these regulations, the Coast Guard looked first to applying the pre-2014 OSV regulations or pre-existing regulations for large vessels such as cargo and tank vessels. If these were not appropriate for application to large OSVs because they do not account for the scale of operations of large OSVs, we then looked to international standards because these large, purpose-built OSVs are likely to comply with such standards in order to engage in international commerce. In limited cases we found international standards needed to be supplemented either because the standard required interpretation by the implementing nations, or needed additional minimum standards to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew. In these limited cases, the Coast Guard supplemented the international standards without sacrificing the flexibility to operate internationally by using other international standards or existing Coast Guard guidance.

This interim rule amends several subchapters of Title 46 of the CFR. Most of the amendments are located in Subchapter L, which is specific to OSVs and consists of Parts 125 through 134. Changes to Parts 125 through 134 are discussed first in the preamble below, so as to provide a foundation for explaining related changes located in other subchapters. Following the discussion of Subchapter L, the preamble to this rule addresses related amendments that apply to large OSVs but are located elsewhere in Title 46, such as in Part 111 on electrical systems. Changes to subchapters other than L are discussed in the order they appear in the CFR.

### *A. Amendments to 46 CFR Part 125, ''General,'' Addressing Applicability, and Grandfathering of Existing Vessels*

Prior to this rule, the applicability section of Subchapter L relied on a definition of ''offshore supply vessel (OSV)'' that limited the size of OSVs in keeping with the statutory authority at the time the section was written. As discussed above, the Act removed size limits for OSVs from the underlying statute. In response to that change, this interim rule removes the upper size limits from the regulatory definition of OSV, and also creates a regulatory regime for large OSVs without changing pre-2014 requirements for OSVs of less than 500 GRT or 6,000 GT ITC. These actions necessitate changes to § 125.100, the applicability section of Subchapter L.

Section 125.100 paragraphs (b) and (c), which were put in place prior to this interim rule and are not substantively changed by it, provide for grandfathering of vessels contracted for, or the keels of which were laid, prior to March 15, 1996, on the condition that those vessels completed construction and obtained a Certificate of Inspection (COI) within 2 years. This interim rule mimics that structure by adding a paragraph for grandfathering of large OSVs contracted for, or the keels of which were laid, prior to the date of publication of this interim rule, with the same condition that vessels complete construction and obtain a COI within 2 years.

This grandfathering structure is intended to capture two types of vessels: Vessels certificated in accordance with section 617(f)(3) of the Act; and vessels of at least 6,000 GT ITC that the Coast Guard does not consider to have undergone conversion under the provisions of § 125.100(e), which has been redesignated as paragraph (g) as discussed later in this section. The Coast Guard expects that very few vessels will qualify for grandfathering under this provision, and that most large OSVs will comply with and be certificated under Subchapter L.

The Coast Guard considered postponing the grandfathering date until 3 or 6 months after the publication of the interim rule, as is common when implementing new date-based regulations. In this case, however, Congress directed the Coast Guard to implement the Act ''as soon as is

practicable'' and provided for an interim process by which large OSVs could be certificated prior to the rule's publication. Postponing the grandfathering date would only prolong the use of the interim process. Therefore, the Coast Guard decided to use the date of publication as the date for grandfathering provisions.

Because of the two paragraphs added to accommodate this grandfathering structure for large OSVs, this interim rule redesignates pre-2014 paragraphs (d) and (e) as (f) and (g), respectively. Both paragraphs remain otherwise unchanged, except that in paragraph (g) we have replaced the term ''major alteration'' with ''major conversion.'' In the specific context of § 125.100, the Coast Guard has consistently understood this phrase to be synonymous with ''major conversion,'' which is a defined term in § 125.160. A review of past major conversion determinations conducted for OSVs since 1997 confirmed that the Coast Guard reads ''major alteration'' in § 125.100 to mean ''major conversion,'' as that term is defined in Subchapter L and 46 U.S.C. 2101(14a). For these reasons, replacing ''major alteration'' in § 125.100 improves consistency and clarity, is an administrative change without substantive effect as discussed in Section IV of this preamble, and is effective upon publication.

*B. Amendments to 46 CFR Part 125, ''General,'' Clarifying Tonnage Measurement*

This interim rule applies to OSVs of at least 6,000 GT ITC. OSVs assigned a tonnage of less than 6,000 GT ITC, or of less than 500 GRT when no GT ITC is assigned, are not covered by this interim rule; they remain subject to the same regulations that applied prior to the Act and this interim rule. This rule adds a new § 125.103 called ''Tonnage Measurement'' to clarify tonnage applicability issues with respect to OSVs that are assigned both a GT ITC and a GRT, as well as to OSVs without a GT ITC assignment that are of at least 500 GRT and therefore were prohibited from operating as OSVs prior to the Act.

Under the tonnage statute at 46 U.S.C. subtitle II, part J, U.S.-flagged vessels are assigned tonnages under one of two measurement systems, and in some cases vessels may be measured under both. Gross tonnage assigned under the system of the International Convention on Tonnage Measurement of Ships, 1969 (referred to in U.S. law as the ''Convention Measurement System'') is expressed as ''GT ITC,'' whereas tonnage assigned under the older U.S. domestic measurement system (referred to in U.S. law as the ''Regulatory Measurement System'') is expressed as ''GRT.''

The Act does not discuss OSVs of at least 500 GRT without a GT ITC assignment. Because the Act removed the upper tonnage limit on OSVs, however, such a vessel could be certificated as an OSV if its tonnage was at least 500 GRT, and it was not assigned a GT ITC. Without changes to the terms of Subchapter L, such a vessel might not be subject to many important regulations for the safe carriage of oil, hazardous substances, and individuals in addition to the crew. The Coast Guard does not believe Congress intended to create a category of OSVs not previously permitted and not subject to the safety regulations governing OSVs of the same size and conducting the same activities. Therefore, the new § 125.103(b) provides that an OSV of at least 500 GRT that is not assigned a GT ITC must comply with regulations for OSVs of at least 6,000 GT ITC. This provision does not prevent a vessel of at least 500 GRT from obtaining a GT ITC assignment and, if that assignment is less than 6,000 GT ITC, complying with regulations appropriate for vessels of less than 6,000 GT ITC.

Because a vessel's GRT can be lower than its GT ITC, this rule adds new § 125.103(a), which ensures that appropriate existing regulations are applied to large OSVs by providing that the GT ITC assignment must be used when applying tonnage-dependent regulations, irrespective of the vessel's GRT assignment. This requirement recognizes that a large OSV's increased capacity for cargo and personnel, and ability to operate greater distances from shore for more extended periods, carries the potential for higher-consequence incidents and a corresponding need for safety and environmental protection requirements. We do not believe Congress intended to permit OSVs of at least 6,000 GT ITC to avoid meeting safety and environmental protection regulations merely by shifting to the GRT system of measurement.

The regulatory text added by this interim rule for large OSVs uses the phrasing ''6,000 GT ITC (500 GRT if GT ITC is not assigned)'' to ensure that the applicability of specific requirements throughout Title 46 of the CFR is clear. The pre-2014 regulatory text, however, uses the term ''gross tons.'' After reviewing the history and common use of these provisions in the specific context of Subchapter L, we concluded that in each relevant instance this term refers to GRT, and that vessels without an assigned GRT appropriately use their GT ITC to apply provisions dependent on ''gross tons.'' Accordingly, we added new § 125.103(c) to clarify this. Because this provision clarifies the historical meaning and current use of the term ''gross tons'' in Subchapter L, it is an administrative change without substantive effect as discussed in Section IV of this preamble, does not require prior notice and comment, and is effective upon publication. The Coast Guard has initiated a separate rulemaking to standardize tonnage terms throughout its regulations (see ''Tonnage Regulations Amendments; Proposed Rule'' published at 79 FR 19420 on April 8, 2014).

*C. Amendments to 46 CFR Part 125, ''General,'' Addressing Certificates*

This interim rule adds a new § 125.105 requiring that large OSVs hold certain certificates indicating compliance with SOLAS and MARPOL 73/78, even if the OSV is certificated to operate only in U.S. waters. Specifically, large OSVs must maintain Cargo Ship Safety Construction and Cargo Ship Safety Equipment certificates evidencing that these OSVs meet the minimum standards to which cargo ships on international voyages are held. They also must maintain a Safety Management Certificate evidencing that the OSV owner or operator uses an approved safety management system. In addition to these SOLAS certificates, large OSVs must maintain International Oil Pollution Prevention and International Air Pollution Prevention certificates, which, respectively, demonstrate that the vessels have the means to properly dispose of oils and control emissions.

Using these international standards for domestic voyages, rather than a separate set of domestic standards, will create efficiencies and promote a uniform standard. The cargo ship safety certificates and safety management certificate already are required of all U.S. vessels of 500 GRT or more on international voyages, including tankships and miscellaneous non-freight vessels certificated under Subchapters D and I. The pollution prevention certificates already are required of all vessels of more than 400 GRT in the waters of nations signatory to MARPOL 73/78, including the United States. We therefore anticipate that the owners of most large OSVs subject to this rule would seek SOLAS and MARPOL certificates voluntarily, either because they are required in U.S. waters as discussed above or because they are necessary in order to work overseas. We also believe that the safety requirements that must be met in order to obtain these

certificates are appropriate to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on such vessels.

New § 125.105 also requires large OSVs to obtain an International Load Line Certificate, and the Coast Guard added a paragraph to existing § 125.140 specifying that each large OSV must be assigned a load line in accordance with the International Convention on Load Lines, 1966, as amended (ICLL). Current industry practice is to build and operate most OSVs to ICLL standards, and the Coast Guard believes that OSVs of at least 6,000 GT ITC are very likely to be built to ICLL standards as well. The Coast Guard believes that requiring international load lines, rather than a variation permitted for domestic vessels under 46 CFR Subchapter E, will not present a significant burden to the industry.

Separately, this rule adds to existing § 125.150 in order to align the requirements for lifesaving appliances on large OSVs with SOLAS. It adds new paragraph (b) requiring large OSVs, including those authorized to carry more than 36 offshore workers when not on an international voyage (see Section VI.G. below), to comply with those portions of 46 CFR part 199 that implement SOLAS lifesaving requirements designed for cargo vessels. This rule makes no substantive change to the existing requirement for OSVs of less than 6,000 GT ITC, but redesignates it as § 125.150(a) and adds language to that paragraph clarifying the applicability.

*D. Amendments to 46 CFR Part 125, ''General,'' Involving Tank Protection for Oil Cargoes and Oil Fuel*

The Coast Guard anticipates that OSVs of at least 6,000 GT ITC will carry a greater volume of liquid cargoes than OSVs to date. The Coast Guard believes that Congress intended to enable the carriage of larger volumes of these liquids so as to better serve the changing offshore industry. The Coast Guard also believes that the size and cargo capacity of OSVs of at least 6,000 GT ITC create the potential for significant environmental damage in the event of a spill or other casualty, and that appropriate design and construction requirements should therefore accompany this increased capacity.

Accordingly, this interim rule provides double hull requirements for large OSVs carrying oil to align with other vessels of similar capabilities and capacities. Specifically, this rule amends § 125.110 to require that tanks authorized for carriage of cargo oil, including drilling fluids containing oil, comply with double hull requirements designed for tank vessels and found in 33 CFR 157.10d. Applying tank vessel double hull requirements is appropriate in light of the pollution risk that accompanies the large volumes of oil and oil-based cargoes these OSVs may carry. In § 125.110, we also inserted a reference to new § 125.125, discussed below, for other flammable or combustible liquids carried on large OSVs.

In addition to protection for cargo tanks, this rule provides for protection of oil fuel tanks as directed by the Act. Section 617(e) of the Act requires that an OSV of at least 6,000 GT ITC, delivered after August 1, 2010, or constructed under a contract entered into after October 15, 2010, with an aggregate capacity of 600 cubic meters or more of oil fuel, must comply with Regulation 12A (''Oil Fuel Tank Protection'') of MARPOL Annex I, regardless of whether the OSV is engaged in the coastwise trade or on an international voyage. Regulation 12A requires vessels provide double hull protection for fuel oil tanks, or demonstrate compliance with an accidental oil fuel outflow performance standard. This rule adds a new § 125.115 to Title 46, to meet the requirements set forth in the Act.

Historically Coast Guard regulations have distinguished between oil cargoes and excess fuel oil carried by OSVs. The new § 125.115 maintains that distinction by specifying that a large OSV is not subject to Subchapter D of Title 46, Chapter I (''Tank Vessels'') if the OSV is only transferring excess fuel oil from its own fuel supply tanks to an offshore drilling or production facility, is in the service of oil exploitation, and is not a tankship as defined in § 30.10–67. This provision is in keeping with 46 U.S.C. 3702(b) as amended by the Act, and preserves OSVs' historical ability to transfer excess fuel oil without meeting tank vessel requirements. As described elsewhere in this preamble, however, the Coast Guard has based certain other requirements for large OSVs on tank vessel regulations where appropriate.

*E. Amendments to 46 CFR Part 125, ''General,'' Addressing Carriage of Noxious Liquid Cargoes in Bulk*

As discussed above, the Coast Guard expects large OSVs to carry more, and more varied, liquid cargoes than OSVs of less than 6,000 GT ITC. This rule adds a new § 125.125 to Title 46, to help ensure the safe carriage of NLS in bulk on OSVs of at least 6,000 GT ITC. Common NLS carried on board OSVs include drilling fluids. Drilling fluids that contain salt or chemicals are subject to MARPOL Annex II, which is implemented in the United States via the Act to Prevent Pollution from Ships (33 U.S.C. 1901 *et seq.*) and which was revised, effective 2007, to require vessels carrying listed NLS in bulk to comply with the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code).

MARPOL Annex II recognizes, however, that the IBC Code is not appropriate for all vessels. For certain vessels, including OSVs, MARPOL Annex II provides that Flag Administrations may establish appropriate measures to minimize the uncontrolled discharge of NLS into the sea. For OSVs, recent amendments to MARPOL Annex II explain that these appropriate measures should be based on IMO Resolution A.673(16), which provides an alternative to the IBC Code. In 2010, the Coast Guard issued guidance on implementing Resolution A.673(16) for new and existing OSVs (CG–522 Policy Letter 09–01, Rev. 1, April 5, 2010) (due to reorganization, CG–522 has been redesignated CG–OES). The new § 125.125 integrates some of this guidance in regulation. It allows a large OSV to carry NLS in bulk in its integral and fixed independent tanks if the OSV holds either a valid Certificate of Fitness or a valid International Pollution Prevention Certificate for the carriage of NLS in bulk, issued pursuant to regulations implementing Resolution A.673(16) at § 125.125(b) through (f).

Of the paragraphs implementing Coast Guard guidance on Resolution A.673(16), paragraphs (b) and (c) describe the types of NLS a large OSV may carry, and the methods and conditions required for carriage. Paragraphs (d) and (e) address the required Cargo Record book, Shipboard Marine Pollution Emergency Plan, and Procedures and Arrangements Manual. These documents already are required under MARPOL Annex II, 33 CFR part 151, and 46 CFR part 153, but the new § 125.125 permits the Procedures and Arrangements Manual to depart from requirements found in MARPOL Annex II, Appendix 4, in the same ways provided in the Coast Guard guidance on Resolution A.673(16). Paragraphs (f) and (g) set forth requirements for transferring NLS to and from a portable tank, which is otherwise authorized only by an endorsement on the vessel's COI.

Although § 125.120 already addresses the carriage of NLS for OSVs of less than 6,000 GT ITC, the new § 125.125 incorporates recent amendments to MARPOL Annex II and recent guidance

issued specifically for OSVs. Implementing the Coast Guard's existing guidance on Resolution A.673(16) creates flexibility for large OSVs and facilitates operating overseas where they might otherwise be deemed to be in violation of MARPOL Annex II.

Finally, this rule clarifies that pre-2014 § 125.120 applies only to the carriage of NLS in bulk by OSVs of less than 6,000 GT ITC.

*F. Amendments to 46 CFR Part 125, ''General,'' Affecting Definitions*

This interim rule revises the definition of ''offshore supply vessel'' in § 125.160 in accordance with the Act, by removing the upper size limits previously placed on OSVs. Under the revised definition, an OSV is defined by its propulsion method and activities, and is more than 15 gross tons. The interim rule also adds definitions of ''gross register tons (GRT)'' and ''gross tonnage ITC (GT ITC)'' as these terms are explained above. Adding these terms is necessary in order to insert regulations specific to OSVs of at least 6,000 GT ITC, and to clarify the applicability of regulations to OSVs of at least 500 GRT if GT ITC is not assigned.

This interim rule does not affect the definition of liftboats. As discussed later in this preamble, however, this interim rule requires special approval of liftboats of at least 6,000 GT ITC.

*G. Amendments to 46 CFR Parts 126, ''Inspection and Certification,'' and 127, ''Construction and Arrangements,'' Addressing Carriage of More Than 36 Offshore Workers*

OSVs carry personnel who work on, and in support of, offshore energy facilities. Under pre-2014 regulations, OSVs could carry a maximum of 36 offshore workers when not on an international voyage. Removing the size limit on OSVs makes it possible for them to carry more personnel, which is consistent with operations occurring farther offshore as well as with more labor-intensive operations such as platform and subsea construction. In order to safely carry more personnel, however, OSVs must be designed and built to standards that provide an adequate level of safety with respect to stability, marine engineering, fire protection, and lifesaving considerations, and personnel must be properly prepared to react to incidents such as fires or collisions. This is because the larger number of people on board increases the potential loss of life in the event of an incident. As we discussed in our February 2012 request for comments on accommodation vessels (77 FR 5039), the level of sea-going experience and vessel familiarity may vary widely among those working offshore, and some personnel could be expected to behave like passengers in an emergency. We therefore look to design standards to provide an adequate level of protection for offshore workers on large OSVs. The desired standard should be flexible enough to be scaled according to the potential consequence presented by the vessels' operational profile. After considering several possible standards, including domestic and SOLAS standards for passenger, cargo, and industrial vessels, the Coast Guard concluded no acceptable option existed that addressed the appropriate level of safety while maintaining the operational flexibility expected by the offshore industry.

One of the standards the Coast Guard considered, but did not adopt, was the IMO Code of Safety for Special Purpose Ships (SPS Code). The SPS Code is an international standard for specialized vessels that carry personnel who are specifically needed for the particular operational duties of the ship and are carried in addition to those persons required for normal navigation, engineering and maintenance of the ship. Such personnel might include remotely operated vehicle operators, anchor handling personnel, and other workers who are not part of the navigational crew but who are necessary to the vessel's mission. The SPS Code specifically contemplates that, because of the nature of their work, these personnel are physically able and trained in safety procedures, and therefore do not require the more stringent protection that would be provided for a member of the general public on a passenger ship of similar capacity. The design requirements set forth in the SPS Code scale according to the number of personnel carried, such that the standards for a vessel carrying 60 or fewer people are less stringent than for a vessel carrying between 61 and 240 people. In this way, the SPS Code provides flexibility for the many different types and operational duties of vessels like large OSVs. The SPS Code states, however, that it is not intended for ships transporting or accommodating personnel other than those working on board. Given the nature of the work these large OSVs are likely to pursue, we anticipate that many, but not all, personnel on board would normally be working on board; some may simply be transported to offshore work sites. Therefore, directly adopting the SPS Code would not be appropriate.

Instead, this interim rule adds new Subpart F to Part 127 and removes the constraint in existing § 126.170 to allow an OSV of at least 6,000 GT ITC to carry more than 36 offshore workers if the vessel meets the new construction standard set forth there. The new Subpart F aligns closely with the approach of the SPS Code, and takes the similar position that vessels carrying few offshore workers may meet a cargo vessel standard, while vessels authorized to carry large numbers of offshore workers must meet a passenger vessel standard. The interim rule sets thresholds such that vessels carrying fewer than 36 offshore workers meet cargo vessel standards, while vessels authorized to carry more than 240 total persons on board must meet a passenger vessel standard. The bases for these thresholds change from number of offshore workers to total persons on board to align with both pre-2014 regulations (36 offshore workers) and an internationally recognized value (240 total persons). Vessels authorized to carry at least 36 offshore workers but no more than 240 total persons are required to meet a hybrid set of requirements balanced between passenger and cargo standards. In each of these cases, the selected standard is based upon SOLAS rather than other domestic regulations, in keeping with the widespread use of SOLAS in other portions of this rule. This is intended to be more efficient, minimizing the number of references to other sources. Furthermore, as noted elsewhere, given the international nature of work for large OSVs, it is the Coast Guard's assessment that they would voluntarily comply with these international requirements even in the absence of this regulation.

The SPS Code permits a reduced amount of primary lifesaving equipment (lifeboats) when the vessel meets the stricter passenger vessel fire-protection provisions. On passenger vessels, critical safety systems are designed such that they will remain operational for the evacuation and discharge of the passengers for a relatively long period of time—at least 3 hours. This permits a reduction in the overall redundancy of the lifesaving systems. However, the operating environment for large OSVs exposes them to hazards not commonly encountered by passenger vessels and a similar reduction in redundancy, or the lesser protection provided by liferafts instead of lifeboats, is not justified on large OSVs. Therefore, this interim rule requires the lifesaving equipment for large OSVs to comply with SOLAS cargo vessel standards, and does not allow the reductions that may be permitted for passenger or special purpose ships.

Because of the operational practices described above, the Coast Guard

believes that the majority of personnel on an OSV of at least 6,000 GT will work on board the vessel, operating specialized equipment and performing functions such as anchor handling, diving operations and support, well stimulation, and ROV operations and support. Existing 46 CFR 15.1105 requires that any person assigned shipboard duties must receive basic training in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW). In addition, Subchapter L places requirements for safety orientation, drills, and training on offshore workers in §§ 131.320, 131.530, and 131.535. Further, § 131.420 requires enough trained persons aboard each survival craft to muster and assist untrained persons.

However, notwithstanding these existing Subchapter L operations requirements for drills and training of offshore workers, the Coast Guard is considering appropriate standards for vessels providing accommodation service (i.e., the supply of hotel-like services such as dining, berthing, and access to recreational facilities) for personnel who are not engaged in work aboard the vessel but are engaged in work on a nearby drilling or production platform on the U.S. Outer Continental Shelf (OCS). (See 77 FR 5039, February 1, 2012). In the future, we may consider additional training requirements for personnel who are not members of the crew and possibly other additional safety standards for vessels that engage in accommodation service.

*H. Amendments to 46 CFR Part 127, ''Construction and Arrangements''*

This interim rule adds a new § 127.200 to Title 46, specifying that OSVs of at least 6,000 GT ITC must be classed by an authorized classification society recognized under the provisions of 46 CFR part 8. Classification societies ensure that the vessel is built to and complies with a set of design and construction standards. Meeting classification society requirements is consistent with SOLAS Chapter II–1, Regulation 3–1, and we expect that all large OSVs would be classified even if not required by this rule. Requiring the use of an authorized classification society, however, ensures that the classification society requirements are developed by an organization with adequate resources and experience.

This interim rule adds a new § 127.225 setting forth structural fire-protection standards based on SOLAS requirements for cargo ships and existing U.S. regulations for tank vessels. SOLAS provides fire-protection standards requiring the use of non-combustible materials (Method IC), but as an alternative allows the use of sprinklers or smoke detectors. The Coast Guard's longstanding view, as established by regulation, is that the use of these alternatives in lieu of non-combustible materials does not provide an adequate level of safety, and the Coast Guard has advocated that non-combustible construction is superior to reliance on sprinklers or smoke detectors since the fire on board the cruise vessel Morro Castle on September 8, 1934, which caused the deaths of 137 persons. The requirement in § 127.225(a) limits the options available to large OSVs to Method IC construction and is consistent with existing U.S. regulations for other large vessels (e.g., 46 CFR subchapters D, H, and I). Section 127.225 also provides for approval of materials under current U.S. regulations, and applies fire-protection standards based on standards applicable to tank vessels. These provisions for large OSVs are in addition to the general fire-protection provisions for all OSVs at § 127.220.

Existing § 127.230 requires OSVs to comply with special stability requirements found in 46 CFR subchapter S, but large OSVs must meet different stability requirements in order to obtain the SOLAS certificates required in § 125.105 and necessary to compete in the international market. To avoid duplication between the two sets of requirements, this rule adds a new paragraph (b) to existing § 127.230 to exempt large OSVs from the domestic stability requirements. Because there is no SOLAS damage stability requirement for cargo ships less than 80 meters in length, we limited this exemption to large OSVs of 80 meters or more in length. OSVs that are less than 80 meters in length would continue to comply with the stability requirements in 46 CFR Subchapter S. Exempted large OSVs may choose to meet the requirements in Subchapter S, so long as they also demonstrate compliance with the SOLAS stability requirements.

*I. Amendments to 46 CFR Part 128, ''Marine Engineering: Equipment and Systems''*

Existing Part 128 requires OSVs to comply with Subchapter F of Title 46, Chapter I, titled ''Marine Engineering,'' but lists a number of exceptions specific to OSVs, such as allowing certain piping systems to meet less restrictive standards than those found in Subchapter F. This interim rule makes no change to the requirements for OSVs of less than 6,000 GT ITC, but it does not extend those same exceptions to large OSVs. To accomplish these changes, this rule amends 46 CFR 128.110 by redesignating existing paragraph (b) as (c), without otherwise changing it, and inserting a new paragraph (b) requiring large OSVs to meet Subchapter F. It also makes minor conforming changes to paragraph (a) to make clear that the pre-2014 provision of Part 128 continues to apply to OSVs of less than 6,000 GT ITC, without change.

The requirement to meet all of Subchapter F is the same as that for cargo vessels under Subchapter I, and is appropriate for large vessels. As a result of this requirement, pre-2014 exemptions in Part 128 do not apply to large OSVs. In particular, this interim rule clarifies that the fuel requirements for large OSVs should follow Subchapter F. To accomplish this, the interim rule specifies that pre-2014 text of § 128.310 applies to OSVs of less than 6,000 GT ITC, and then adds provisions for large OSVs. The new provisions require that internal combustion engines installed on large OSVs use fuel having a flashpoint of at least 60° C (140° F). This requirement differs from the rule for OSVs of less than 6,000 GT ITC, which requires fuel with a flashpoint of at least 43° C (110° F), but it aligns with the provisions of Subchapter F (see 46 CFR 58.01–10) and the requirements found in SOLAS (see Chapter II–2, Part B). Using fuel with a higher flashpoint is safer as well as consistent with SOLAS requirements for travelling internationally, as is likely for these OSVs. The new provisions of § 128.310 do allow fuels with a lower flashpoint to be used on gasoline-powered rescue boats and emergency generators, or elsewhere with the Coast Guard's specific approval.

*J. Amendments to 46 CFR Part 129, ''Electrical Installations''*

Existing Part 129 requires OSVs to comply with Subchapter J of Title 46, Chapter I, titled ''Electrical Engineering,'' but lists a number of exceptions specific to OSVs. This interim rule makes no substantive change to these limited requirements for OSVs of less than 6,000 GT ITC, but it does not extend those same exceptions to large OSVs.

Because of the size and types of operation systems that will be found onboard these large OSVs, the interim rule requires large OSVs to meet all of Subchapter J, aligning it with requirements imposed on similar cargo vessels under Subchapter I. For example, unlike OSVs of less than 6,000 GT ITC, large OSVs must meet the

requirements of 46 CFR 111.10–7, which mandates electrical services necessary to start the main propulsion plant from a dead ship condition. Large OSVs must also meet 46 CFR subpart 112.20, Emergency Systems Having a Temporary and a Final Emergency Power Source, which requires an emergency power source and certain transfers of emergency loads.

To accomplish this change, this rule amends § 129.110 by redesignating the existing text as paragraph (b), and adding a new paragraph (a). This rule also makes a conforming change to § 129.315(a) so that the section remains limited to OSVs of less than 6,000 GT ITC, as was the case before the Act removed the size limits on OSVs.

This interim rule also adds new § 129.570 to require that cargo oil tanks on large OSVs be equipped with alarms to prevent oil spills during cargo transfer. The alarms are intended to alert operators when a cargo oil tank is becoming full, and again when tank overflow is imminent. The new § 129.570 is based on existing regulations for tankships and is appropriate for large OSVs because of the volume of oil these OSVs may carry.

*K. Amendments to 46 CFR Part 130, ''Vessel Control''*

To avoid contradictory requirements between existing Part 130 and new marine engineering requirements for large OSVs, this rule makes conforming changes to portions of Part 130 that previously had applied to OSVs of 100 gross tons or more. Specifically, it modifies §§ 130.140 and 130.400 with the phrase, ''Except as provided in § 128.110.'' Section 128.110 directs large OSVs to comply with Subchapter F, as discussed above, and therefore this language prevents large OSVs from using §§ 130.140 and 130.400 in lieu of Subchapter F. This rule does not change the requirements already found in those sections for OSVs that are of 100 gross tons or more, but less than 500 GRT or 6,000 GT ITC.

*L. Amendments to 46 CFR Part 131, ''Operations,'' Addressing Vessel Maneuvering*

This interim rule adds new 46 CFR 131.990, which requires that certain information about the OSV's maneuvering capabilities must be displayed in the pilothouse for the use of vessel operators and pilots. The information includes the time and distance necessary to stop the OSV, and a warning about conditions that may alter the information provided. Section 131.990 matches existing provisions that already apply to other vessels of 1,600 gross tons or more, including cargo vessels regulated under Subchapter I.

*M. Amendments to 46 CFR Part 132, ''Fire-Protection Equipment''*

This interim rule makes changes in Part 132 to address certain areas not covered by SOLAS chapter II–2. Section 125.105 requires large OSVs to comply with the SOLAS rules for cargo ships, including the chapter II–2 fire-protection rules, but there are three areas where the SOLAS rules do not include specific criteria for the approval of equipment. This interim rule therefore adds three new sections to clearly state the applicable U.S. requirements for: Fire pumps, fire hoses, and nozzles (see new paragraph (d) in § 132.100); portable and semiportable fire extinguishers (see new § 132.200); and firefighter's protective clothing and personal safety equipment (see new § 132.365). The fire extinguishers and protective equipment required by these new sections are the same as required on tankships. These requirements are in addition to the pre-2014 fire-protection requirements of Part 132, which continue to apply to other OSVs without change as reiterated in § 132.200(a). Requiring large OSVs to carry fire-protection equipment similar to that on tankships reflects the increased quantities of oil and other flammable liquids these large OSVs may carry.

For the same reasons, this rule adds new § 132.390 to ensure an adequate level of fire protection for the greater quantities of flammable or combustible liquids expected to be carried on large OSVs. Except for OSVs fitted with a deck foam system, all large OSVs must carry at least two 135-kg semi-portable dry chemical fire extinguishers to mitigate the fire risk associated with a spill on the weather deck. A deck foam system is necessary on large OSVs carrying larger quantities of certain flammable and combustible liquids to address the greater fire risk presented by these quantities. Therefore, for large OSVs that carry 3,000 cubic meters or more of flammable or combustible liquids with a flashpoint of 60 °C (140 °F) or below in fixed tanks, this interim rule requires cargo area and cargo-pump room fire-extinguishing systems similar to those required on tank vessels. OSVs with this cargo carrying capacity must have a deck foam system designed to tankship standards where the cargo tanks extend vertically to the weather deck. The requirement to provide foam coverage for the total deck area is intended to mitigate the fire risk associated with spills taking into consideration the additional potential hazard of cargo tank physical damage (e.g., explosion, dropped load) as well as the possibility of spills from associated deck fittings such as pumps, valves, and vents. If the cargo is carried in double bottom or other tanks that do not extend to the weather deck, the foam system is only required to protect weather deck areas within 10 feet (3 m) of potential leak sources such as manifolds and vents, since it is considered that in these cases the possibility of a large volume spill covering the entire deck is less likely.

These OSVs also are required to have a fixed total flooding gas fire extinguishing system designed to tankship standards for the protection of any accessible below-deck cargo pump rooms or other enclosed spaces that contain tank openings, pumps, flanges, valves, loading manifolds, or other potential sources of leakage. The regulation refers to accessible below-deck spaces because it is not intended to require extinguishing systems in spaces not easily accessed by the crew, such as cofferdams, where such leak points are unlikely to be present.

Review of currently operating OSVs complying with Subchapter L revealed that the great majority carry less than 3,000 cubic meters of flammable or combustible liquids as cargo. To address the greater fire risk presented by the carriage of larger quantities of flammable or combustible liquids by larger OSVs, this interim rule requires additional fire-protection measures compared to current Subchapter L when volumes greater than 3,000 cubic meters of flammable or combustible liquids are carried.

*N. Amendments to 46 CFR Part 134, ''Added Provisions for Liftboats''*

A liftboat is a subtype of OSV that has movable legs. The legs, when resting on the sea floor, raise the hull above the sea to create a platform from which work can be performed on another offshore structure. Most liftboats are relatively small—usually less than 1,000 GT ITC—but the Coast Guard is aware of larger liftboats operating overseas, and of some limited interest in developing U.S.-flagged liftboats of at least 6,000 GT ITC.

The safe construction and operation of liftboats requires consideration of unique factors, including leg strength and stability, sea floor stability, vulnerability to wind, height of the hull above the water, and the speed at which the hull is raised. The existing regulations in Part 134 of Subchapter L were designed to address these concerns but, because liftboats historically have been small, the Coast Guard currently lacks data with which to evaluate the

safety of liftboats of 6,000 GT ITC or more. The Coast Guard also does not believe that the purpose of the Act was to provide for extremely large liftboats, because liftboats are a unique type of vessel and generally do not undertake the cargo and personnel carriage that was the focus of the Act.

Therefore, this interim rule provides that liftboats of 6,000 GT ITC or more are permitted only on a case-by-case basis with the approval of the Commandant. As the demand for and design requirements of large liftboats becomes clearer, the Coast Guard will consider developing a regulatory framework for them. We encourage the public to submit information about larger liftboats; in particular, we request information on the likelihood of liftboats reaching or exceeding 6,000 GT ITC, and on whether large liftboats should meet the requirements of 46 CFR subchapter I–A for mobile offshore drilling units (MODUs).

*O. Amendments to 46 CFR Part 2, ''Vessel Inspections''*

In 46 CFR 2.10–25, the Coast Guard revised the definition of ''offshore supply vessel'' by removing the upper size limit previously found in paragraph (3) of that definition. Removing the upper size limit is appropriate in light of the change made by the Act to the underlying statutory authority, and brings large OSVs within the existing Part 2 vessel inspection provisions. This rule makes no change to vessels of 15 or fewer gross tons. The definition of OSV otherwise remains unchanged, and the Coast Guard did not alter other sections of Part 2 that mention OSVs.

The Coast Guard is aware of similar definitions in Parts 68 and 175, but found that these provisions were specific to particular groups of OSVs and that it would be unnecessary to revise these definitions in order to implement the Act.

*P. Amendments to 46 CFR Part 15, ''Manning Requirements''*

This rule implements manning requirements for large OSVs as required by the Act.

Section 617(d) of the Act amended 46 U.S.C 8104 to permit the use of two watches in certain circumstances, so long as the officers and crew are ''in compliance with hours of service requirements (including recording and recordkeeping of that service) as prescribed by the Secretary.'' This interim rule revises 46 CFR 15.705 to reflect that statutory requirement, and specifies that the individuals must be in compliance with the work hours and rest period requirements found in 46 CFR 15.1111. We expect that vessels subject to this rule will seek international certification and, as a result, be required to meet the STCW Convention requirements implemented in 46 CFR Part 15, Subpart K, including the hours of work hours and rest period requirements found in 46 CFR 15.1111.

Section 617(c) of the Act amended 46 U.S.C. 8301 to specify the minimum number of licensed individuals required aboard OSVs. It requires that an OSV of less than 500 GRT or 6,000 GT ITC have one licensed mate on a voyage of less than 600 miles, and two licensed mates on a voyage of at least 600 miles. It also requires that an OSV of at least 6,000 GT ITC have two licensed mates on a voyage of less than 600 miles, and three licensed mates on a voyage of at least 600 miles. This interim rule revises 46 CFR 15.810 to reflect the statutory changes, while leaving in place the existing regulatory alternative for vessels of less than 100 gross tons. Specifically, this interim rule removes § 15.810(b)(4), which had applied to OSVs of 100 gross tons or more, and redesignates § 15.810(b)(5) as (b)(4). The interim rule then creates two new paragraphs: New paragraph (b)(5) for OSVs of between 100 GRT and 500 GRT or 6,000 GT ITC, and new paragraph (b)(6) for OSVs of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned).

These new paragraphs implement the manning requirements stated in the Act. The interim rule uses the term ''credentialed'' rather than ''licensed'' because the Coast Guard now issues Merchant Mariner Credentials (MMCs) rather than licenses. The term ''credentialed'' encompasses ''licensed'' as used in the Act, and includes any licensed mate whose license will be replaced with an MMC after the license expires. We anticipate that credentialed mates will keep watch, with the Master and Chief Engineer occasionally standing in for high-intensity operations or in the case of illness or fatigue. This view is supported by the National Offshore Safety Advisory Committee (NOSAC) report, ''Certifications and Standards for Large OSVs,'' dated April 18, 2008, and available in the docket. The master is distinct from the mate in our existing regulations, and should not be counted as one of the mates required on an OSV.

As was the case before the Act, the amended statute and the revised regulations require more mates for vessels on longer voyages. Previously, regulations had stated that a voyage includes the accrued distance from port of departure to port of arrival and does not include stops at offshore points. The Coast Guard has become aware, however, that some readers misinterpret this provision to restart the voyage at each offshore point. This is an incorrect reading of the current language and undermines the purpose of the regulation, which is to provide for more mates—and therefore, shorter watches and less fatigue—on long voyages, even if those voyages include visits to offshore points. Therefore, new § 15.810(b)(6) for large OSVs clarifies that a voyage includes the total accrued distance between departing and arriving at a port.

Although the Coast Guard's understanding of ''voyage of less than 600 miles'' remains the same as explained above, the Coast Guard has chosen not to change the language in paragraph (b)(5) in this interim rule. Instead, the Coast Guard invites the public to submit information on how it measures voyages under this provision and what, if anything, would change as the result of a clarification similar to the one in paragraph (b)(6). The Coast Guard is considering inserting the clarification from paragraph (b)(6) into paragraph (b)(5) in the final rule that will follow this interim rule, and public comments will assist that decision.

Based on the NOSAC report, this rule modifies 46 CFR 15.825 to specify that large OSVs approved for the use of automated systems must carry at least one assistant engineer. The Coast Guard agrees with this NOSAC recommendation because, as the size of the vessel increases, so do the engineering demands. The increased number of engineering components and the enhanced complexity of component technology make it important to keep enough personnel on board to maintain those components, and to respond to shipboard emergencies and equipment failure. For these reasons, large vessels usually carry one or more assistant engineers. The requirement that large OSVs carry an assistant engineer is only a minimum standard and the operator should provide additional engineers if necessary for safe vessel operation. Additionally, the Officer in Charge, Marine Inspection (OCMI) may continue to require more than one engineer under existing § 15.825(c), which has been redesignated as paragraph (d).

The Coast Guard is aware that the Act necessitates other changes to regulatory requirements for mariners, including requirements in 46 CFR subchapter B governing mariner credentialing. We anticipate addressing these changes in a separate rulemaking.

*Q. Amendments to 46 CFR Part 62, ''Vital System Automation,'' and Related Amendment to 46 CFR Part 61, ''Periodic Tests and Inspections''*

Most large modern vessels use automated control and monitoring systems to replace specific personnel or to reduce overall crew requirements. The Coast Guard regulates and tests automated vital systems to ensure that a vessel with automated systems is as safe as a vessel under direct manual operator supervision. Coast Guard regulations at 46 CFR part 62 address automation and already apply to tank vessels and cargo vessels over 500 GRT as well as passenger vessels over 100 GRT. Because of the hazards associated with larger vessels carrying more cargo and personnel, the automated systems regulations in Part 62 are appropriate for large OSVs. This interim rule amends the applicability section of Part 62 to include large OSVs.

This interim rule also makes a related change to 46 CFR part 61, which addresses testing of vital system automation. Within the text of Part 61, this rule revises the last sentence of existing § 61.40–10(b) so that the Marine Safety Center, rather than Coast Guard Headquarters (CG–ENG) approves other test techniques. This is an administrative change with no substantive impact on the public and, as discussed in Section IV of this preamble, the Coast Guard finds good cause to make this change without prior notice and comment and without delay.

*R. Amendments to 46 CFR Part 90, ''General Provisions'' for Cargo and Miscellaneous Vessels*

46 CFR subchapter I provides regulations for cargo and miscellaneous vessels. Prior to the creation of Subchapter L in the 1990s, OSVs were regulated under Subchapters I and T. Subchapter I contains ''grandfathering'' language, matching that in Subchapter L, that distinguishes between OSVs subject to Subchapter I and OSVs subject to Subchapter L. (Subchapter T contains similar language, but is specific to vessels of less than 100 gross tons and therefore not affected by this rule.) This interim rule revises § 90.05–20 in Subchapter I to conform to § 125.100 by inserting provisions for large OSVs grandfathered under § 125.100 as discussed above (i.e., large OSVs certificated under section 617(f)(3) of the Act and vessels of at least 6,000 GT ITC that have not undergone a major conversion under § 125.100(e)). These vessels are subject to Subchapter I.

This rule makes similar changes to the definition of OSV at § 90.10–40. The rule removes the upper size limits from paragraph (a), in accordance with statutory changes made by the Act. In paragraph (b), it adds a definition of ''existing'' large OSVs to which the grandfathering provisions of § 90.05–20 will apply, and in paragraph (c), it adds a definition of ''new'' large OSVs that will be subject to Subchapter L.

This interim rule also makes non-substantive changes to the existing language of §§ 90.05–20 and 90.10–40 to improve clarity. For example, because the sections now discuss both GRT and GT ITC measurements, this interim rule replaces the word ''tons'' with ''GRT'' and includes references to the appropriate definitions in Subchapter L. These changes do not alter the requirements previously applicable to OSVs of less than 500 GRT or 6,000 GT ITC. Because they are non-substantive administrative changes made to improve clarity, the Coast Guard finds that prior notice and comment is unnecessary, and finds good cause to make these changes effective upon publication as described in Section IV above.

*S. Amendments to 46 CFR Part 110, ''General Provisions'' Within Subchapter J, ''Electrical Engineering''*

46 CFR part 110 includes the incorporation by reference and definitions sections for the whole of Subchapter J, including Part 111. Most of the changes this interim rule makes to Part 110 involve incorporations by reference and new definitions applicable to requirements found in Part 111 and discussed in detail below. The definitions of note in § 110.15–2 are those that explain the hazardous location classifications used in new Subpart 111.106, which is specific to hazardous locations on large OSVs. As explained in the portion of the preamble below that discusses Subpart 111.106, this interim rule provides for a choice of industry standards to apply in hazardous locations, and each incorporated standard uses slightly different terms to classify hazardous locations. The definitions in § 110.15–2 provide a standard frame of reference for readers who may be using any of the incorporated standards.

This rule also adds a new paragraph (p) to § 110.25–1, to specify requirements for submitting plans for OSVs to which new Subpart 111.106 applies. Subpart 111.106 is discussed below. Section 110.25–1(p) requires submission of plans that demonstrate the safe design of potentially hazardous locations, particularly on OSVs carrying flammable cargoes.

*T. Amendments to 46 CFR Part 111, ''Electric Systems—General Requirements''*

The term ''hazardous location'' is broadly understood as an area where flammable gasses, vapors, liquids, or other ignitable substances may concentrate, resulting in a fire or explosion hazard. The Coast Guard regulates hazardous locations on vessels to ensure that electrical components are either absent from hazardous locations or, if they must be present, are of a type that is unlikely to cause a fire or explosion. Although Part 111 already contains a subpart on hazardous locations, the Coast Guard has added provisions specific to large OSVs to reflect current, widely accepted standards and to address the hazards posed by large vessels potentially carrying flammable substances and/or large numbers of people.

This rule creates new § 111.05–20 to specify that large OSVs designed to carry flammable or combustible liquid cargoes with closed-cup flashpoints not exceeding 60 °C (140 °F), such as methanol, may have a grounded distribution system only if the current does not flow directly through any hazardous locations bounded by flammable or combustible liquid cargo integral storage tanks. This provision is intended to avoid the introduction of an electrical arc into a hazardous location given the provisions for use of increased quantities of flammable liquids on larger vessels.

This rule also creates new Subpart 111.106, ''Hazardous Locations on OSVs,'' specifically for large OSVs. The Subpart provides a choice of standards with which electrical installations must comply when they cannot be placed outside hazardous locations, and testing and certification requirements appropriate to each choice. Electrical installations must comply with either National Electric Code (NEC) standards or International Electrotechnical Commission (IEC) standards, subject to certain testing requirements and, in the case of the IEC option, substitution of U.S. requirements for certain provisions of the international standard. This rule provides the flexibility to choose an internationally accepted certification system that existing Subpart 111.105 does not provide.

With respect to U.S. industry standards, this rule allows hazardous locations on large OSVs to comply with either of two classification systems found in the NEC, also known as National Fire Protection Association 70 (NFPA 70). Both of these systems classify hazardous locations according

to likely presence of flammable substances. Hazardous locations may comply with Articles 500 through 504 of NFPA 70, which classify areas into three Classes, each containing two Divisions. These Articles set forth requirements for the design, location, and required and prohibited contents for each Division. Alternatively, hazardous locations may comply with Article 505 of NFPA 70, which provides an alternative system classifying areas into Zones. NFPA 70 contains guidance on moving between the two systems. We use the term ''Class I, Special Division 1'' to describe areas within Class I, Division 1, under Article 501 that are equivalent to Zone 0 under Article 505. This term is based on the American Petroleum Institute Recommended Practice (API RP) 500.

Regardless of which portion of NFPA 70 is followed, this rule requires that equipment be tested, and listed or certified, by an independent laboratory. The Coast Guard generally requires third-party testing for critical equipment, such as lifesaving and firefighting equipment, and believes that safe certification for electrical systems on large OSVs must include independent third-party certification. This requirement is consistent with other regulatory agencies' approach to electrical equipment in hazardous locations in other types of facilities, such as refineries. In accordance with NFPA 70, this rule provides a choice of standards against which the equipment may be evaluated: For the Class and Division system set forth in Article 500, the equipment may meet a selection of American National Standards Institute (ANSI), Underwriters Laboratories, FM Approvals, and Canadian Standards Association standards, while for the Zone system set forth in Article 505 the equipment may meet certain standards from the ANSI/ISA 60079 series. Where any of these standards are used, certification would be performed by an independent laboratory meeting 46 CFR part 159.[1]

As an alternative to U.S. standards, and to provide regulatory flexibility, this rule allows hazardous locations on large OSVs to comply with the widely accepted international standard IEC 60092–502, ''Electrical installations in ships—Tankers—Special features.'' The Coast Guard chartered a study by ABSG Consulting to evaluate IEC 60092–502, and the 2010 report is available in the docket. The study modeled gas dispersion from multiple scenarios with various vapor sources, cargoes, and ventilation rates, and compared it to values provided in the IEC standard. Overall, the study validated the IEC approach, with certain exceptions, because it indicated that in most cases the flammable vapors were well inside IEC Zone 1 areas. We therefore adopt the IEC 60092–502 standard in this rule with some exceptions, which are discussed in detail below. In general, we retained the zones defined by IEC 60092–502 except where the study indicated that zones defined by IEC 60092–502 might not be large enough, in which case we enlarged the zones. Where the study implied that zone sizes may be reduced, we retained the IEC 60092–502 zones to promote safety and compliance with international standards.

The study indicated that for certain cargoes during cargo transfer, flammable vapors from large-volume tank vents tended to sink to the deck, forming a blanket extending beyond area boundaries that were developed based only upon distance from the vent (i.e., boundaries similar to existing § 111.105–31(f) and IEC 60092–502 Regulation 4.2.2.7; see page 27 of the study). This was the case whether or not ventilation was restricted. Based on this, we adopted the IEC 60092–502 regulation 4.2.2.11 requirements in this area, with the exception that the hazardous location designation applies whether or not ventilation is considered to be restricted. Similarly, for large-volume tank outlets the study indicated that vapors tended to extend beyond the 6-meter Zone 1 area of IEC 60092–502 Regulation 4.2.2.8, and we adopted an 8-meter zone to account for this. These modifications appear in new § 111.106–9.

The study also suggested that the use of mechanical ventilation may not be sufficiently effective in reducing flammable vapor concentration down to safe levels in certain hazardous locations (see pages 30–33 and 53 of the study). We therefore did not adopt the portions of IEC 60092–502 Regulation 4.1.4, Table 1, that allow enclosed spaces to be reclassified based upon mechanical ventilation; instead, we inserted new §§ 111.106–13(b) and 111.106–15. Finally, the study consistently indicated the presence of ignitable vapors in the immediate proximity of certain vapor release point sources, a finding that is consistent with API RP 505 standards (see API RP 505 6.5.5). We therefore adopted zone 0 areas similar to those found in API RP 505.

In some cases, the study indicated that certain Zone 1 areas may be reduced. For the reasons discussed above, this rule does not reduce the areas, but the Coast Guard is interested in receiving public comments on whether these zone requirements should be reduced. For example, because modeling indicated that gasses extended no further than 0.5 meters above the deck, a height of 2.4 meters for Zone 1 as described in IEC 60092–502 Regulation 4.2.2.11 may be larger than necessary. For certain vapor sources where a failure (e.g., failure of a valve or flange) is required for vapor release, it may be reasonable to reduce the size of the Zone 1 hazardous location for these vapor sources. We welcome public comment on this topic. For other vapor sources (e.g., vents) where vapor is likely to be present without a failure, however, we do not believe it is reasonable to reduce the Zone 1 sizes.

As with the domestic standards, electrical installations in compliance with IEC 60092–502 must be tested and approved or certified by an independent authority. For vessels designed to compete on the international market or built in foreign shipyards, in this rule the Coast Guard adopts the international certification system, IECEx (Certification to Standards Relating to Equipment for use in Explosive Atmospheres), a certification system that is based on full testing to the IEC 60079 series of standards. The IECEx system ensures testing of equipment by a competent authority other than the manufacturer. Approval under the IECEx system involves an Ex Certification Body (ExCB) and an Ex Testing Laboratory that have been accepted into the IECEx system after meeting competence requirements found in the International Organization for Standardization ISO/IEC Standard 17025 and related IECEx procedures. The Ex Testing Laboratory tests the covered equipment to determine whether it meets IECEx system standards, and drafts an IECEx Test Report to document the test results. The ExCB reviews the manufacturing quality assurance process and issues an IECEx Quality Assessment Report. Based on these reports, the ExCB may then issue an IECEx Certificate of Conformity for the equipment.

The Coast Guard considered allowing certification of electrical equipment under the Directive on Equipment and Protective Systems Intended for use in Potentially Explosive Atmospheres (94/9/EC) (''ATEX directive''), which is used

[1] The authority for current 46 CFR part 159 is 46 U.S.C. 3306, which ''contains broad authority to prescribe regulations for proper inspection and certification of vessels,'' House Report No. 98–338 (August 1, 1983), 1983 U.S.C.C.A.N. 924, 954–53, including the specific requirement to prescribe regulations to carry out the statutory requirements ''in the most effective manner,'' 46 U.S.C. 3306(a). The Coast Guard finds the use of independent laboratories in the Coast Guard's approval process to be ''the most effective manner'' of executing and carrying out its obligations under section 3306.

in Europe and is harmonized with the IECEx system, but chose not to do so because the ATEX directive does not guarantee testing by a competent authority other than the manufacturer. ATEX is a part of a series of European laws, the EC Directives, which are applicable to the European Economic Area member states. The ATEX directive contains Essential Health and Safety Requirements for products applied in hazardous areas, instead of restrictive references to standards. The ATEX Directive allows all kinds of standards to be used. When the harmonized standards are used, it provides the presumption of conformity with the Essential Health and Safety Requirements. Use of the IEC 60079 series is provided for already in existing Subpart 111.105; currently, when the Coast Guard discovers ATEX equipment or components installed on U.S. inspected vessels, it requires that this equipment be replaced or proven through testing to comply with IEC standards. In some cases, the laboratory that certified the equipment under the ATEX directive has found that additional tests are necessary to re-certify the equipment under the IECEx system. This demonstrates that, although these standards are harmonized, there is a possibility that equipment certified under the ATEX directives is not safe for the intended use. In addition, most IMO conventions for seagoing vessels refer to IEC series standards.

For protections not covered by the standards discussed above, this interim rule incorporates existing requirements for other large vessels. For example, § 111.106–3 contains submerged pump motor requirements based on existing Subpart 111.105 and tank barge regulations, and cargo tank separation and cargo piping requirements based on fire-protection provisions for tank vessels. It also incorporates ASTM F2876–10, ''Standard Practice for Thermal Rating and Installation of Internal Combustion Engine Packages for Use in Hazardous Locations in Marine Applications,'' to address the growing use of engines with electronic controls that could cause arcing or sparking in a hazardous area.

This rule provides flexibility by allowing cable and wiring to comply with a selection of international and domestic standards. It also adopts existing domestic rules for tank vessels that have glands or pressure seals on the gastight bulkhead between machinery spaces and hazardous locations. In new § 111.106–15, this rule adopts portions of IEC 60092–502, Clause 8, as well as existing gas carrier rules at 46 CFR 154.1205 with respect to air changes and related ventilation requirements. This rule also addresses the prevention of static build-up in cargo tanks and piping by requiring electrical bonding in accordance with § 153.461 for flammable or combustible cargoes.

The regulations in Subpart 111.106 are similar to regulations the Coast Guard has proposed in a separate rulemaking project regarding electrical equipment in hazardous locations on board foreign Mobile Offshore Drilling Units (MODUs), floating OCS facilities, and vessels that engage in OCS activities, excluding OSVs (78 FR 37760). Although the regulations are very similar because the Coast Guard's overall policy and safety concerns are the same, neither rulemaking project is intended to conflict with or modify the other. The proposed rule on hazardous locations affects a different group of vessels and facilities, not large OSVs.

*U. Amendments to 46 CFR Part 174, Subpart G, ''Special Rules Pertaining to Offshore Supply Vessels''*

As discussed above, this interim rule revises § 127.230 to exempt large OSVs from Part 174, Subpart G, because large OSVs must instead meet SOLAS requirements for stability. Therefore this rule modifies § 174.180, which is the applicability provision of Subpart G, to clarify that large OSVs need not meet Subpart G.

*V. Amendments to Incorporation by Reference Sections, 46 CFR Parts 110 and 125*

Many of the substantive changes discussed earlier in this preamble involve industry standards or other published material that this interim rule incorporates by reference. Incorporating these industry standards ensures that our regulations are based on the consensus of experts in the field, and increases the likelihood they are compatible with established best practices and international standards. When Coast Guard regulations require compliance with the provisions of these standards, the provisions should be read as mandatory regulatory requirements even if the standard development organization has used advisory or recommendatory language.

The incorporated standards are listed in existing centralized incorporation by reference sections at 46 CFR 110.10–1 and 125.180. In addition to incorporating new material necessary to the substance of the rule, this rule reformats the existing incorporation by reference sections for consistency with Office of the Federal Register drafting guidelines, and provides updated publisher contact information. This interim rule does not remove, replace, or otherwise affect any material previously incorporated by reference. Because reformatting and the addition of publisher contact information are administrative changes with no substantive effect on the public, the Coast Guard finds good cause to make these changes effective immediately and without prior notice and comment, as described in Section IV of this preamble.

## VII. Incorporation by Reference

The Director of the Federal Register has approved the material in 46 CFR 110.10–1 and 125.180 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES**. Copies of the material are available from the sources listed in 46 CFR 110.10–1 and 125.180.

## VIII. Regulatory Analyses

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

*A. Regulatory Planning and Review*

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the 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 interim rule has been designated a ''significant regulatory action,'' although not an economically significant regulatory action, under section 3(f) of Executive Order 12866. Accordingly, the interim rule has been reviewed by the Office of Management and Budget. A preliminary Regulatory Analysis (RA) is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble.

Pre-2010 Authorization Act Baseline

Prior to the Authorization Act, owners wishing to build and operate OSVs were subject to a pre-existing system of regulations and standards. For example,

OSVs had to comply with Subchapter L requirements, including:

- Design plan review and approval
- Initial inspection and certification process
- Design standards
- Operating requirements, including manning
- Limitation on the size of OSVs (not greater than 6,000 GT ITC).

However, as the OSV industry has become more heterogeneous, it has started to develop more size-specific standards and rules, particularly those focused on larger vessels—as opposed to the homogenous set of requirements currently required of all OSVs by the Coast Guard. This interim rule will update current regulations to account for this heterogeneity among OSVs. These size-specific standards have been adopted by international organizations and classification societies.

Although the U.S. Coast Guard has never required OSVs to comply with international standards as a flag state in the past, prospective vessel owners and operators who wished to perform international work are required by international law to comply with international standards such as SOLAS, MARPOL, and ICLL. Because of the nature of OSV work, with contracts lasting a few months to a few years, owners and operators of larger OSVs have designed and constructed their vessels with the ''intent of being able to operate in nearly all major oil and gas producing regions of the world'' (i.e., the U.S. Gulf of Mexico, the Persian/Arabian Gulf, West Africa, and Brazil) in order to ensure that the vessel is able to mobilize immediately to a new region following the completion of its current contract.[2] Compliance with some international standards is also required for participation in Coast Guard's Alternate Compliance Program (ACP).[3] Based on the Coast Guard's MISLE database, our research indicates that all existing U.S.-flagged OSVs greater than 3,000 GT ITC have complied with these international standards, and we expect that this trend will continue with OSVs larger than 6,000 GT as well. All of the OSVs greater than 6,000 GT that have been built under the interim process have also voluntarily sought these international certificates.

Similarly, for insurance and other market-driven reasons, owners of OSVs are complying voluntarily with Classification Society standards. Based on Coast Guard's MISLE database, all OSVs in the 3,000 to 6,000 GT ITC range have voluntarily been classed by an approved Classification Society. All of the OSVs greater than 6,000 GT that have been built under the interim process have also voluntarily been classed.

Recent practice shows that some owners of large OSVs elect to pursue multiple certifications under other subchapters to provide flexibility to match client needs and to maximize revenue generation potential. For example, OSVs have been certificated under, and therefore have to comply with the requirements in, subchapters I, D, and O to act as petroleum and chemical tankers in addition to acting as supply vessels.[4] With this rulemaking, ship owners and operators will have specific standards in Subchapter L to address the design, construction, and operation of these larger vessels that can perform multiple services, thereby no longer needing to get certificated under multiple subchapters in order to perform multipurpose work. These standards primarily align with existing Coast Guard regulations, as well as with international requirements that ship owners and operators would likely comply with anyway to safely meet energy market demands and pursue offshore energy ventures that are farther offshore and in deep waters.

2010 Authorization Act Requirements

In the Coast Guard Authorization Act of 2010, Congress removed the size limit on OSVs and directed the Coast Guard to implement regulations for OSVs of at least 6,000 gross tonnage as defined by the International Convention on Tonnage Measurement of Ships 1969 (6,000 GT ITC). Congress also directed the Coast Guard to issue regulations to implement the Act and ''to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on such vessels'' (see section 617(f) of the Act).

In addition to removing the size limit, Congress also specified requirements in three areas for OSVs greater than 6,000 GT ITC:

- Oil fuel tank protection;
- The number and qualification of crew; and
- Division of watches.

These additional requirements provide enhanced levels of environmental protection and safety, which is needed as a result of large OSVs carrying a larger quantity of oil and hazardous material, as well as a larger number of persons on board. Because these expanded services are more typically provided by tank and cargo vessels, the Coast Guard has based its enhanced requirements on existing provisions in Subchapters I, O, and D. Through doing so, we expect no additional cost impacts, because OSVs would already be required under the existing regulatory regime to comply with these additional Subchapters if they wished to provide the additional services governed by those Subchapters.

Interim Process

Following the passage of the Act, a new interim process was established, which allows the construction of vessels of at least 6,000 GT ITC to be certificated as large OSVs on a case-by-case basis. Under this case-by-case process, large OSVs would be approved under the existing regulatory structure, whereby the vessel would be required to meet existing Coast Guard regulations applicable to smaller U.S.-flagged OSVs, and, in cases in which the vessel wished to provide dual services (such as also acting as a tanker or cargo vessel), the vessel would also be required to meet the applicable existing regulations for those vessel types. Under the interim process thus far, prospective vessel owners and operators voluntarily agreed during the design basis stage of the interim process to meet the interational standards required for international work (SOLAS, MARPOL, and ICLL) and class standards. As noted previously, 100 percent of existing OSVs in the 3,000–6,000 GT range have voluntarily complied with these international requirements so as to be able to compete for work on the international market.

Need for Federal Regulatory Action

The interim rule is needed for several reasons. Primarily, this interim rule allows the Coast Guard to fulfill Congress' direction to issue an interim rule ''as soon as is practicable'' to implement the 2010 Authorization Act. The interim rule also codifies existing current industry practices of larger OSVs (from 3,000 GT ITC to 6,000 GT ITC) in areas such as compliance with international standards and classification. The interim rule helps to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on OSVs of at least 6,000 GT ITC by specifying requirements that reflect the operating characteristics of larger OSVs.

Further, as a result of this rulemaking, ship owners and operators will have

[2] Tidewater, Inc. ''Setting the Pace: 2013 Tidewater Annual Report.'' *http://phx.corporate-ir.net/phoenix.zhtml?c=81406&p=irol-reportsannual.*

[3] The ACP is a voluntary program in which Classification Society Rules, International Conventions, and an approved U.S. Supplement provide an alternative that is equivalent to Title 46, Code of Federal Regulations (CFR).

[4] 2013 Proxy Material and 2012 Annual Report *http://ir.hornbeckoffshore.com/phoenix.zhtml?c=132245&p=irol-reportsannual.*

specific standards in Subchapter L to address the design, construction, and operation of these larger vessels, thereby no longer needing to get certificated under multiple subchapters in order to perform multipurpose work. These standards primarily align with existing Coast Guard regulations, as well as with international requirements that ship owners and operators would likely comply with anyway to safely meet energy market demands and pursue offshore energy ventures that are farther offshore and in deep waters.

In comparison with the interim process, the interim rule eliminates the regulatory uncertainty and inefficiencies that the current case-by-case process inherently produced for both industry and government. Instead of going through a lengthy case-by-case review, this interim rule will provide specific standards in subchapter L for owners and operators to meet when designing and constructing a large OSV and will establish a standardized regulatory oversight process for government officials. In addition to improving efficiency, the interim rule will improve transparency, as the standards that Coast Guard applies will be publicly available and subject to public comment before finalization.

Affected Population

Currently, the portion of the global OSV market served by OSVs of at least 6,000 GT ITC is largely captured by non-U.S. vessels as shown in Table 1 below, given past statutory restrictions on OSV size and uncertainties regarding the interim process.[5] The table identifies domestic firms' share of the OSV market for the 1,001 through 6,000 gross tonnage ranges, in which U.S.-flagged OSVs account for approximately 10 percent of the world fleet. This interim rule will open the markets served by OSVs of at least 6,000 GT ITC to domestic entities.

TABLE 1—EXISTING U.S.- AND FOREIGN-FLAGGED OSVS BY GT ITC TONNAGE OPERATING IN U.S. AND INTERNATIONAL WATERS

| | 1,001–1,600 | 1,601–3,000 | 3,001–5,000 | 5,001–6,000 | 6,001–10,000 | 10,000+ | Total |
|---|---|---|---|---|---|---|---|
| U.S.[6] | 107 | 157 | 58 | 9 | 1 | 1 | 333 |
| Foreign[7] | 975 | 1,331 | 401 | 40 | 111 | 52 | 2,910 |
| Total | 1,082 | 1,488 | 459 | 49 | 112 | 53 | 3,243 |
| U.S. Percent of Fleet | 10 | 11 | 13 | 18 | 1 | 2 | 10% |

The offshore energy market has experienced increased demand for high endurance operations required for deepwater exploration far offshore. ''Since the first major deepwater leasing boom in 1995 and 1996, a sustained and robust expansion of deepwater drilling activity has occurred, largely enabled by major advances in drilling technology. In 2001, U.S. deepwater offshore oil production surpassed shallow water offshore oil production for the first time. By 2009, 80 percent of offshore oil production and 45 percent of natural gas production occurred in water depths in excess of 1,000 feet, and industry had drilled nearly 4,000 wells to those depths.''[8] This trend toward exploration in deep water and farther offshore necessitates larger OSVs that can haul more offshore workers, excess fuel, drill string, and mud. Further, it requires OSVs that are better equipped to handle platform support and construction, subsea construction and pipelaying, diving support, as well as towing of rigs and well stimulation. OSVs under 6,000 GT ITC do not have the capacity to meet these additional capabilities farther offshore, and as a result, industry is turning to OSVs of at least 6,000 GT ITC to fill these needs. ''The demand for large [platform supply vessels, which are a type of OSV] with dynamic positioning has outpaced the supply of vessels for most of 2012. New deliveries and [OSVs] mobilizing back to the U.S. Gulf [of Mexico] have been unable to keep up with demand, forcing drilling operators to supplement smaller vessels, which are readily available. While these smaller vessels may be adequate, they are not optimal for deepwater support work.''[9]

The Coast Guard anticipates that domestic entities would like to capture some of this market, as evidenced by the construction of two, and the design basis application and approval for an additional four, U.S.-flagged vessels of at least 6,000 GT ITC. This interim rule would permit U.S.-flagged vessels of at least 6,000 GT ITC to be certificated as OSVs under subchapter L standards, which would allow U.S. firms to benefit from access to this increased demand.

While the Coast Guard is unable to forecast with certainty the number of U.S.-flagged OSVs of at least 6,000 GT ITC that may be built to meet the increasing demand for larger OSVs, the number of vessels constructed or seeking approval under the interim process found in section 617(f)(3) of the Act may provide some insight. In 2013, four vessels sought approval under this process, while two vessels have already been constructed.

Furthermore, the Coast Guard anticipates that this new population of OSVs will follow a growth pattern similar to that of OSVs greater than 3,000 GT ITC but less than 6,000 GT ITC since this was the extent of larger sized U.S.-flagged OSV growth under the size limit restriction.

Through review of the Marine Information for Safety and Law Enforcement (MISLE) database, the Coast Guard has determined that on average four U.S.-flagged OSVs between 3,001 and 6,000 GT ITC were constructed per year from 1998 through 2013.

Given the current environment of the offshore energy market, the Coast Guard anticipates that the number of large U.S.-flagged OSVs built per year will be similar to the number of U.S.-flagged OSVs between 3,001 and 6,000 GT ITC built per year from 1998 through 2013. Therefore, we do not expect more than four U.S.-flagged OSVs of at least 6,000

[5] There exist two U.S.-flagged vessels of at least 6,000 GT ITC currently operating in U.S. waters. These vessels have been certificated under the interim process created by section 617(f)(3) of the Act as large OSVs that meet subchapter I and additional requirements from design basis agreements.

[6] Data on U.S.-flagged vessels was derived from Marine Information for Safety and Law Enforcement (MISLE) on October 25, 2013.

[7] Data on foreign-flagged vessels operating global was obtained from Clarkson Research's Offshore Vessel Register on December 9, 2011.

[8] Department of the Interior, ''Increased Safety Measures for Energy Development on the Outer Continental Shelf,'' May 27, 2010, pages 3–4. (*http://www.doi.gov/deepwaterhorizon/loader.cfm?csModule=security/getfile&PageID=33598*).

[9] Marcon International, Inc. ''Fall 2012 Newsletter—Offshore Supply Vessels in the Gulf of Mexico.'' *http://www.marcon.com/index.cfm?SectionListsID=49&PageID=2461*.

GT ITC would be built per year after publication of this interim rule. Further, we anticipate that the vessels of at least 6,000 GT ITC will be built instead of (rather than in addition to) vessels in the 3,001 to 6,000 GT ITC size range.

TABLE 2—SUMMARY OF APPLICABILITY, AFFECTED POPULATION AND BENEFITS

| Category | Interim rule |
|---|---|
| Applicability | All U.S.-flagged offshore supply vessels of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned). |
| Affected Population | Existing mandates, which restrict the size of U.S.-flagged OSVs, limit the impact of this rule on existing vessels. Although USCG does not have data to forecast the number of U.S.-flagged OSVs of at least 6,000 GT ITC that may be built to meet the increasing demand for larger OSVs with certainty, we anticipate that it is likely that the construction of OSVs of at least 6,000 GT ITC will follow a similar growth pattern, and may be built instead of, the construction of OSVs between 3,001 to 6,000 GT ITC. If this assumption holds, then an estimated 4 OSVs of at least 6,000 GT ITC constructed per year. |
| Non-quantified Benefits | Regulatory efficiency benefit, as risk-benefit requirements are clarified in advance for vessel owner and operators.<br>Allows regulatory compliance flexibilities for some provisions in Subchapter L.<br>Standardization of regulatory oversight by the Coast Guard. |

Baseline for Analysis of Impacts

Before the Act, U.S. ship owners and operators wishing to build an OSV were subject to a network of regulations, voluntary standards and industry practices, including a prohibition against constructing U.S.-flagged OSVs of at least 6,000 GT ITC, because of the Coast Guard's 1996 regulation, which capped the tonnage of an OSV. The Authorization Act lifted the tonnage restriction, but left the remainder of the regulatory and standard network in place. The baseline for determining the impact of the interim rule is thus the pre-Authorization Act network of regulations, voluntary standards, and current industry practices.

Analysis of Cost Impacts

This section details the analysis of cost impacts of the interim rule requiring large OSVs to meet design, construction, and operation safety regulations governing the inspection and standards of OSVs, found in Title 46. We expect industry will incur no additional costs in meeting the Coast Guard's rule as the incorporated standards or functionally equivalent standards will be used to construct a large OSV in the absence of any rule.

In order to minimize the impact of this rule on industry, the Coast Guard based the majority of the provisions in this interim rule upon existing regulatory and technical standards from Titles 33 and 46 of the CFR. Although the Coast Guard deviated from these existing standards in several instances, these changes were made in order to account for differences between the scale of operations of the existing standard's intended population and the operations of large OSVs.[10] Where existing regulatory and technical standards were not appropriate, the Coast Guard supplemented them with standards from IMO conventions and industry consensus engineering standards.

Because of the previous size limit on OSVs, there were no U.S.-flagged vessels of at least 6,000 GT ITC or 500 GRT operating as OSVs.[11] However, since the Act was enacted, two U.S.-flagged vessels of at least 6,000 GT ITC have been certificated under the interim process found in section 617(f)(3) of the Act as large offshore supply vessels that meet subchapter I and additional requirements from design basis agreements, and four more have had their design basis agreements approved. Although these would be grandfathered from having to comply with this interim rule, the international standards codified in this rule were derived from standards that these owners and operators voluntarily agreed to adopt under the interim process.[12] Consequently, this rule will not directly impact any existing population of U.S. vessels, nor is it expected to add additional costs to newly constructed OSVs of at least 6,000 GT ITC, as these vessels are also expected to work internationally in addition to working domestically. Therefore, no additional costs will be incurred by industry in the construction of a large OSV.

At this time, the Coast Guard does not anticipate additional costs to the government from inspections and plan review. Although this rule removes the size restriction of vessels certificated under subchapter L as OSVs, the population of new OSVs of at least 6,000 GT ITC is expected to replace a portion of the population of OSVs in the 3,001 GT ITC to 6,000 GT ITC size.

Further, because the provisions in this rule that result in government costs are also required of vessels approved under the 617(f)(3) interim process, the expected costs that would be incurred by government to conduct inspections and plan reviews as a result of this interim rule would have been incurred by the government even in the absence of this rule. Therefore, the Coast Guard expects to use existing resources to implement this rule.

This section presents a qualitative analysis of the cost impacts and justifications for Title 46 revisions implemented by this interim rule. We present our analyses in grouped sections that correspond to each aspect of the rule, which impacts 46 CFR as shown below. Further details are provided in the regulatory analysis available in the docket.

Cost Impacts of the Specific Changes of the Interim Rule

Title 46—Shipping

[10] Provisions in this interim rule in which the Coast Guard deviated from existing standards include electrical requirements in 46 CFR subchapter J.

[11] While it is possible that an owner of an existing large OSV certificated under the interim process found in 617(f)(3) of the Act may seek recertification under subchapter L, no one from industry has inquired about this issue in the two and a half years since the Act was enacted.

[12] Although these six vessels are expected to work domestically, they are also expected to work internationally, and therefore, would be held to international standards as well.

TABLE 3—CHANGES TO 46 CFR PART 2—VESSEL INSPECTIONS

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Inspections | 2.10–25 | Modifies definition of OSV as directed by the Act. | Not Applicable | Not Applicable | No additional cost. Administrative change to implement statutory mandate change to definition to allow OSVs > 6,000 GT ITC. |

TABLE 4—CHANGES TO 46 CFR PART 15—MANNING REQUIREMENTS

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Watches | 15.705 | Requirement directed by the Act. | Requirements for the minimum number of watches were derived from existing Coast Guard regulations (46 CFR 15.705 and 15.1111). | Extends exception to the number of watches required to large OSVs, provided that the officers and crew are in compliance with the work hours and rest period requirements found in 46 CFR 15.1111. | No impact. This provision provides the same flexibilities currently allowed to smaller OSVs under the current regulatory regime to OSVs greater than 6,000 GT ITC. |
| Mates | 15.810 | Requirement directed by the Act. | Requirements for minimum number of mates were derived from existing Coast Guard regulations (46 CFR 15.810). | Amends existing Coast Guard regulation by requiring OSVs greater than 6,000 GT ITC to have two mates on voyages under 600 miles and three mates on voyages of at least 600 miles. Manning requirements will not change for OSVs less than 6,000 GT ITC. | No impact. Similar sized vessels, such as 100% of OSVs between 5,000 and 6,000 GT ITC, are already meeting this requirement in order to provide multipurpose services, services which requires an additional mate. |
| Engineers | 15.825 | NOSAC recommendation | Requirements for the minimum number of assistant engineers were derived from existing Coast Guard regulations (46 CFR 15.825). | Amends existing Coast Guard regulation by requiring large OSVs approved for the use of automated systems to carry at least one assistant engineer, as recommended by NOSAC. | No additional cost. Similar sized vessels, such as 100% of OSVs between 5,000 and 6,000 GT ITC, are already meeting this requirement in order to provide services more typically performed by tank and cargo vessels. |

TABLE 5—CHANGES TO 46 CFR PART 61—PERIODIC TESTS AND INSPECTIONS

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Test procedure details | 61.40–10 | Administrative change of Coast Guard approval to the Marine Safety Center. | Requirements in existing CFR originally called for other test techniques to be approved by the Commandant of CG–ENG. | Other test techniques must now be approved by the Commanding Officer of the Marine Safety Center. | No additional cost as this is administrative. |

TABLE 6—CHANGES TO 46 CFR PART 62—VITAL SYSTEM AUTOMATION

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Applicability | 62.01–5 | Change to clarify applicability to include large OSVs. | Requirements for vital system automation were derived from existing Coast Guard regulations. | Adds large OSVs to list of vessels that must comply with existing requirements in 46 CFR part 62. | No additional cost. Similar sized existing vessels, such as 100% of OSVs between 5,000 to 6,000 GT ITC, voluntarily agreed to be certificated by classification societies and participate in the Alternate Compliance Program (ACP). While there are some gaps between class rules and the provisions in 46 CFR part 62, they are closed through supplemental provisions required of vessels operating under the ACP. |

TABLE 7—CHANGES TO 46 CFR PART 90—GENERAL PROVISIONS

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Applicability to OSVs | 90.05–20 | Defines applicability of Subchapter I for existing OSVs. | Not Applicable | Not Applicable | No additional cost. Definition. |
| Definitions of offshore supply vessels. | 90.10–40 | Defines new and existing OSVs. | Not Applicable | Not Applicable | No additional cost. Definition. |

TABLE 8—CHANGES TO 46 CFR PART 110—GENERAL PROVISIONS

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Incorporation by reference. | 110.10–1 | Incorporates industry standards into Title 46. | Requirements for electrical engineering within hazardous locations were derived from existing Coast Guard regulations (46 CFR 110.10–1). | Amends existing Coast Guard regulation by codifying alternative industry accepted standards, which have been approved for similar large vessels. | No additional cost. Similar sized existing vessels, such as 100% of OSVs between 3,000 to 6,000 GT ITC, voluntarily agreed to be certificated by classification societies and participate in the ACP, whose rules align with the requirements in 46 CFR 110.10–1. Provides industry with flexibility by incorporating alternative industry standards. |
| Definitions | 110.15–1 | Introduces definitions used in 110.25–1. | Not Applicable | Not Applicable | No additional cost. Definition. |
| Plans and information required for new construction. | 110.25–1 | Requirement for plans that identify hazardous location information. | Requirements for hazardous locations in new builds were derived from existing Coast Guard regulations (46 CFR 110.25–1). | Clarifies information required in plans for OSVs of at least 6,000 GT ITC. Requires plan to include equipment identification number, equipment use, parameters of systems, equipment locations, installation details, and certificate of testing. | Potential cost savings. This information was already required of existing plans, but was often not provided until follow up reviews. This provision will expedite the process by more explicitly delineating the required information up front. |

TABLE 9—CHANGES TO 46 CFR PART 111—ELECTRIC SYSTEMS GENERAL REQUIREMENTS

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Flammable or Combustible liquids and grounded distribution systems on OSVs. | 111.05–20 | Specifies ground distribution system requirement.. | Requirements for ground distribution system were derived from existing international standards and Coast Guard regulations (SOLAS and 46 CFR 111.05–19). | None | No additional cost. Incorporates international and Coast Guard standards expected to be used given industry practice and desire to compete for work in international markets. |
| Hazardous Locations on OSVs. | 111.106–1, 111.106–3, 111.106–5, 111.106–7, 111.106–9, 111.106–11, 111.106–13, 111.106–15, and 111.106–17. | Requires owners of OSVs with hazardous locations to choose a standard that addresses the wide ranging services that the vessel performs. | Requirements for electrical installations inside hazardous locations were derived from existing national and international standards (National Electric Code standards and International Electrotechnical Commission 60092–505). | There are no deviations from standard if the vessel follows the national standard. However, two changes were made to the international standard. The first change appears in 111.106–9, and enlarges Zone 1 to an area of 8-meters. The other modification to the international standard is made in 111.106–13 (b). This modification will not allow enclosed spaces to be reclassified based upon mechanical ventilation.. | No additional cost. Provides flexibility by allowing choice of standards expected to be used given current industry practice and desire to compete for work in international markets. |
| | | | Requirements for cable and wiring between machinery spaces and hazardous locations were derived from existing international and Coast Guard regulations (International Electrotechnical Commission 60092–505 and 46 CFR 153.461 and 154.1205). | None | No additional cost. Incorporates international and Coast Guard standards expected to be used given current industry practice and desire to compete for work in international markets. |

TABLE 10—CHANGES TO 46 CFR PART 125—GENERAL

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Applicability | 125.100 | Requirement directed by the Act. | Not Applicable | Not Applicable | No additional cost. Administrative to meet statutory mandate. |
| Tonnage Measurement | 125.103 | Administrative changes made by the Coast Guard to implement the Act. | Not Applicable | Not Applicable | No additional cost. Administrative to meet statutory mandate. |
| International certificates for OSVs of at least 6,000 GT ITC. | 125.105 | Requires large OSV to obtain international certificates that indicate compliance with SOLAS, MARPOL, and ICLL. | Requires OSVs to hold certificates that signify compliance with international standards (SOLAS—Cargo Ship Safety Construction, Cargo Ship Safety Equipment and Safety Management Certificates; MARPOL—International Oil Pollution Prevention and International Air Pollution Prevention; ICLL—International Load Line Certificate. | None | No additional cost. Incorporates international standard expected to be used given industry practice and desire to compete for work in international markets. Similar sized existing vessels, such as 100% of OSVs 3,000 to 6,000 GT ITC, voluntarily agreed to comply with the requirements in this provision in order to compete in international markets. |
| Carriage of flammable or combustible liquid cargoes in bulk. | 125.110 | Requires carriage of oil on large OSVs to meet existing Title 33 requirements. | Double hull (oil cargo tank offset) requirements were derived from existing Coast Guard regulations (33 CFR 157.10d). | None | Any changes in the cargo capacity and configuration can be accommodated in the design stage of the new vessel with no or minimal, non-quantifiable cost.[13] |
| Oil fuel tank protection | 125.115 | Requirement directed by the Act. | Requirements for oil fuel tank protection were derived from existing international standards (MARPOL Annex I—Regulation 12A). | Deviates from existing international standard by requiring compliance without regards to whether the OSV will be engaged in coastwise or international trade. | No additional cost. Similar sized existing vessels, such as 100% of OSVs 3,000 to 6,000 GT ITC, already comply with the requirements in this provision. |
| Carriage of noxious liquid substances in bulk by OSVs less than 6,000 GT ITC (500 GRT if GT ITC is not assigned) and least 6,000 GT ITC (500 GRT if GT ITC is not assigned). | 125.120 and 125.125. | Administrative—sets applicability for carriage of NLS in bulk to demarcation requirements and incorporates existing 46 CFR 98.30 and interpretation of IMO Res A.673 from CG–522 Policy Letter 09–01. | Requirements for carriage of noxious liquid substances in bulk were derived from existing international standards and Coast Guard regulations (MARPOL Annex II, IMO Resolution A.673(16), and 33 CFR part 151 and 46 CFR part 163). | Deviates from existing international standards by codifying parts of CG–522 Policy Letter 09–01, Rev. 1, which was published April 5, 2010. These modifications will allow applicable vessels carry NLS in bulk in its integral and fixed independent tanks. | No additional cost. Incorporates interpretation of international standard from existing policy letter. This will create flexibility for large OSVs where they might otherwise have been deemed in violation of MARPOL Annex II. |
| Loadlines | 125.140 | Requires large OSVs to be assigned an international load line in accordance with the ICLL. | Requirements for load lines were derived from existing international standards (International Convention of Load Lines). | None | No additional cost. Incorporates international standard expected to be used given industry practice and desire to compete for work in international markets. |
| Lifesaving systems | 125.150 | Requires large OSVs to meet existing lifesaving requirements of Title 46 CFR and SOLAS. | Lifesaving requirements for OSVSs of at least 6,000 GT ITC were derived from existing international standards and Coast Guard regulations (SOLAS and 46 CFR 199). | None | No additional cost. Incorporates international standard and requirements for similar vessels expected to be used given industry practice and desire to compete for work in international markets. Similar sized existing vessels, such as 100% of OSVs 3,000 to 6,000 GT ITC, voluntarily agreed to comply with the requirements in this provision in order to compete in international markets. |

[13] Impact is negligible because the carriage of oil-based mud is also covered by requirements for the carriage of noxious liquid substances (46 CFR 125.120). Because of the various chemical components within the muds, nearly all mud carried by larger OSVs is authorized only if the vessel complies with international pollution prevention standards (IMO Resolution A.673(16)), which already requires minimum distances for cargo from the outer hull.

TABLE 11—CHANGES TO 46 CFR PART 126—INSPECTION AND CERTIFICATION

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Carriage of offshore workers. | 126.170 ..... | Increases large OSV carriage capacity of offshore workers. | Existing regulation precludes carriage of more than 36 offshore workers. In removing this ban, requirements for the carriage of offshore workers were derived from existing international standards (IMO Code of Safety for Special Purpose Ships (SPS Code)). | Modifies existing SPS Code by requiring vessels authorized to carry more than 36 offshore workers to carry the minimum amount of primary lifesaving for cargo vessel equipment as defined in SOLAS. | No additional cost. Provides industry flexibility by continuing to allow vessels authorized to carry less than 36 offshore workers to meet standards required of a cargo vessel. Creates opportunity for vessels to carry more than 36 offshore workers, but would require increasing protection using internationally accepted approach to offset growing potential consequence. For vessels authorized to carry more than 36 offshore workers, the Coast Guard would require the vessel design meet a standard that is between the standard required of cargo vessels and that of passenger vessels. This flexibility takes into account the attributes and skill-sets of the passengers, and offers OSVs a less stringent standard as a result. |

TABLE 12—CHANGES TO 46 CFR PART 127—CONSTRUCTION AND ARRANGEMENTS

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Classification Society Standards. | 127.200 ..... | Requires OSVs be classed by an authorized class society. | Meeting classification society requirements is consistent with existing international standards (SOLAS Chapter II–1, Regulation 3–1) and existing Coast Guard regulations (46 CFR 8.320). | None ..... | No additional cost. Incorporates industry & international standards expected to be used given industry practice and desire to compete for work in international markets. Similar sized existing vessels, such as 100% of OSVs 3,000 to 6,000 GT ITC, voluntarily agreed to comply with the requirements in this provision in order to compete in international markets. |
| Structural fire protection. | 127.225 ..... | Requires SOLAS compliance. | Requirements for structural fire protection were derived from existing international standards (SOLAS). | Deviates from SOLAS by restricting large OSVs to only use the non-combustible materials (Method IC) option in SOLAS. This is consistent with existing U.S. regulations for other large vessels (46 CFR subchapters D, H, and I). | No additional cost. Incorporates existing US interpretation of international standard. An existing OSV would already be required to meet this requirement under the existing regulatory regime if it wished to perform these services. |
| Subdivision and stability. | 127.230 ..... | Requires SOLAS compliance. | Subdivision and stability requirements were derived from existing international standards and Coast Guard regulations (SOLAS and 46 CFR 127.230). | Amends existing Coast Guard regulation (46 CFR 127.230) by adding in clause (b). This clause exempts OSVs of 80 meters or more in length from being required to comply existing CFR stability requirement, since these large OSVs have to meet SOLAS stability requirements as described in 46 CFR 125.105. | No additional cost. This modification exempts large OSVs from being required to comply with this provision. |

TABLE 12—CHANGES TO 46 CFR PART 127—CONSTRUCTION AND ARRANGEMENTS—Continued

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Construction and arrangements for OSVs carrying more than 36 offshore workers. | 127.600, 127.620, 127.630, 127.640, and 127.650. | Requirements developed by the Coast Guard to provide safety to persons in addition to the crew as directed by the Act. | Damage stability requirements were derived from existing international standards (SOLAS Chapter II–1, parts B–1, B–2, and B–4, and Regulation II–1/35–1). | None | No additional cost. Incorporates existing international standards for given vessel characteristics and operations. Similar sized existing vessels, such as 100% of OSVs 3,000 to 6,000 GT ITC, already comply with the requirements in this provision. |
| | | | Marine engineering requirements were derived from international standards (SOLAS Regulation II–1/29.6.1.1). | None | No additional cost. Incorporates existing international standards for given vessel characteristics and operations. Similar sized existing vessels, such as 100% of OSVs 3,000 to 6,000 GT ITC, voluntarily agreed to comply with the requirements in this provision in order to compete in international markets. |
| | | | Electrical installation requirements were derived from international standards (SOLAS Regulation II–1/42). | None | No additional cost. Incorporates existing international standards for given vessel characteristics and operations. Similar sized existing vessels, such as 100% of OSVs 3,000 to 6,000 GT ITC, voluntarily agreed to comply with the requirements in this provision in order to compete in international markets. |
| | | | Fire-protection requirements were derived from international standards (SOLAS Chapter II–2). | None | No additional cost. Incorporates existing international standards for given vessel characteristics and operations. Similar sized existing vessels, such as 100% of OSVs 3,000 to 6,000 GT ITC, voluntarily agreed to comply with the requirements in this provision in order to compete in international markets. |

TABLE 13—CHANGES TO 46 CFR PART 128—MARINE ENGINEERING: EQUIPMENT AND SYSTEMS

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Equipment and systems. | 128.110 | Incorporates requirements of existing 46 CFR Subchapter F. | Marine engineering requirements for equipment and systems for large OSVs were derived from existing Coast Guard regulations (46 CFR Subchapter F). | Removes OSVs of at least 6,000 GT ITC from being exempt from having to comply with the requirements in 46 Subchapter F in their entirety. | No additional cost. Similar sized existing vessels, such as 100% of OSVs between 3,000 and 6,000 GT ITC, voluntarily agreed to be certificated by classification societies whose rules align with the revised requirements in Subchapter F. |
| Fuel | 128.310 | Incorporates requirements of existing 46 CFR Subchapter F and SOLAS. | Fuel requirements were derived from existing Coast Guard regulations (46 CFR 128.310). | Modifies existing provision by requiring large OSVs to use fuel having a flashpoint of at least 60° C (140° F), instead of being required to meet the existing standard, which will still be used for OSVs under 6,000 GT ITC, of 43° C (110° F). | No additional cost. Similar sized existing vessels, such as 100% of OSVs between 3,000 and 6,000 GT ITC, voluntarily agreed to comply with SOLAS and the higher flashpoint requirement in order to obtain international certifications. |

TABLE 14—CHANGES TO 46 CFR PART 129—ELECTRICAL INSTALLATIONS

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Applicability | 129.110 | Implements existing Subchapter J of this chapter. | Requirements for electrical installations were derived from existing Coast Guard regulations (46 CFR Subchapter J, Chapter I). | Removes OSVs of at least 6,000 GT ITC from being exempt from having to comply with the requirements in 46 Subchapter J in their entirety. | No additional cost. Similar sized existing vessels, such as 100% of OSVs between 3,000 and 6,000 GT ITC, voluntarily agreed to be certificated by classification societies whose rules align with the requirements in the revised Subchapter J. |
| Power Sources for OSVs. | 129.315 | Implements existing Subchapter J of this chapter. | Requirements for power sources were derived from existing Coast Guard regulations (46 CFR Subchapter J, Chapter I). | Modifies existing regulation to ensure that OSVs less than 6,000 GT ITC will still be exempt from being required to comply with some parts of 46 Subchapter J. | No additional cost. 100% of OSVs between 3,000 and 6,000 GT ITC voluntarily agreed to be certificated by classification societies whose rules align with the requirements in revised 46 CFR 129.315. |
| Overfill Protection | 129.570 | Implements existing Subchapter D of this chapter. | Requirements for alarms were derived from existing Coast Guard regulations (46 CFR 33.25–1). | Compliance with existing standard will now be required of large OSVs, in addition to tank vessels. | No additional cost. Incorporates industry & international standards expected to be used given industry practice and desire to compete for work in international markets. Similar sized existing vessels, such as 100% of OSVs between 3,000 and 6,000 GT ITC, voluntarily agreed to comply with SOLAS and MARPOL. These international standards align with the requirements in this provision. |

TABLE 15—CHANGES TO 46 CFR PART 130—VESSEL CONTROL, AND MISCELLANEOUS EQUIPMENT AND SYSTEMS

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Steering and automated systems. | 130.140 and 130.400. | Points to existing 46 CFR requirements. | Steering and automated systems requirements were derived from existing Coast Guard regulations (46 CFR 130.140). | Modifies existing regulation to ensure that only OSVs under 6,000 GT ITC must comply with the requirements in this provision. OSVs of at least 6,000 GT ITC are directed to 46 CFR 128.110. | No additional cost. Administrative clarification of applicability of existing regulations. |

TABLE 16—CHANGES TO 46 CFR PART 131—OPERATIONS

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Maneuvering Characteristics. | 131.990 | Existing SOLAS and 46 CFR requirements. | Maneuvering capability requirements were derived from existing Coast Guard regulations (46 CFR Subchapter I). | Expands applicability of existing regulations to include large OSVs. | No additional cost. Incorporates standard expected to be used given current industry practice and desire to compete for work in international markets. Similar sized existing vessels, such as 100% of OSVs 3,000 to 6,000 GT ITC, already comply with the requirements in this provision. |

TABLE 17—CHANGES TO 46 CFR PART 132—FIRE-PROTECTION EQUIPMENT

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Fire pump, extinguishers, and emergency outfits. | 132.100, 132.200, and 132.365. | Implements existing 46 CFR requirements. | Requirements for fire pumps, extinguishers, and emergency outfits were derived from existing international standards (SOLAS Chapter II–2) and Coast Guard regulations (46 CFR 125.105). | Adds new provision to clarify applicable U.S. requirements for fire pumps, fire hoses, and nozzles, portable and semiportable fire extinguishers, and firefighter's protective clothing and personal safety equipment. | No additional cost. Incorporates existing U.S. interpretation of international standard. Similar sized existing vessels, such as 100% of OSVs 3,000 to 6,000 GT ITC, voluntarily comply with the requirements in this provision in order to compete in international markets. |
| Added requirements for carriage of low flashpoint flammable or combustible cargo. | 132.390 ..... | Requires 46 CFR 76, and 46 CFR 161.002. | Requirements for carriage of low flashpoint flammable or combustible cargo and fire-protection equipment were derived from existing Coast Guard regulations (46 CFR 76 and 161.002). | Deviates from existing CFR by requiring that large OSVs also comply with cargo area and cargo-pump room fire-extinguishing systems requirements that are currently only required of tank vessels. | No additional cost. Incorporates standard expected to be used given industry practice and desire to compete for work in international markets. An existing OSV would already be required to meet this requirement under the existing regulatory regime if it wished to perform these services. |

TABLE 18—CHANGES TO 46 CFR PART 134—ADDED PROVISIONS FOR LIFTBOATS

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Applicability ..... | 134.100 ..... | Liftboats are regulated under Subchapter L; this requires large liftboats to obtain Coast Guard approval. | Requirements for liftboats were derived from existing Coast Guard regulations (46 CFR 134.100). | Modifies existing applicability of provision to allow the construction of large liftboats on a case-by-case basis, which must be approved by the Commandant (CG–5PS). | No additional cost, as the construction of liftboats of at least 6,000 GT ITC are not affected by this rulemaking. |

TABLE 19—CHANGES TO 46 CFR PART 174—SPECIAL RULES PERTAINING TO SPECIFIC VESSEL TYPES

| Subject | Sections | Coast Guard action | Origination of standard | Deviation from standard | Cost impact and justification |
|---|---|---|---|---|---|
| Applicability ..... | 174.180 ..... | Administrative change conforms to Part 127. | Requirements for stability for OSVs under 6,000 GT ITC were derived from existing Coast Guard regulations (46 CFR part 174). | Modifies existing regulations to exempt large OSVs from being required to meet the stability requirements in 46 CFR Subpart G. Instead, large OSVs will be subject to the SOLAS stability requirements discussed earlier in this RA. | No additional cost. Administrative change clarifies that large OSVs are excluded from certain requirements. |

Benefits of the Interim Rule

In the Act, Congress removed the tonnage limit on vessels certificated under subchapter L as OSVs, and directed the Coast Guard to implement regulations for the safe carriage of oil, hazardous substances, and individuals in addition to the crew on OSVs of at least 6,000 GT ITC. However, the provisions in the Act allow ship owners and operators to construct vessels that can operate as OSVs, by meeting subchapter I and additional requirements from design basis agreements, during the period between the effective date of the Act and the effective date of this rulemaking provided they obtain Coast Guard approval. This process creates regulatory inefficiencies as there are no large OSV subchapter L-specific standards and regulatory flexibilities for industry to reference, which could result in construction and design delays. First, industry must submit a proposed design to begin the process, and each time a change to the vessel's design is made, the process must start over as the company must resubmit a new design letter. After this step has been completed, industry must then wait for the design basis to be approved before beginning construction of the vessel. According to a Coast Guard subject matter expert, this design basis process can take, at a minimum, 30 days to complete, with additional time taken for the company to respond to the draft design basis agreements. However, it is likely that, based on the complexity of the design of OSVs of at least 6,000 GT ITC, this process would take the Coast Guard much longer to complete.

Accordingly, the Coast Guard developed this interim rule to rectify this lack of transparent standards to ensure consistent design, construction, and operation of OSVs, as well as to comply with the Act.

On top of rectifying this lack of transparent standards, it is expected that this rule will reduce costs overall. Because vessels approved under the 617(f)(3) interim process are approved under a case-by-case basis, a substantial amount of resources are used throughout the approval process.

Issuance of this interim rule would streamline the construction process by removing this case-by-case process and replacing it with transparent requirements that all newly constructed vessels wishing to be certificated as large OSVs must adhere to. This is expected to significantly reduce costs.

Therefore, this rule will replace government's existing ad hoc processes and requirements with a more streamlined and predictable system, thereby reducing resources and, consequently, costs.

TABLE 20—BENEFICIAL IMPACTS OF INTERIM RULE

| Subject | Sections | Beneficial impacts |
|---|---|---|
| **46 CFR part 2—Vessel Inspections** | | |
| Inspections | 2.10–25 | Fulfills statutory mandate by modifying the definition of OSV to remove size ceiling. |
| **46 CFR part 15—Manning Requirements** | | |
| Watches | 15.705 | Provides flexibility by implementing exception that allows for 2 watches on short voyages. According to an OCMI from the Eighth District, a navigation watch has an average wage of $44.37 per hour. This exception could result in cost savings for owners and operators of large OSVs engaged on a voyage of less than 600 miles, as these owners and operators may employ one fewer navigational watch on voyages of this length. |
| Mates | 15.810 | Provides flexibility by lowering manning requirements for OSVs less than 6,000 GT ITC and OSVs of at least 6,000 GT ITC. For OSVs less than 6,000 GT ITC, the number of required credentialed mates on voyages less than 600 miles decreases from two to one, and for voyages of at least 600 miles from three to two. Further, for OSVs of at least 6,000 GT ITC, the number of required credentialed mates on voyages less than 600 miles decreases from three to two. The number of required mates on voyages of at least 600 miles remains the same. According to an OCMI from the Eighth District, a navigation watch has an average wage of $44.37 per hour. This exception will therefore result in cost savings for owners and operators of OSVs of all sizes, since owners and operators may employ fewer navigation watches depending on the size of the OSV and on the voyage length. |
| Engineers | 15.825 | Ensures that sufficient engineering personnel are onboard to be able to respond to shipboard emergencies and equipment failure. Provision retains existing OCMI authorities. |
| **46 CFR part 61—-Periodic Tests and Inspections** | | |
| Test procedure details | 61.40–10 | Administrative change that will provide the Coast Guard Headquarters with more flexibility regarding the use of its resources. |
| **46 CFR part 62—-Vital System Automation** | | |
| Applicability | 62.01–5 | Change that will provide transparency to industry and government officials for use in the approval process. |
| **46 CFR part 90—General Provisions** | | |
| Applicability to OSVs | 90.05–20 | Contains criteria for grandfathering OSVs and sets the applicability of Subchapter I for OSVs that pre-dated the creation of Subchapter L. |
| Definitions of offshore supply vessels. | 90.10–40 | Clarifies terms relating to tonnage measurement. |
| **Changes to 46 CFR part 110—General Provisions** | | |
| Incorporation by reference | 110.10–1 | Provides for use of industry standard as alternative to use of approved equipment. |
| Definitions | 110.15–1 | Clarifies definitions. |
| Plans and information required for new construction. | 110.25–1 | Requires plans consistent with other similarly sized vessels, while also adding option of using international standards. Plans must include information on the equipment, intrinsically safe systems, installation details, and/or approved control drawings, and testing certificates or listing by an independent laboratory or an IECEx Certificate of Conformity to ensure existing levels of safety in hazardous locations. |

TABLE 20—BENEFICIAL IMPACTS OF INTERIM RULE—Continued

| Subject | Sections | Beneficial impacts |
|---|---|---|
| **46 CFR part 111—Electric Systems General Requirements** | | |
| Flammable or Combustible liquids and grounded distribution systems on OSVs. | 111.05–20 | Clarifies requirements for large OSVs, which will provide more transparency to industry and government officials for use in the approval process. Permits the use of grounded distribution systems on large OSVs designed to carry flammable or combustible liquids under certain conditions to maintain safety. Aligns standards with international requirements, thereby creating a universal standard which will enable vessels to more easily compete for work on international market. |
| Hazardous Locations on OSVs | 111.106–1, 111.106–3, 111.106–5, 111.106–7, 111.106–9, 111.106–11, 111.106–13, 111.106–15, and 111.106–17. | Clarifies requirements for large OSVs, which will provide more transparency to industry and government officials for use in the approval process. Provides flexibility as to the choice of a standard that addresses the wide ranging services that the vessel performs and enhances the safety of personnel and vessels. List of standards is expanded from existing Subchapter L, thereby increasing options for industry. |
| **46 CFR part 125—General** | | |
| Applicability | 125.100 | Fulfills statutory mandate by implementing the Act. |
| Tonnage Measurement | 125.103 | Fulfills statutory mandate by implementing the Act. |
| International certificates for OSVs of at least 6,000 GT ITC. | 125.105 | Requires large OSVs to obtain all applicable international convention certificates in areas such as safety and pollution prevention. Use of international certificate enables industry to simultaneously comply with U.S. requirements and obtain certificates needed to compete for work on international market. |
| Carriage of flammable or combustible liquid cargoes in bulk. | 125.110 | Clarifies requirements for large OSVs, which will provide more transparency to industry and government officials for use in the approval process. Provides enhanced level of environmental protection to the large volumes of oil and oil-based cargoes large OSVs are capable of carrying, applying requirements for similar vessels and systems. |
| Oil fuel tank protection | 125.115 | Clarifies requirements for large OSVs, which will provide more transparency to industry and government officials for use in the approval process. |
| Carriage of noxious liquid substances in bulk by OSVs less than 6,000 GT ITC (500 GRT if GT ITC is not assigned) and least 6,000 GT ITC (500 GRT if GT ITC is not assigned). | 125.120 and 125.125 | Clarifies requirements for large OSVs, which will provide more transparency to industry and government officials for use in the approval process. Requirements mirror those for similar vessels and systems. |
| Loadlines | 125.140 | Aligns standards with international requirements, thereby creating a universal standard which will enable vessels to more easily compete for work on international market. |
| Lifesaving systems | 125.150 | Aligns standards with international requirements, thereby creating a universal standard which will enable vessels to more easily compete for work on international market and ensures that vessels with a larger number of personnel on board have sufficient safety and survivability. |
| **46 CFR part 126—Inspection and Certification** | | |
| Carriage of offshore workers | 126.170 | Allows large OSVs to carry more personnel and thereby increase revenue while ensuring protection scales with number of personnel. |
| **46 CFR part 127—Construction and Arrangements** | | |
| Classification Society Standards | 127.200 | Incorporates industry and international standards expected to be used given industry practice and desire to compete for work on international markets. |
| Structural fire protection | 127.225 | Requires traditional US standard while maintaining alignment with international requirements, thereby using a universal standard which will enable vessels to more easily compete for work on international market, while ensuring that vessels with a larger number of personnel on board have sufficient safety and survivability. |
| Subdivision and stability | 127.230 | Uses international standard for stability, thus enabling vessels to compete for work on international market and ensuring that vessels with larger numbers of personnel on board have sufficient safety and survivability. |

TABLE 20—BENEFICIAL IMPACTS OF INTERIM RULE—Continued

| Subject | Sections | Beneficial impacts |
|---|---|---|
| Construction and arrangements for OSVs carrying more than 36 offshore workers. | 127.600, 127.620, 127.630, 127.640, and 127.650. | Allows large OSVs to carry more personnel and thereby increase revenue while ensuring protection scales with number of personnel. |
| **46 CFR part 128—Marine Engineering: Equipment and Systems** | | |
| Equipment and systems | 128.110 | Clarifies requirements for large OSVs, which will provide more transparency to industry and government officials for use in the approval process. Provides enhanced level of safety and environmental protection to the larger and more complex systems large OSVs are expected to utilize, applying requirements for similar vessels and systems. |
| Fuel | 128.310 | Clarifies requirements for large OSVs, which will provide more transparency to industry and government officials for use in the approval process. |
| **46 CFR part 129—Electrical Installations** | | |
| Applicability | 129.110 | Clarifies that existing rules for OSVs still apply. |
| Power Sources for OSVs | 129.315 | Clarifies that existing rules for OSVs still apply. |
| Overfill Protection | 129.570 | Clarifies that existing rules for OSVs still apply. |
| **46 CFR part 130—Vessel Control, and Miscellaneous Equipment and Systems** | | |
| Steering and automated systems | 130.140 and 130.400 | Clarifies that existing rules for OSVs still apply. |
| **46 CFR part 131—Operations** | | |
| Maneuvering Characteristics | 131.990 | Requires maneuvering characteristics in accordance with similar size vessels to enhance safety. Requirements match international requirements, thus enabling vessels to compete for work on international market. |
| **46 CFR part 132—Fire-Protection Equipment** | | |
| Fire pump, extinguishers, and emergency outfits. | 132.100, 132.200, and 132.365 | Clarifies that existing rules for OSVs still apply. |
| Added requirements for carriage of low flashpoint flammable or combustible cargo. | 132.390 | Clarifies requirements for large OSVs, which will provide more transparency to industry and government officials for use in the approval process. The fire-detection requirements are intended to be consistent with other fire-detection installations on U.S. inspected vessels to enhance safety. Aligns standards with international requirements, thereby creating a universal standard which will enable vessels to more easily compete for work on international market, |
| **46 CFR part 134—Added Provisions for Liftboats** | | |
| Applicability | 134.100 | Clarifies that liftboats are not impacted by these regulatory changes. |
| **46 CFR part 174—Special Rules Pertaining to Specific Vessel Types** | | |
| Applicability | 174.180 | Excludes large OSVs from certain existing domestic stability criteria to conform to this rule's use of SOLAS stability criteria that enhance the safety of personnel and vessels within the mandates of the Act as directed by Congress. Reduces regulatory burden by letting vessels use international requirements and thus compete for work on international market without having to comply with multiple sets of requirements. |

Alternatives

When creating this interim rule, the Coast Guard considered several alternatives. As discussed elsewhere, the preferred alternative closely follows the actual and mandatory language of the Act and does not incorporate substantive discretionary elements. Further, the preferred alternative minimizes cost while maximizing cost savings that would accrue to industry and government as a result of implementation of an interim rule.

The alternatives considered are as follows.

Alternative 1: Preferred Alternative

The analysis for this alternative is discussed in detail previously in this rule.

Alternative 2: No Action Alternative

In this alternative, the Coast Guard would not issue an interim rule, but instead continue to use the interim process outlined in 617(f)(3) of the Act.

Instead of incorporating by reference industry and international standards, this alternative would continue to rely on a case-by-case process to approve the construction of new vessels over 6,000

GT ITC. This would continue to result in regulatory inefficiencies in the approval process and long delays in the construction and design of new vessels. Finally, by making the requirements of large OSVs explicit and transparent, regulatory uncertainty and confusion are potentially reduced.

Therefore, because the benefits of this alternative were less than that of the preferred alternative, the Coast Guard rejected this alternative.

Alternative 3: Issuance of Proposed Alternative as an NPRM

In this alternative, the Coast Guard would require all of the provisions in the preferred alternative, but would propose the alternative as an NPRM instead of as an interim rule.

Because the provisions in the preferred alternative are derived either directly from existing regulatory and technical standards from Titles 33 and 46 of the CFR or developed and rooted from current domestic and international standards that industry already voluntarily complies with, the Coast Guard rejected this provision, as it would only delay potential cost savings that could accrue from immediate implementation.

Alternative 4: Adoption of International Standards Only

In this alternative, the Coast Guard would require that vessels meet international standards only. Coast Guard considered and adopted international standards for many requirements. However, for a limited number of areas, Coast Guard found that international standards needed to be supplemented to provide consistency with already in place domestic standards and to ensure safe operations and design.

The Coast Guard rejected the alternative of adopting only international standards as, in some limited cases, the international standards are not consistent with existing domestic standards or need further clarification where details are left to the satisfaction of the administration. In addition, for several requirements, Coast Guard offers industry the flexibility of a choice of standards. This flexibility would be lost if Coast Guard adopted only international standards.

*B. Small Entities*

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this interim rule would have a significant economic impact on a substantial number of small entities. 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.

Because of the previous size limit on OSVs, there were no U.S.-flagged vessels of at least 6,000 GT ITC or 500 GRT operating as OSVs.[14] However, since the Act was enacted, two U.S.-flagged vessels of at least 6,000 GT ITC have been certificated as large OSVs under the interim process found in section 617(f)(3) of the Act that meet subchapter I and additional requirements from design basis agreements, with four others pursuing the interim certification. Although these would be grandfathered from having to comply with this interim rule, the international standards codified in this rule were derived from standards that these owners and operators voluntarily agreed to adopt as a condition of approval under the interim process.[15] Consequently, this rule will not directly impact any existing population of U.S. vessels, nor is it expected to add additional costs to newly constructed OSVs of at least 6,000 GT ITC, as these vessels are also expected to work internationally in addition to working domestically. Therefore, no additional costs will be incurred by industry in the construction of a large OSV.

In our review of the MISLE ownership data for OSVs, we found 67 U.S.-flagged OSVs between 3,001 and 6,000 GT ITC that are owned and operated by 23 entities. The Coast Guard has identified 10 parent companies that direct the 23 managing entities, which we then grouped by their North American Industry Classification System (NAICS) code. Parent companies that direct managing entities may be classified under a range of NAICS codes due to the vertical integration and consolidation of business interests and operations. Based on the data from the Coast Guard's MISLE database used to populate the domestic vessel field in Table 2–1, the Coast Guard determined that none of businesses affected are small by the Small Business Administration (SBA) size standards. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this interim rule will not have a significant economic impact on a substantial number of small entities.

TABLE 21—ENTITIES AFFECTED BY REMOVAL OF THE STATUTORY SIZE LIMIT PREVIOUSLY PLACED ON OSVS

| NAICS Code | Description of NAICS Group | Number of entities in NAICS Group | Number of small entities | SBA Revenue standard $ | SBA Employee standard |
|---|---|---|---|---|---|
| 213112 | Support Activities for Oil and Gas Operations | 1 | 0 | $7,000,000 | NA |
| 333132 | Oil and Gas Field Machinery and Equipment Manufacturing. | 1 | 0 | NA | 500 |
| 487210 | Water Transportation excursion | 1 | 0 | 7,000,000 | NA |
| 488330 | Navigation Services to Shipping | 3 | 0 | 35,000,000 | NA |
| 488390 | Other Support Activities for Water Transportation. | 1 | 0 | 35,500,000 | NA |
| 522220 | Sales Financing | 1 | 0 | 7,000,000 | NA |
| 532411 | Commercial Air, Rail, and Water Transportation Equipment Rentals and Leasing. | 1 | 0 | 7,000,000 | NA |
| 541990 | All Other Professional Scientific and Technical Services. | 1 | 0 | 14,000,000 | NA |

[14] While it is possible that an owner of an existing large OSV certificated under the interim process as meeting subchapter I and additional requirements as specified under the design basis agreements may seek recertification under subchapter L, no one from industry has inquired about this issue in the 2 and a half years since the Act was enacted.

[15] Although these six vessels are expected to work domestically, they are also expected to work internationally, and therefore, would be held to international standards as well.

For additional analysis on the estimated impact that this interim rule would have on small entities, please see the preliminary RA available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

*C. 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 interim rule so that they can better evaluate its effects on them and participate in the rulemaking. If the interim rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Lieutenant Anne Besser, Project Manager, CG–ENG–1, Coast Guard, email *Anne.Besser@uscg.mil,* telephone 202–372–1362. 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.

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).

*D. Collection of Information*

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

The offshore energy market has experienced increased demand for high endurance operations required for deepwater exploration far offshore. Accordingly, this trend necessitates industry to design, construct, and operate OSVs with greater endurance, stability, and carriage characteristics.

''The demand for large [platform supply vessels, which are a type of OSV] with dynamic positioning has outpaced the supply of vessels for most of 2012. New deliveries and [OSVs] mobilizing back to the U.S. Gulf [of Mexico] have been unable to keep up with demand, forcing drilling operators to supplement smaller vessels, which are readily available. While these smaller vessels may be adequate, they are not optimal for deepwater support work.'' [16] The Coast Guard anticipates that domestic entities would like to capture some of this market, which is currently restricted to only foreign-flagged OSVs because of the size limit restriction on U.S.-flagged OSVs. This interim rule would permit U.S.-flagged vessels of at least 6,000 GT ITC to be certificated as OSVs under subchapter L, which would allow U.S. firms to meet some of this increased demand.

While the Coast Guard is unable to forecast with a sufficient degree of certainty the number of U.S.-flagged OSVs of at least 6,000 GT ITC that may be built to meet the increasing demand for larger OSVs, the number of vessels seeking approval under the interim process found in section 617(f)(3) of the Act may provide some insight. In 2013, four vessels sought approval under this process.

Furthermore, the Coast Guard anticipates that this new population of OSVs will follow a growth pattern similar to that of OSVs greater than 3,000 GT ITC but less than 6,000 GT ITC.

Through review of the MISLE database, the Coast Guard has determined that on average four U.S.-flagged OSVs between 3,001 and 6,000 GT ITC were constructed per year from 1998 through 2013. While the continuation of this trend cannot be assured, given the current environment of the offshore energy market, it is unlikely that the construction of OSVs of at least 6,000 GT ITC will exceed nine in any given year, particularly during the next 3 years (the period covered by a Collection of Information).

Therefore, because the information collected under this rule is expected to involve fewer than 10 vessels in a given year, it is not a collection of information that requires a formal burden estimate as defined in section 3502 of the Paperwork Reduction Act.

The Coast Guard welcomes any comments or concerns on the collection of information discussed in this section. Your comments must be sent to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget. To ensure that your comments to OIRA are received on time, the preferred methods are by email to *oira_submission@omb.eop.gov* (include the docket number and ''Attention: Desk Officer for Coast Guard, DHS'' in the subject line of the email) or fax at 202–395–6566. An alternate, though slower, method is by U.S. mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

*E. 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 have determined that it does not have federalism implications.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke and Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).) This rule addresses the design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of OSVs of at least 6,000 GT ITC, or 500 GRT if GT ITC is not assigned. Because the States may not regulate within these categories, preemption under Executive Order 13132 is not an issue.

*F. 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,

[16] Marcon International, Inc. ''Fall 2012 Newsletter—Offshore Supply Vessels in the Gulf of Mexico.'' *http://www.marcon.com/index.cfm?SectionListsID=49&PageID=2461.*

we do discuss the effects of this rule elsewhere in this preamble.

*G. 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.

*H. 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.

*I. 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.

*J. 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.

*K. Energy Effects*

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, and have determined that it is not a ''significant energy action'' under that order. Though it is a ''significant regulatory action'' under Executive Order 12866, this interim rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

*L. Technical Standards*

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule uses the following voluntary consensus standards:

- ANSI/ISA 60079–18—(12.23.01)–2009, Electrical Apparatus for Use in Class I, Zone 1 Hazardous (Classified) Locations: Type of Protection—Encapsulation ''m'', approved July 31, 2009 (''ANSI/ISA 60079–18'')
- UL 674—Standard for Safety: Electric Motors and Generators for Use in Division 1 Hazardous (Classified) Locations, Fourth Edition with revisions through August 12, 2008 (dated December 11, 2003) (''ANSI/UL 674'')
- UL 823—Electric Heaters for Use in Hazardous (Classified) Locations, Ninth Edition including revisions through November 15, 2007 (dated October 20, 2006) (''ANSI/UL 823'')
- UL 844—Standard for Safety: Luminaires for Use in Hazardous (Classified) Locations, Twelfth Edition including revisions through November 20, 2008 (dated January 11, 2006) (''ANSI/UL 844'')
- UL 913—Standard for Safety: Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division 1, Hazardous (Classified) Locations, Seventh Edition including revisions through June 3, 2010, (Dated July 31, 2006) (''ANSI/UL 913'')
- UL 1203—Standard for Safety: Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for use in Hazardous (Classified) Locations, Fourth Edition including revisions through October 28, 2009 (dated September 15, 2006) (''ANSI/UL 1203'')
- UL 2225—Cables and Cable-Fittings for Use in Hazardous (Classified) Locations, Second Edition, December 21, 2005 (''ANSI/UL 2225'')
- API RP 500—Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, Second Edition, November 1997, reaffirmed November 2002 (''API RP 500'')
- API RP 505—Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0, Zone 1, and Zone 2, First Edition, approved January 7, 1998 (dated November 1997), reaffirmed 2002 (''API RP 505'')
- ASTM D 93–97—Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester, 1997 (''ASTM D 93'')
- ASTM F1014—02 (Reapproved 2007)—Standard Specification for Flashlights on Vessels, approved May 1, 2007 (''ASTM F1014–2'')
- ASTM F2876–10—Standard Practice for Thermal Rating and Installation of Internal Combustion Engine Packages for use in Hazardous Locations in Marine Applications, approved November 1, 2010 (''ASTM F2876–10'')
- CAN/CSA–C22.2 No. 0–M91—General Requirements—Canadian Electrical Code, Part II, Reaffirmed 2006 (''CAN/CSA C22.2 No. 0–M91'')
- CAN/CSA–C22.2 No. 157–92—Intrinsically Safe and Non-incendive Equipment for Use in Hazardous Locations, Reaffirmed 2006 (''CAN/CSA C22.2 No. 157–92'')
- C22.2 No. 30–M1986—Explosion-Proof Enclosures for Use in Class I Hazardous Locations, Reaffirmed 2007 (''CAN/CSA C22.2 No. 30–M1986'')
- C22.2 No. 213–M1987—Non-incendive Electrical Equipment for Use in Class I, Division 2 Hazardous Locations, Reaffirmed 2008 (''CAN/CSA C22.2 No. 213–M1987'')
- FM Approvals Class Number 3600—Approval Standard for Electric Equipment for use in Hazardous (Classified) Locations General Requirements, November 1998 (''FM Approvals Class Number 3600'')
- FM Approvals Class Number 3610—Approval Standard for Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division 1, Hazardous (Classified) Locations, January 2010 (''FM Approvals Class Number 3610'')
- FM Approvals Class Number 3611—Approval Standard for Non-incendive Electrical Equipment for Use in Class I and II, Division 2, and Class III, Divisions 1 and 2, Hazardous (Classified) Locations, December 2004 (''FM Approvals Class Number 3611'')
- FM Approvals Class Number 3615—Approval Standard for Explosionproof Electrical Equipment General Requirements, August 2006 (''FM Approvals Class Number 3615'')
- FM Approvals Class Number 3620—Approval Standard for Purged and Pressurized Electrical Equipment for Hazardous (Classified) Locations, August 2000 (''FM Approvals Class Number 3620'')

- IEC 60079–1:2007—Explosive atmospheres—Part 1: Equipment protection by flameproof enclosures ''d'', Sixth edition, 2007–04
- IEC 60079–2:2007—Explosive atmospheres—Part 2: Equipment protection by pressurized enclosures ''p'', Fifth edition, 2007–02
- IEC 60079–5:2007—Explosive atmospheres—Part 5: Equipment protection by powder filling ''q'', Third Edition, 2007–03
- IEC 60079–6:2007—Explosive atmospheres—Part 6: Equipment protection by oil immersion ''o'', Third edition, 2007–03
- IEC 60079–7:2006—Explosive atmospheres—Part 7: Equipment protection by increased safety ''e'', Fourth edition, 2006–07
- IEC 60079–11:2006—Explosive atmospheres—Part 11: Equipment protection by intrinsic safety ''i'', Fifth edition, 2006–07
- IEC 60079–13:2010—Explosive atmospheres—Part 13: Equipment protection by pressurized room ''p'', Edition 1.0, 2010–10
- IEC 60079–15:2010—Explosive atmospheres—Part 15: Equipment protection by type of protection ''n'', Edition 4.0, 2010–01
- IEC 60079–18:2009—Explosive atmospheres—Part 18: Equipment protection by encapsulation ''m'', Edition 3.0, 2009–05
- IEC 60079–25:2010—Explosive atmospheres—Part 25: Intrinsically safe electrical systems, Edition 2.0, 2010–02
- IEC 60092–350:2008—Electrical installations in ships—Part 350: General construction and test methods of power, control and instrumentation cables for shipboard and offshore applications, Edition 3.0, 2008–02
- IEC 60092–353:2011—Electrical installations in ships—Part 353: Power cables for rated voltages 1 kV and 3 kV, Edition 3.0, 2011–08
- IEC 60092–502—Electrical installations in ships—Part 502: Tankers—Special features, Fifth edition, 1999–02 (''IEC 60092–502'')
- IEEE Std 1580–2001—IEEE Recommended Practice for Marine Cable for Use on Shipboard and Fixed or Floating Platforms, December 17, 2001 (''IEEE 1580'')
- NFPA 70—National Electrical Code, 2011 Edition (''NFPA 70'')
- NFPA 496—Standard for Purged and Pressurized Enclosures for Electrical Equipment, 2008 Edition (''NFPA 496 (2008)'')
- UL 1309—Marine Shipboard Cables, First Edition, 1995 (''UL 1309'')
- UL 1604—Standard for Electrical Equipment for Use in Class I and II, Division 2, and Class III Hazardous (Classified) Locations, Third Edition including revisions through February 3, 2004 (dated April 28, 1994) (''UL 1604'')

The sections that reference these standards and the locations where these standards are available are listed in 46 CFR 110.10–1 and 125.180.

This rule also uses technical standards other than voluntary consensus standards.

- Guidelines for the Transport and Handling of Limited Amounts of Hazardous and Noxious Liquid Substances in Bulk on Offshore Support Vessels, 2007 Edition (''Resolution A.673(16)'')
- Annex 7 to IMO MEPC 52/54, Report of the Marine Environment Protection Committee on its Fifty-Second Session, ''Resolution MEPC.119(52), 2004 Amendments to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code),'' adopted October 15, 2004 (''IBC Code'')
- International Convention on Load Lines, 1966 and Protocol of 1988, as amended in 2003, Consolidated Edition, 2005 (''International Convention on Load Lines, 1966'')
- International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, Consolidated Edition, 2006 (''MARPOL 73/78'')
- International Convention for the Safety of Life at Sea, 1974, as amended, Consolidated Edition, 2009 (''SOLAS, 1974, as amended'')
- MIL–DTL–24643C with Supplement 1A—Detail Specification Cables, Electric, Low Smoke Halogen-Free, for Shipboard Use, General Specification for, December 13, 2011 (dated October 1, 2009) (''MIL–DTL–24643C'')
- MIL–DTL–24640C with Supplement 1—Detail Specification Cables, Lightweight, Low Smoke, Electric, for Shipboard Use, General Specification for, November 18, 2011 (''MIL–DTL–24640C'')

The sections that reference these standards and the locations where these standards are available are listed in 46 CFR 110.10–1 and 125.180. They are used because we did not find voluntary consensus standards that are applicable to this rule. If you are aware of voluntary consensus standards that might apply, please identify them by sending a comment to the docket using one of the methods under **ADDRESSES**. In your comment, please explain why you think the standards might apply.

If you disagree with our analysis of the voluntary consensus standards listed above or are aware of voluntary consensus standards that might apply but are not listed, please send a comment to the docket using one of the methods under **ADDRESSES**. In your comment, please explain why you disagree with our analysis and/or identify voluntary consensus standards we have not listed that might apply.

*M. Environment*

We have analyzed this interim 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 concluded 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 is categorically excluded under section 2.B.2, figure 2–1, paragraphs (34)(a), (c), (d) and (e) of the Instruction and under section 6(a) and (b) of the ''Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy'' (67 FR 48243, July 23, 2002). This rule involves regulations concerning the manning, documentation, measurement, inspection, and equipping of vessels; regulations concerning equipment approval and carriage requirements; regulations concerning vessel operation safety standards; and congressionally mandated regulations designed to protect the environment. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

**List of Subjects**

*46 CFR Part 2*

Marine safety, Reporting and recordkeeping requirements, Vessels.

*46 CFR Part 15*

Reporting and recordkeeping requirements, Seamen, Vessels.

*46 CFR Part 61*

Reporting and recordkeeping requirements, Vessels.

*46 CFR Part 62*

Reporting and recordkeeping requirements, Vessels.

*46 CFR Part 90*

Cargo vessels, Marine safety.

*46 CFR Part 110*

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

*46 CFR Part 111*

Incorporation by reference, Vessels.

*46 CFR Part 125*

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Incorporation by reference, Marine safety, Seamen.

*46 CFR Part 126*

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

*46 CFR Part 127*

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

*46 CFR Part 128*

Cargo vessels, Hazardous materials transportation, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

*46 CFR Part 129*

Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements.

*46 CFR Part 130*

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

*46 CFR Part 131*

Cargo vessels, Fire prevention, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements.

*46 CFR Part 132*

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

*46 CFR Part 134*

Cargo vessels, Hazardous materials transportation, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

*46 CFR Part 174*

Marine safety, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 2, 15, 61, 62, 90, 110, 111, 125, 126, 127, 128, 129, 130, 131, 132, 134, and 174 as follows:

**Title 46—Shipping**

## PART 2—VESSEL INSPECTIONS

■ 1. The authority citation for part 2 continues to read as follows:

**Authority:** 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 2110, 3103, 3205, 3306, 3307, 3703; 46 U.S.C. Chapter 701; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1. Subpart 2.45 also issued under the Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. Note prec. 1).

■ 2. Amend § 2.10–25 by revising paragraph (3) in the definition of ''offshore supply vessel or OSV'' to read as follows:

**§ 2.10–25 Definitions.**

* * * * *

*Offshore supply vessel or OSV* * * *

(3) Is more than 15 gross tons; and

* * * * *

## PART 15—MANNING REQUIREMENTS

■ 3. The authority citation for part 15 is revised to read as follows:

**Authority:** 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 8906, 9102, and 8103; sec. 617, Pub. L. 111–281, 124 Stat. 2905; and Department of Homeland Security Delegation No. 0170.1.

■ 4. Amend § 15.705 by revising paragraph (c) to read as follows:

**§ 15.705 Watches.**

* * * * *

(c)(1) Subject to exceptions, 46 U.S.C. 8104(g) permits the officers and crew members (except the coal passers, firemen, oilers, and watertenders) to be divided into two watches when at sea and engaged on a voyage of less than 600 miles on the following categories of vessels—

(i) Towing vessel;

(ii) Offshore supply vessels, except as provided by paragraph (c)(2) of this section; or

(iii) Barge.

(2) Paragraph (c)(1) of this section applies to an OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned), as defined in § 125.160 of this chapter, if the individuals engaged on the vessel are in compliance with the work hours and rest period requirements in § 15.1111 of this part.

* * * * *

■ 5. Amend § 15.810 as follows:

■ a. Remove paragraph (b)(4);

■ b. Redesignate paragraph (b)(5) as paragraph (b)(4); and

■ c. Add new paragraphs (b)(5) and (6) to read as follows:

**§ 15.810 Mates.**

* * * * *

(b) * * *

(5) An offshore supply vessel of 100 GRT (100 GT ITC if GRT is not assigned) or more, but less than 6,000 GT ITC (500 GRT if GT ITC is not assigned) as defined in § 125.160 of this chapter—one credentialed mate (except when on a voyage of at least 600 miles—two credentialed mates). A voyage includes the accrued distance from port of departure to port of arrival and does not include stops at offshore points.

(6) An offshore supply vessel of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) as defined in § 125.160 of this chapter—two credentialed mates provided that the OSV meets the requirements in 46 CFR 15.1111 (except when on a voyage of more than 600 miles—three credentialed mates). A voyage includes the accrued distance from the vessel's port of departure to the vessel's port of arrival. Stops at offshore points or facilities do not constitute separate voyages; stops at offshore points or facilities are included in the total accrued distance between the vessel's port of departure and the vessel's port of arrival.

* * * * *

■ 6. Amend § 15.825 by redesignating paragraph (c) as paragraph (d) and adding paragraph (c) to read as follows:

**§ 15.825 Engineers.**

* * * * *

(c) An offshore supply vessel of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) as defined in § 125.160 of this chapter, for which the Coast Guard has accepted the use of automated systems to replace specific personnel pursuant to subpart 62.50 of this chapter, must carry at least one credentialed assistant engineer, in addition to the individual described in § 15.820 of this subpart.

* * * * *

## PART 61—PERIODIC TESTS AND INSPECTIONS

■ 7. The authority citation for part 61 is revised to read as follows:

**Authority:** 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3307, 3703; sec. 617, Pub. L. 111–281, 124 Stat. 2905; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

**§ 61.40–10 [Amended]**

■ 8. In § 61.40–10(b), remove the words ''Commandant CG–ENG'' and add, in their place, the words ''Commanding Officer, Marine Safety Center''.

## PART 62—VITAL SYSTEM AUTOMATION

■ 9. The authority citation for part 62 is revised to read as follows:

**Authority:** 46 U.S.C. 3306, 3703, 8105; sec. 617, Pub. L. 111–281, 124 Stat. 2905; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

### § 62.01–5 [Amended]

■ 10. Amend § 62.01–5(a) as follows:
■ a. After the words ''subchapter D, I, or U'', remove the word ''and'' and add, in its place, the punctuation mark '',''; and
■ b. After the words ''subchapter H'', add the words '', and to OSVs of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) as defined in § 125.160 of this chapter''.

## PART 90—GENERAL PROVISIONS

■ 11. The authority citation for part 90 is revised to read as follows:

**Authority:** 46 U.S.C. 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1. Sections 90.05–20 and 90.10–40 also issued under sec. 617, Pub. L. 111–281, 124 Stat. 2905.

■ 12. Amend § 90.05–20 as follows:
■ a. In paragraph (a), after the number ''100'', add the text ''GRT (100 GT ITC if GRT is not assigned) as defined in § 125.160 of this chapter'' and remove the words ''but of less than 500 gross tons''; and
■ b. Revise paragraph (b) to read as follows:

### § 90.05–20 Applicability to offshore supply vessels.

* * * * *

(b) Each offshore supply vessel permitted grandfathering under paragraph (a) of this section must have completed construction and have a Certificate of Inspection by—

(1) March 16, 1998, if the vessel is of less than 500 GRT (6,000 GT ITC if GRT is not assigned) as defined in § 125.160 of this chapter; or

(2) August 18, 2016, if the vessel is of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) as defined in § 125.160 of this chapter.

■ 13. Amend § 90.10–40 as follows:
■ a. In paragraph (a), remove the words ''and less than 500 gross tons (as measured under the Standard, Dual, or Simplified Measurement System under part 69, subpart C, D, or E, of this chapter) or is less than 6,000 gross tons (as measured under the Convention Measurement System under part 69, subpart B, of this chapter)'', and add, in their place, the words ''or more,''; and
■ b. Revise paragraphs (b) and (c) to read as follows:

### § 90.10–40 Offshore supply vessels.

* * * * *

(b) An existing offshore supply vessel is one that is—

(1) Of at least 15 GRT but less than 500 GRT (6,000 GT ITC if GRT is not assigned) as defined in § 125.160 of this chapter, contracted for, or the keel of which was laid, before March 15, 1996; or

(2) Of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) as defined in § 125.160 of this chapter, contracted for, or the keel of which was laid, before August 18, 2014.

(c) A new offshore supply vessel is one—

(1) That is of at least 15 GRT but less than 500 GRT (6,000 GT ITC if GRT is not assigned) as defined in § 125.160 of this chapter, and was contracted for, or the keel of which was laid, on or after March 15, 1996;

(2) That is of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) as defined in § 125.160 of this chapter, and was contracted for, or the keel of which was laid, on or after August 18, 2014; or

(3) That underwent a major conversion initiated on or after March 15, 1996.

## PART 110—GENERAL PROVISIONS

■ 14. The authority citation for part 110 is revised to read as follows:

**Authority:** 33 U.S.C. 1509; 43 U.S.C 1333; 46 U.S.C. 3306, 3307, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1; § 110.01–2 also issued under 44 U.S.C. 3507. Sections 110.15–1 and 110.25–1 also issued under sec. 617, Pub. L. 111–281, 124 Stat. 2905.

■ 15. Revise § 110.10–1 to read as follows:

### § 110.10–1 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. The word ''should,'' when used in material incorporated by reference, is to be construed the same as the words ''must'' or ''shall'' for the purposes of this subchapter. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7126, Washington, DC 20593–7126, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) American Bureau of Shipping (ABS), ABS Plaza, 16855 Northchase Drive, Houston, TX 77060, 281–877–5800, *http://www.eagle.org.*

(1) Rules for Building and Classing Steel Vessels, Part 4 Vessel Systems and Machinery, 2003 (''ABS Steel Vessel Rules''), IBR approved for §§ 110.15–1, 111.01–9, 111.12–3, 111.12–5, 111.12–7, 111.33–11, 111.35–1, 111.70–1, 111.105–31, 111.105–39, 111.105–40 and 113.05–7.

(2) Rules for Building and Classing Mobile Offshore Drilling Units, Part 4 Machinery and Systems, 2001 (''ABS MODU Rules''), IBR approved for §§ 111.12–1, 111.12–3, 111.12–5, 111.12–7, 111.33–11, 111.35–1 and 111.70–1.

(c) American National Standards Institute (ANSI), 25 West 43rd Street, New York, NY 10036, 212–642–4900, *http://www.ansi.org/.*

(1) ANSI/IEEE C37.12–1991—American National Standard for AC High-Voltage Circuit Breakers Rated on a Symmetrical Current Basis-Specifications Guide, 1991 (''ANSI/IEEE C37.12''), IBR approved for § 111.54–1.

(2) ANSI/IEEE C37.27–1987 (IEEE Std 331)—Application Guide for Low-Voltage AC Nonintegrally Fused Power Circuitbreakers (Using Separately Mounted Current-Limiting Fuses), 1987 (''ANSI/IEEE C37.27''), IBR approved for § 111.54–1.

(3) ANSI/ISA 60079–18—Electrical Apparatus for Use in Class I, Zone 1 Hazardous (Classified) Locations: Type of Protection—Encapsulation ''m'', approved July 31, 2009 (''ANSI/ISA 60079–18''), IBR approved for § 111.106–3(d).

(d) American Petroleum Institute (API), Order Desk, 1220 L Street NW., Washington, DC 20005–4070, 202–682–8000, *http://www.api.org.*

(1) API RP 500—Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Division 1 and Division 2, Second Edition, November 1997, reaffirmed in 2002 (''API RP 500''), IBR approved for §§ 111.106–7(a) and 111.106–13(b).

(2) API RP 505—Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities Classified as Class I, Zone 0,

Zone 1, and Zone 2, First Edition, approved January 7, 1998 (dated November 1997), reaffirmed 2002 (''API RP 505''), IBR approved for §§ 111.106–7(a) and 111.106–13(b).

(e) American Society of Mechanical Engineers (ASME) International, Three Park Avenue, New York, NY 10016–5990, 800–843–2763, *http://www.asme.org/.*

(1) ASME A17.1–2000—Part 2 Electric Elevators, 2000 (''ASME A17.1''), IBR approved for § 111.91–1.

(2) [Reserved]

(f) ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500, *http://www.astm.org.*

(1) ASTM B 117–97—Standard Practice for Operating Salt Spray (Fog) Apparatus (''ASTM B 117''), IBR approved for § 110.15–1.

(2) ASTM F2876–10—Standard Practice for Thermal Rating and Installation of Internal Combustion Engine Packages for use in Hazardous Locations in Marine Applications, approved November 1, 2010 (''ASTM F2876–10''), IBR approved for § 111.106–3(h).

(g) Canadian Standards Association (CSA), 5060 Spectrum Way, Suite 100, Mississauga, Ontario, L4W 5N6, Canada, 800–463–6727, *http://www.csa.ca/.*

(1) C22.2 No. 30–M1986—Explosion-Proof Enclosures for Use in Class I Hazardous Locations, Reaffirmed 2007 (''CAN/CSA C22.2 No. 30–M1986''), IBR approved for § 111.106–3(b).

(2) C22.2 No. 213–M1987—Non-incendive Electrical Equipment for Use in Class I, Division 2 Hazardous Locations, Reaffirmed 2008 (''CAN/CSA C22.2 No. 213–M1987''), IBR approved for § 111.106–3(b).

(3) CAN/CSA–C22.2 No. 0–M91—General Requirements—Canadian Electrical Code, Part II, Reaffirmed 2006 (''CAN/CSA C22.2 No. 0–M91''), IBR approved for § 111.106–3(b).

(4) CAN/CSA–C22.2 No. 157–92—Intrinsically Safe and Non-incendive Equipment for Use in Hazardous Locations, Reaffirmed 2006 (''CAN/CSA C22.2 No. 157–92''), IBR approved for § 111.106–3(b).

(h) DLA Document Services, Department of Defense, Single Stock Point, 700 Robbins Avenue, Philadelphia, PA 19111, 215–697–6396, *http://www.assistdocs.com.*

(1) MIL–C–24640A—Military Specification Cables, Light Weight, Electric, Low Smoke, for Shipboard Use, General Specification for (1995) Supplement 1, June 26, 1995 (''NPFC MIL–C–24640A''), IBR approved for §§ 111.60–1 and 111.60–3.

(2) MIL–C–24643A—Military Specification Cables and Cords, Electric, Low Smoke, for Shipboard Use, General Specification for (1996), Amendment 2, March 13, 1996 (''MIL–C–24643A''), IBR approved for §§ 111.60–1 and 111.60–3.

(3) MIL–DTL–24640C with Supplement 1—Detail Specification Cables, Lightweight, Low Smoke, Electric, for Shipboard Use, General Specification for, November 18, 2011 (''MIL–DTL–24640C''), IBR approved for § 111.106–5(a).

(4) MIL–DTL–24643C with Supplement 1A—Detail Specification Cables, Electric, Low Smoke Halogen-Free, for Shipboard Use, General Specification for, December 13, 2011 (dated October 1, 2009) (''MIL–DTL–24643C''), IBR approved for § 111.106–5(a).

(5) MIL–W–76D—Military Specification Wire and Cable, Hook-Up, Electrical, Insulated, General Specification for (2003) Amendment 1–2003, February 6, 2003 (''NPFC MIL–W–76D''), IBR approved for § 111.60–11.

(i) FM Approvals, P.O. Box 9102, Norwood, MA 02062, 781–440–8000, *http://www.fmglobal.com:*

(1) Class Number 3600—Approval Standard for Electric Equipment for use in Hazardous (Classified) Locations General Requirements, November 1998 (''FM Approvals Class Number 3600''), IBR approved for § 111.106–3(b).

(2) Class Number 3610—Approval Standard for Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division 1, Hazardous (Classified) Locations, January 2010 (''FM Approvals Class Number 3610''), IBR approved for § 111.106–3(b).

(3) Class Number 3611—Approval Standard for Non-incendive Electrical Equipment for Use in Class I and II, Division 2, and Class III, Divisions 1 and 2, Hazardous (Classified) Locations, December 2004 (''FM Approvals Class Number 3611''), IBR approved for § 111.106–3(b).

(4) Class Number 3615—Approval Standard for Explosionproof Electrical Equipment General Requirements, August 2006 (''FM Approvals Class Number 3615''), IBR approved for § 111.106–3(b).

(5) Class Number 3620—Approval Standard for Purged and Pressurized Electrical Equipment for Hazardous (Classified) Locations, August 2000 (''FM Approvals Class Number 3620''), IBR approved for § 111.106–3(b).

(j) Institute of Electrical and Electronic Engineers (IEEE), IEEE Service Center, 445 Hoes Lane, Piscataway, NJ 08854, 732–981–0060, *http://www.ieee.org.*

(1) IEEE Std C37.04–1999—IEEE Standard Rating Structure for AC High-Voltage Circuit Breakers, 1999 (''IEEE C37.04''), IBR approved for § 111.54–1.

(2) IEEE Std C37.010–1999—IEEE Application Guide for AC High-Voltage Circuit Breakers Rated on a Symmetrical Current Basis, 1999 (''IEEE C37.010''), IBR approved for § 111.54–1.

(3) IEEE Std C37.13–1990—IEEE Standard for Low-Voltage AC Power Circuit Breakers Used in Enclosures, October 22, 1990 (''IEEE C37.13''), IBR approved for § 111.54–1.

(4) IEEE Std C37.14–2002—IEEE Standard for Low-Voltage DC Power Circuit Breakers Used in Enclosures, April 25, 2003 (''IEEE C37.14''), IBR approved for § 111.54–1.

(5) IEEE Std 45–1998—IEEE Recommended Practice for Electric Installations on Shipboard, October 19, 1998 (''IEEE 45–1998''), IBR approved for §§ 111.30–19, 111.105–3, 111.105–31 and 111.105–41.

(6) IEEE Std 45–2002—IEEE Recommended Practice for Electrical Installations On Shipboard, October 11, 2002 (''IEEE 45–2002''), IBR approved for §§ 111.05–7, 111.15–2, 111.30–1, 111.30–5, 111.33–3, 111.33–5, 111.40–1, 111.60–1, 111.60–3, 111.60–5, 111.60–11, 111.60–13, 111.60–19, 111.60–21, 111.60–23, 111.75–5 and 113.65–5.

(7) IEEE 100—The Authoritative Dictionary of IEEE Standards Terms, Seventh Edition, 2000 (''IEEE 100''), IBR approved for § 110.15–1.

(8) IEEE Std 1202–1991—IEEE Standard for Flame Testing of Cables for Use in Cable Tray in Industrial and Commercial Occupancies, 1991 (''IEEE 1202''), IBR approved for §§ 111.60–6 and 111.107–1.

(9) IEEE Std 1580–2001—IEEE Recommended Practice for Marine Cable for Use on Shipboard and Fixed or Floating Platforms, December 17, 2001 (''IEEE 1580''), IBR approved for §§ 111.60–1, 111.60–2, 111.60–3 and 111.106–5(a).

(k) International Electrotechnical Commission (IEC), 3 Rue de Varembe, Geneva, Switzerland, +41 22 919 02 11, *http://www.iec.ch/.*

(1) IEC 60068–2–52—Environmental Testing Part 2: Tests—Test Kb: Salt Mist, Cyclic (Sodium Chloride Solution), Second Edition, 1996 (''IEC 60068–2–52''), IBR approved for § 110.15–1.

(2) IEC 60079–0—Electrical apparatus for Explosive Gas Atmospheres—Part 0: General Requirements, Edition 3.1, 2000 (''IEC 60079–0''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, and 111.105–17.

(3) IEC 60079–1—Electrical Apparatus for Explosive Gas Atmospheres—Part 1:

Flameproof Enclosures ''d'' including corr.1, Fourth Edition, 2001 (''IEC 60079–1''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–9, and 111.105–17.

(4) IEC 60079–1:2007—Explosive Atmospheres—Part 1: Equipment Protection by Flameproof Enclosures ''d'', Sixth Edition, 2007–04, IBR approved for § 111.106–3(b).

(5) IEC 60079–2—Electrical Apparatus for Explosive Gas Atmospheres—Part 2: Pressurized Enclosures ''p'', Fourth Edition, 2001 (''IEC 60079–2''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7 and 111.105–17.

(6) IEC 60079–2:2007—Explosive atmospheres—Part 2: Equipment protection by pressurized enclosures ''p'', Fifth Edition, 2007–02, IBR approved for § 111.106–3(b).

(7) IEC 60079–5—Electrical Apparatus for Explosive Gas Atmospheres—Part 5: Powder Filling ''q'', Second Edition, 1997 (''IEC 60079–5''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–15 and 111.105–17.

(8) IEC 60079–5:2007—Explosive atmospheres—Part 5: Equipment protection by powder filling ''q'', Third edition, 2007–03, IBR approved for § 111.106–3(b).

(9) IEC 60079–6—Electrical Apparatus for Explosive Gas Atmospheres—Part 6: Oil Immersion ''o'', Second Edition, 1995 (''IEC 60079–6''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–15 and 111.105–17.

(10) IEC 60079–6:2007—Explosive atmospheres—Part 6: Equipment protection by oil immersion ''o'', Third edition, 2007–03, IBR approved for § 111.106–3(b).

(11) IEC 60079–7—Electrical Apparatus for Explosive Gas Atmospheres—Part 7: Increased Safety ''e'', Third Edition, 2001 (''IEC 60079–7''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–15 and 111.105–17.

(12) IEC 60079–7:2006—Explosive atmospheres—Part 7: Equipment protection by increased safety ''e'', Fourth edition, 2006–07, IBR approved for § 111.106–3(b).

(13) IEC 60079–11—Electrical Apparatus for Explosive Gas Atmospheres—Part 11: Intrinsic Safety ''i'', Fourth Edition, 1999 (''IEC 60079–11''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–11 and 111.105–17.

(14) IEC 60079–11:2006—Explosive atmospheres—Part 11: Equipment protection by intrinsic safety ''i'', Fifth edition, 2006–07, IBR approved for § 111.106–3(b).

(15) IEC 60079–13:2010—Explosive atmospheres—Part 13: Equipment protection by pressurized room ''p'', Edition 1.0, 2010–10, IBR approved for § 111.106–3(b).

(16) IEC 60079–15—Electrical Apparatus for Explosive Gas Atmospheres—Part 15: Type of Protection ''n'', Second Edition, 2001 (''IEC 60079–15''), IBR approved for §§ 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–15 and 111.105–17.

(17) IEC 60079–15:2010—Explosive atmospheres—Part 15: Equipment protection by type of protection ''n'', Edition 4.0, 2010–01, IBR approved for § 111.106–3(b).

(18) IEC 60079–18 Electrical Apparatus for Explosive Gas Atmospheres—Part 18: Encapsulation ''m'', First Edition, 1992 (''IEC 79–18''), IBR approved for §§ , 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–15 and 111.105–17.

(19) IEC 60079–18:2009—Explosive atmospheres—Part 18: Equipment protection by encapsulation ''m'', Edition 3.0, 2009–05, IBR approved for § 111.106–3(b) and (d).

(20) IEC 60079–25:2010—Explosive atmospheres—Part 25: Intrinsically safe electrical systems, Edition 2.0, 2010–02, IBR approved for § 111.106–3(b).

(21) IEC 60092–101—Electrical Installation in Ships, Part 101: Definitions and General Requirements, Edition 4.1, 2002 (''IEC 60092–101''), IBR approved for §§ 110.15–1 and 111.81–1.

(22) IEC 60092–201—Electrical Installation in Ships, Part 201: System Design—General, Fourth Edition, 1994 (''IEC 92–201''), IBR approved for §§ 111.70–3 and 111.81–1.

(23) IEC 60092–202—Amendment 1 Electrical Installation in Ships, Part 202: System Design—Protection, 1996 (''IEC 92–202''), IBR approved for §§ 111.12–7, 111.50–3, 111.53–1 and 111.54–1.

(24) IEC 60092–301—Amendment 2 Electrical Installation in Ships, Part 301: Equipment—Generators and Motors, 1995 (''IEC 92–301''), IBR approved for §§ 111.12–7, 111.25–5 and 111.70–1.

(25) IEC 60092–302—Electrical Installation in Ships, Part 302: Low-Voltage Switchgear and Control Gear Assemblies, Fourth Edition, 1997 (''IEC 60092–302''), IBR approved for §§ 111.30–1, 111.30–5 and 111.30–19.

(26) IEC 60092–303—Electrical Installation in Ships, Part 303: Equipment—Transformers for Power and Lighting, Third Edition, 1980 (''IEC 92–303''), IBR approved for § 111.20–15.

(27) IEC 60092–304—Amendment 1 Electrical Installation in Ships, Part 304: Equipment-Semiconductor Convertors, 1995 (''IEC 92–304''), IBR approved for §§ 111.33–3 and 111.33–5.

(28) IEC 60092–306—Electrical Installation in Ships, Part 306: Equipment-Luminaries and accessories, Third Edition, 1980 (''IEC 92–306''), IBR approved for §§ 111.75–20 and 111.81–1.

(29) IEC 60092–350:2008—Electrical installations in ships—Part 350: General construction and test methods of power, control and instrumentation cables for shipboard and offshore applications, Edition 3.0, 2008–02, IBR approved for § 111.106–5(a).

(30) IEC 60092–352—Electrical Installation in Ships—Choice and Installation of Cables for Low-Voltage Power Systems, Second Edition, 1997 (''IEC 60092–352''), IBR approved for §§ 111.60–3, 111.60–5 and 111.81–1.

(31) IEC 60092–353—Electrical Installations in Ships—Part 353: Single and Multicore Non-Radial Field Power Cables with Extruded Solid Insulation for Rated Voltages 1kV and 3kV, Second Edition, 1995 (''IEC 60092–353''), IBR approved for §§ 111.60–1, 111.60–3 and 111.60–5.

(32) IEC 60092–353:2011—Electrical installations in ships—Part 353: Power cables for rated voltages 1 kV and 3 kV, Edition 3.0, 2011–08, IBR approved for § 111.106–5(a).

(33) IEC 60092–401—Electrical Installations in Ships, Part 401: Installation and Test of completed Installation with amendment 1 (1987) and amendment 2 (1997), Third Edition, 1980, (''IEC 60092–401''), IBR approved for §§ 111.05–9 and 111.81–1.

(34) IEC 60092–502—Electrical installations in ships—Part 502: Tankers—Special features—Fifth edition, 1999–02 (''IEC 60092–502''), IBR approved for §§ 111.81–1, 111.105–31, 111.106–3(b), 111.106–5(c), and 111.106–15(a).

(35) IEC 60092–503—Electrical installations in ships, Part 503: Special features: A.C. supply systems with voltages in the range of above 1kV up to and including 11kV, First Edition, 1975 (''IEC 60092–503''), IBR approved for § 111.30–5.

(36) IEC 60331–11—Tests for electric cables under fire conditions—Circuit integrity—Part 11: Apparatus—Fire alone at a flame temperature of at least 750 °C, First Edition, 1999 (''IEC 60331–11''), IBR approved for § 113.30–25.

(37) IEC 60331–21—Tests for Electric Cables Under Fire Conditions—Circuit Integrity—Part 21: Procedures and Requirements—Cables of Rated Voltage up to and Including 0.6/1.0kV, First Edition, 1999 (''IEC 60331–21''), IBR approved for § 113.30–25.

(38) IEC 60332–1—Tests on Electric Cables Under Fire Conditions, Part 1: Test on a Single Vertical Insulated Wire

or Cable, Third Edition, 1993 (''IEC 60332–1''), IBR approved for § 111.30–19.

(39) IEC 60332–3–22—Tests on Electric Cables Under Fire Conditions—Part 3–22: Test for Vertical Flame Spread of Vertically-Mounted Bunched Wires or Cables—Category A, First Edition, 2000 (''IEC 60332–3–22''), IBR approved for §§ 111.60–1, 111.60–2, 111.60–6 and 111.107–1.

(40) IEC 60529—Degrees of Protection Provided by Enclosures (IP Code), Edition 2.1, 2001 (''IEC 60529''), IBR approved for §§ 110.15–1, 111.01–9, 113.10–7, 113.20–3, 113.25–11, 113.30–25, 113.37–10, 113.40–10 and 113.50–5.

(41) IEC 60533—Electrical and Electronic Installations in Ships—Electromagnetic Compatibility, Second Edition, (1999), (''IEC 60533''), IBR approved for § 113.05–7.

(42) IEC 60947–2—Low-Voltage Switchgear and Controlgear Part 2: Circuit-Breakers, Third Edition, 2003 (''IEC 60947–2''), IBR approved for § 111.54–1.

(43) IEC 61363–1—Electrical Installations of Ships and Mobile and Fixed Offshore Units—Part 1: Procedures for Calculating Short-Circuit Currents in Three-Phase a.c., First Edition, 1998 (''IEC 61363–1''), IBR approved for § 111.52–5.

(44) IEC 62271–100—High-voltage switchgear and controlgear—part 100: High-voltage alternating current circuitbreakers, Edition 1.1, 2003 (''IEC 62271–100''), IBR approved for § 111.54–1.

(l) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *http://www.imo.org.*

(1) International Convention for the Safety of Life at Sea (SOLAS), Consolidated Text of the International Convention for the Safety of Life at Sea, 1974, and its Protocol of 1988: Article, Annexes and Certificates. (Incorporating all Amendments in Effect from January 2001), (''IMO SOLAS 74''), IBR approved for §§ 111.99–5, 111.105–31, 112.15–1 and 113.25–6.

(2) [Reserved]

(m) International Society of Automation (ISA), 67 Alexander Drive, P.O. Box 12277, Research Triangle Park, NC 27709, 919–549–8411, *http://www.isa.org.*

(1) RP 12.6—Wiring Practices for Hazardous (Classified) Locations Instrumentation Part I: Intrinsic Safety, 1995 (''ISA RP 12.6''), IBR approved for § 111.105–11.

(2) [Reserved]

(n) Lloyd's Register, 71 Fenchurch Street, London EC3M 4BS, +44 (0)20 7709 9166, *http://www.lr.org.*

(1) Type Approval System-Test Specification Number 1 (2002), IBR approved for § 113.05–7.

(2) [Reserved]

(o) National Electrical Manufacturers Association (NEMA), 1300 North 17th Street, Rosslyn, VA 22209, 703–841–3200, *http://www.nema.org.*

(1) NEMA Standards Publication ICS 2–2000, Industrial Control and Systems Controllers, Contactors, and Overload Relays, Rated 600 Volts, (2000), (''NEMA ICS 2''), IBR approved for § 111.70–3.

(2) NEMA Standards Publication ICS 2.3–1995, Instructions for the Handling, Installation, Operation, and Maintenance of Motor Control Centers Rated not More Than 600 Volts, (1995), (''NEMA ICS 2.3''), IBR approved for § 111.70–3.

(3) NEMA Standards Publication No. ICS 2.4–2003, NEMA and IEC Devices for Motor Service—a Guide for Understanding the Differences, (2003), (''NEMA ICS 2.4''), IBR approved for § 111.70–3.

(4) NEMA Standards Publication No. ANSI/NEMA 250–1997, Enclosures for Electrical Equipment (1000 Volts Maximum) (Aug. 30, 2001), (''NEMA 250''), IBR approved for §§ 110.15–1, 111.01–9, 110.15–1, 113.10–7, 113.20–3, 113.25–11, 113.30–25, 113.37–10, 113.40–10 and 113.50–5.

(5) NEMA Standards Publication No. WC–3–1992, Rubber Insulated Wire and Cable for the Transmission and Distribution of Electrical Energy, Revision 1, February 1994, (''NEMA WC–3''), IBR approved for § 111.60–13.

(6) NEMA WC–70/ICEA S–95–658–1999 Standard for Non-Shielded Power Rated Cable 2000V or Less for the Distribution of Electrical Energy, (1999), (''NEMA WC–70''), IBR approved for § 111.60–13.

(p) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169, 617–770–3000, *http://www.nfpa.org.*

(1) NEC 2002 (NFPA 70)—National Electrical Code Handbook, Ninth Edition, 2002 (''NFPA NEC 2002''), IBR approved for §§ 111.05–33, 111.20–15, 111.25–5, 111.50–3, 111.50–7, 111.50–9, 111.53–1, 111.54–1, 111.55–1, 111.59–1, 111.60–7, 111.60–13, 111.60–23, 111.81–1, 111.105–1, 111.105–3, 111.105–5, 111.105–7, 111.105–9, 111.105–15, 111.105–17, and 111.107–1.

(2) NFPA 70—National Electrical Code, 2011 Edition (''NFPA 70''), IBR approved for §§ 110.15–1(b), 111.106–3(b), and 111.106–5(c).

(3) NFPA 77—Recommended Practice on Static Electricity, 2000 (''NFPA 77''), IBR approved for § 111.105–27.

(4) NFPA 99—Standard for Health Care Facilities, 2005 (''NFPA 99''), IBR approved for § 111.105–37.

(5) NFPA 496—Standard for Purged and Pressurized Enclosures for Electrical Equipment, 2003 (''NFPA 496''), IBR approved for § 111.105–7.

(6) NFPA 496—Standard for Purged and Pressurized Enclosures for Electrical Equipment, 2008 Edition (''NFPA 496 (2008)''), IBR approved for § 111.106–3(c).

(q) Naval Sea Systems Command (NAVSEA), Code 55Z, 1333 Isaac Hull Avenue SE., Washington Navy Yard, Washington, DC 20362, 202–781–0000, *http://www.navsea.navy.mil.*

(1) DDS 300–2—A.C. Fault Current Calculations, 1988 (''NAVSEA DDS 300–2''), IBR approved for § 111.52–5.

(2) MIL–HDBK–299(SH)—Military Handbook Cable Comparison Handbook Data Pertaining to Electric Shipboard Cable Notice 1–1991 (Revision of MIL–HDBK–299(SH) (1989)), 1991 (''NAVSEA MIL–HDBK–299(SH)''), IBR approved for § 111.60–3.

(r) UL (formerly Underwriters Laboratories, Inc.), 12 Laboratory Drive, Research Triangle Park, NC 27709–3995, 919–549–1400, *http://www.ul.com.*

(1) UL 44—Standard for Thermoset-Insulated Wire and Cable, Fifteenth Edition, Mar. 22, 1999 (Revisions through and including May 13, 2002), (''UL 44''), IBR approved for § 111.60–11.

(2) UL 50—Standard for Safety Enclosures for Electrical Equipment, Eleventh Edition, Oct. 19, 1995 (''UL 50''), IBR approved for § 111.81–1.

(3) UL 62—Standard for Flexible Cord and Fixture Wire, Sixteenth Edition, Oct. 15, 1997 (''UL 62''), IBR approved for § 111.60–13.

(4) UL 83—Standard for Thermoplastic-Insulated Wires and Cables, Twelfth Edition, Sept. 29, 1998 (''UL 83''), IBR approved for § 111.60–11.

(5) UL 484—Standard for Room Air Conditioners, Seventh Edition, Apr. 27, 1993 (Revisions through and including Sep. 3, 2002) (''UL 484''), IBR approved for § 111.87–3.

(6) UL 489—Molded-Case Circuit Breakers, Molded-Case Switches, and Circuit-Breaker Enclosures, Ninth Edition, Oct. 31, 1996, (Revisions through and including Mar. 22, 2000), (''UL 489''), IBR approved for §§ 111.01–15 and 111.54–1.

(7) UL 514A—Metallic Outlet Boxes, Ninth Edition, (Dec. 27, 1996), (''UL 514A''), IBR approved for § 111.81–1.

(8) UL 514B—Conduit, Tubing, and Cable Fittings, Fourth Edition, (Nov. 3, 1997), (''UL 514B''), IBR approved for § 111.81–1.

(9) UL 514C—Standard for Nonmetallic Outlet Boxes, Flush-Device Boxes, and Covers, Second Edition, (Oct. 31, 1988), (''UL 514C''), IBR approved for § 111.81–1.

(10) UL 674—Standard for Safety: Electric Motors and Generators for Use in Division 1 Hazardous (Classified) Locations, Fourth Edition with revisions through August 12, 2008 (dated December 11, 2003) (''ANSI/UL 674''), IBR approved for § 111.106–3(b).

(11) UL 823—Electric Heaters for Use in Hazardous (Classified) Locations, Ninth Edition including revisions through November 15, 2007 (dated October 20, 2006) (''ANSI/UL 823''), IBR approved for § 111.106–3(b).

(12) UL 844—Standard for Safety: Luminaires for Use in Hazardous (Classified) Locations, Twelfth Edition including revisions through November 20, 2008 (dated January 11, 2006) (''ANSI/UL 844''), IBR approved for § 111.106–3(b).

(13) UL 913—Standard for Safety: Intrinsically Safe Apparatus and Associated Apparatus for Use in Class i, ii, and iii, Division 1, Hazardous (Classified) Locations, Sixth Edition, (Aug. 8, 2002) (Revisions through and including Dec. 15, 2003), (''UL 913''), IBR approved for § 111.105–11.

(14) UL 913—Standard for Safety: Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, and III, Division 1, Hazardous Locations, Seventh Edition including revisions through June 3, 2010 (dated July 31, 2006) (''ANSI/UL 913''), IBR approved for § 111.106–3(b).

(15) UL 1042—Standard for Electric Baseboard Heating Equipment, Apr. 11, 1994, IBR approved for § 111.87–3.

(16) UL 1072—Standard for Medium-Voltage Power Cables, Third Edition, Dec. 28, 2001 (Revisions through and including Apr. 14, 2003), IBR approved for § 111.60–1.

(17) UL 1104—Standard for Marine Navigation Lights, Second Edition, Oct. 29, 1998, IBR approved for § 111.75–17.

(18) UL 1203—Standard for Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations, Third Edition, Sep. 7, 2000 (Revisions through and including Apr. 30, 2004), IBR approved for § 111.105–9.

(19) UL 1203—Standard for Safety: Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations, Fourth Edition including revisions through October 28, 2009 (dated September 15, 2006) (''ANSI/UL 1203''), IBR approved for § 111.106–3(b).

(20) UL 1309—Marine Shipboard Cables, First Edition, July 14, 1995, IBR approved for §§ 111.60–1, 111.60–3, and 111.106–5(a).

(21) UL 1581—Reference Standard for Electrical Wires, Cables, and Flexible Cords, 2003, IBR approved for §§ 111.30–19, 111.60–2 and 111.60–6.

(22) UL 1598—Luminaires, First Edition, Jan. 31, 2000, IBR approved for § 111.75–20.

(23) UL 1598A—Standard for Supplemental Requirements for Luminaires for Installation on Marine Vessels, First Edition, Dec. 4, 2000, IBR approved for § 111.75–20.

(24) UL 1604—Electrical Equipment for Use in Class I and II, Division 2 and Class III Hazardous (Classified) Locations, Third Edition including revisions through February 3, 2004 (dated April 28, 1994), IBR approved for § 111.106–3(b).

(25) UL 2225—Cables and Cable-Fittings for Use in Hazardous (Classified) Locations, Second Edition, December 21, 2005 (''ANSI/UL 2225''), IBR approved for § 111.106–3(b).

■ 16. Amend § 110.15–1(b) by adding, in alphabetical order, the definitions for ''IECEx System'', ''Integral tank'', ''Non-hazardous'', ''Shut-off valve'', ''Special Division 1'', ''Zone 0'', ''Zone 1'', and ''Zone 2'' to read as follows:

**§ 110.15–1 Definitions.**

* * * * *

(b) * * *

*IECEx System* means an international certification system covering equipment that meets the provisions of the IEC 60079 series of standards (incorporated by reference, see § 110.10–1). The IECEx System is comprised of an Ex Certification Body and an Ex Testing Laboratory that has been accepted into the IECEx System after satisfactory assessment of their competence to ISO/IEC Standard 17025, ISO/IEC Guide 65, IECEx rules of procedures, IECEx operational documents, and IECEx technical guidance documents as part of the IECEx assessment process.

* * * * *

*Integral tank* means a tank that is a structural part of the vessel's hull and is influenced in the same manner and by the same loads that stress the adjacent hull structure.

* * * * *

*Non-hazardous* means an area in which an explosive gas atmosphere is not expected to be present in quantities that require special precautions for the construction, installation, and use of electrical equipment.

* * * * *

*Shut-off valve* is a valve that closes a pipeline and provides nominal metal-to-metal contact between the valve operating parts, including the disc and gate, and the valve body.

*Special Division 1* is a Class I, Zone 0 hazardous location in Article 505 of NFPA 70 (incorporated by reference, see § 110.10–1) that may require special considerations for electrical equipment installed in such locations.

* * * * *

*Zone 0* is a hazardous location in which an explosive gas or vapor in mixture with air is continuously present or present for long periods.

*Zone 1* is a hazardous location in which an explosive gas or vapor in mixture with air is likely to occur in normal operating conditions.

*Zone 2* is a hazardous location in which an explosive gas or vapor in mixture with air is not likely to occur in normal operating conditions, or in which such a mixture, if it does occur, will only exist for a short time.

■ 17. Amend § 110.25–1 by adding paragraph (p) to read as follows:

**§ 110.25–1 Plans and information required for new construction.**

* * * * *

(p) For an OSV with hazardous locations to which subpart 111.106 of this part applies, plans showing the extent and classification of all hazardous locations, including information on—

(1) Equipment identification by manufacturer's name and model number;

(2) Equipment use within the system;

(3) Parameters of intrinsically safe systems, including cables;

(4) Equipment locations;

(5) Installation details and/or approved control drawings; and

(6) A certificate of testing, and listing or certification, by an independent laboratory, as defined by 46 CFR 159.001–3, or an IECEx Certificate of Conformity under the IECEx System, where required by the respective standard in § 111.106–3(b)(1), (2), or (3) of this subchapter.

## PART 111—ELECTRIC SYSTEMS GENERAL REQUIREMENTS

■ 18. The authority citation for part 111 is revised to read as follows:

**Authority:** 46 U.S.C. 3306, 3703; Department of Homeland Security Delegation No. 0170.1. Section 111.05–20 and Subpart 111.106 also issued under sec. 617, Pub. L. 111–281, 124 Stat. 2905.

■ 19. Add § 111.05–20 to read as follows:

**§ 111.05–20 Grounded distribution systems on OSVs designed to carry flammable or combustible liquids with closed-cup flashpoints not exceeding 60 °C (140 °F).**

(a) This section applies to OSVs of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned), as defined in § 125.160 of this chapter, that are designed to carry flammable or combustible liquids with a closed-cup flashpoint not exceeding 60 °C (140 °F).

(b) A grounded distribution system is only allowed as provided in paragraph (c) of this section.

(c) Grounding of the neutral for alternating current power networks of 3,000 volts (line to line) or more is permitted, provided that any possible resulting current does not flow directly through any hazardous locations.

■ 20. Add subpart 111.106, consisting of §§ 111.106–1 through 111.106–17, to read as follows:

**Subpart 111.106—Hazardous Locations on OSVs**

Sec.

111.106–1 Applicability.
111.106–3 General requirements.
111.106–5 Cable and wiring.
111.106–7 Classification of adjacent spaces with access to hazardous locations.
111.106–9 Classification of flammable or combustible cargo storage and handling locations.
111.106–11 Classification of storage and handling locations of heated combustible liquid cargoes.
111.106–13 Cargo handling devices or cargo pump rooms handling flammable or combustible cargoes.
111.106–15 Ventilation of hazardous locations.
111.106–17 Piping: electrical bonding.

**§ 111.106–1 Applicability.**

This subpart applies to OSVs of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned), as defined in § 125.160 of this chapter.

**§ 111.106–3 General requirements.**

(a) Electrical installations in hazardous locations, where necessary for operational purposes, must be located in the least hazardous location practicable.

(b) Electrical installations in hazardous locations must comply with the standards listed in paragraphs (b)(1), (2), or (3) of this section.

(1) NFPA 70 Articles 500 through 504 (incorporated by reference, see § 110.10–1). Equipment identified for Class I locations must meet the provisions of Sections 500.7 and 500.8 of NFPA 70 and must be tested and listed by an independent laboratory to any of the following standards:

(i) ANSI/UL 674, ANSI/UL 823, ANSI/UL 844, ANSI/UL 913, ANSI/UL 1203, UL 1604 (Division 2) and/or ANSI/UL 2225 (incorporated by reference, see § 110.10–1).

(ii) FM Approvals Class Number 3600, Class Number 3610, Class Number 3611, Class Number 3615, Class Number 3620, or any combination of these (incorporated by reference, see § 110.10–1).

(iii) CAN/CSA C22.2 Nos. 0–M91, 30–M1986, 157–92, and/or 213–M1987 (incorporated by reference, see § 110.10–1).

Note to § 111.106–3(b)(1): See Article 501.5 of NFPA 70 for use of Zone equipment in Division designated spaces.

(2) NFPA 70 Article 505 (incorporated by reference, see § 110.10–1). Equipment identified for Class I locations must meet the provisions of Sections 505.7 and 505.9 of NPFA 70 and be tested and listed by an independent laboratory to the ANSI/ISA Series of standards incorporated in NFPA 70.

Note to § 111.106–3(b)(2): See Article 505.9(c)(1) of the NFPA 70 for use of Division equipment in Zone designated spaces.

(3) IEC 60092–502 (incorporated by reference, see § 110.10–1), with the following exceptions:

(i) Section 111.106–5 of this subpart applies in lieu of Clause 7.3.1.

(ii) Section 111.106–9 of this subpart applies in lieu of Clause 4.2.

(iii) Section 111.106–7 of this subpart applies in lieu of Clauses 4.1.5 and 8.4.

(iv) Section 111.106–13(b) of this subpart applies in lieu of Clause 4.1.4 for enclosed areas containing devices handling hydrocarbons.

(v) Section 111.106–11 of this subpart applies in lieu of Clause 4.3.2.

(vi) Electrical apparatus in hazardous locations must meet one or the combination of IEC 60079–1:2007, IEC 60079–2:2007, IEC 60079–5:2007, IEC 60079–6:2007, IEC 60079–7:2006, IEC 60079–11:2006, IEC 60079–13:2010, IEC 60079–15:2010, IEC 60079–18:2009 or IEC 60079–25:2010 (incorporated by reference, see § 110.10–1) in lieu of Clause 6.5.

(vii) Equipment must be tested by an Ex Testing Laboratory and certified by an Ex Certification Body under the IECEx System, in lieu of Clause 6.3.

Note to § 111.106–3(b): System components that are listed or certified under paragraph (b)(1), (b)(2) or (b)(3) of this section must not be combined in a manner that would compromise system integrity or safety.

(c) As an alternative to paragraph (b)(1) of this section, electrical equipment that complies with the provisions of NFPA 496 (2008) (incorporated by reference, see § 110.10–1) is acceptable for installation in Class I, Divisions 1 and 2. When equipment meeting this standard is used, it does not need to be identified and marked by an independent laboratory. The Commanding Officer, Marine Safety Center (MSC) will evaluate equipment complying with this standard during plan review. It is normally considered acceptable if a manufacturer's certification of compliance is indicated on a material list or plan.

(d) Equipment listed or certified to ANSI/ISA 60079–18 or IEC 60079–18:2009, respectively, (incorporated by reference, see § 110.10–1) is not permitted in Class I Special Division 1 or Zone 0 hazardous location, unless the encapsulating compound of Ex ''ma'' protected equipment is not exposed to, or has been determined to be compatible with, the liquid or cargo in the storage tank.

(e) Lighting circuits serving flameproof or explosion-proof lighting fixtures in an enclosed hazardous space or room must—

(1) Have at least two lighting branch circuits;

(2) Be arranged so that there is light for relamping any de-energized lighting circuit;

(3) Not have the switch and overcurrent device within the space for those spaces containing explosion-proof or flameproof lighting fixtures; and

(4) Have a switch and overcurrent protective device that must open all ungrounded conductors of the circuit simultaneously.

(f) Submerged pump motors that do not meet the requirements of § 111.105–31(d), installed in tanks carrying flammable or combustible liquids with closed-cup flashpoints not exceeding 60 °C (140 °F), must receive concept approval by the Commandant (CG–ENG) and plan approval by the Commanding Officer, MSC.

(g) Wiring materials and cables in hazardous locations must meet the construction and testing requirements in § 111.106–5 of this subpart.

(h) Internal combustion engines installed in Divisions 1 and 2 (Zones 1 and 2) must meet the provisions of ASTM F2876–10 (incorporated by reference, see § 110.10–1).

(i) Cofferdams are required to separate enclosed spaces adjacent to integral cargo storage tanks.

(j) The cargo pumping/piping systems must be arranged independently from all other systems. Cargo transfer pumps and piping (including fill, discharge, vent, and sounding piping) must not be located in or pass through any

accommodation, service, or machinery spaces.

**§ 111.106–5 Cable and wiring.**

(a) Cable and wiring in hazardous locations must meet the cable construction and testing provisions of IEEE 1580; UL 1309; MIL–DTL–24640C; MIL–DTL–24643C; or IEC 60092–350:2008 and IEC 60092–353:2011 (incorporated by reference, see § 110.10–1), including the respective flammability tests contained therein, and must be of a copper-stranded type.

(b) Type MC cables, when used, must meet the requirements in § 111.60–23 of this part.

(c) For intrinsically safe systems under the standards cited in § 111.106–3(b)(1) and (b)(2) of this subpart, the wiring methods must meet Section 504.30 of NFPA 70 (incorporated by reference, see § 110.10–1). For intrinsically safe systems under the standards cited in § 111.106–3(b)(3) of this subpart, the installation and wiring must meet Clause 7, except for Clause 7.3.1, of IEC 60092–502 (incorporated by reference, see § 110.10–1).

**§ 111.106–7 Classification of adjacent spaces with access to hazardous locations.**

(a) Hazardous location classification of adjacent spaces must comply with Clause 12.5 of either API RP 500 or API RP 505 (incorporated by reference, see § 110.10–1).

(b) A differential pressure-monitoring device or a flow-monitoring device, or both, must be provided for monitoring the pressurization of spaces having an opening into a more hazardous zone. A running fan motor or a fan-rotation monitoring device indicator is insufficient to satisfy this requirement.

(c) During initial startup, or after shutdown of the pressurization or ventilation system, and regardless of the classification of the hazardous location, the space must be ventilated or purged, followed by pressurization or ventilation of the space, before any electrical apparatus within the space may be energized. The atmosphere is considered non-hazardous when the concentration of explosive gases or vapors is below 30 percent of the lower explosive limit at all points in the space, equipment enclosures and vent ducts.

(d) Only electrical equipment and devices that are necessary for the operational purposes of the space may be installed in spaces made non-hazardous by the methods allowed in this section.

**§ 111.106–9 Classification of flammable or combustible cargo storage and handling locations.**

(a) This section applies to locations surrounding the storage and handling locations of flammable and combustible liquid cargoes with closed-cup flashpoints not exceeding 60 °C (140 °F).

(b) The following are Class I Special Division 1 (Zone 0) locations:

(1) Enclosed areas containing devices handling cargoes, such as cargo handling or pump rooms, except as modified by § 111.106–13 of this subpart.

(2) The interiors of cargo storage tanks, slop tanks, any pressure-relief pipework or other venting systems for cargo and slop tanks, pipes and equipment containing the cargo or developing flammable gases or vapors.

(3) Areas on an open deck, or a semi-enclosed space on an open deck, within 0.5 meters of any cargo storage tank outlet, cargo gas or vapor outlet, ullage opening, sounding pipe, cargo tank opening for pressure release, or cargo storage tank pressure or vacuum valve provided to permit the flow of small volumes of gas or vapor mixtures caused by thermal variation.

(4) Areas on an open deck, or semi-enclosed spaces on open deck, within 0.5 meters of any cargo handling or pump room entrance, or cargo ventilation handling or pump room ventilation inlet or outlet.

(5) Areas in the vicinity of any cargo vent outlet for free flow of large volumes of vapor mixtures during cargo loading and discharging of storage tanks, within a vertical cylinder of unlimited height, of 1 meter radius centered upon the vent outlet, and within a hemisphere of 1-meter radius below the vent outlet.

(6) Areas in the vicinity of any cargo high-velocity vent outlet during cargo loading and discharging of storage tanks, within a vertical cylinder of unlimited height, of 0.5 meters radius centered upon the vent outlet, and within a hemisphere of 0.5 meters radius below the vent outlet.

(c) The following are Class I Division 1 (Zone 1) locations:

(1) Areas on an open deck, or a semi-enclosed space on an open deck, that are 2.5 meters beyond the Class I Special Division 1 (Zone 0) areas cited in paragraphs (b)(3) and (4) of this section.

(2) Areas on an open deck, or a semi-enclosed space on an open deck, that are within 3 meters of any cargo manifold valve, cargo valve, cargo pipe flange, cargo tank hatch, sight port, tank cleaning opening, and opening into cofferdams or other Zone 1 spaces.

(3) Regardless of the level of natural ventilation, areas on an open deck above the tank top of each cargo tank extending out 3 meters beyond the tank top boundaries of each cargo tank, up to a height of 2.4 meters above the deck.

(4) Areas on an open deck within spillage coamings surrounding cargo manifold valves extending 3 meters beyond the boundaries of the spillage coamings, up to a height of 2.4 meters.

(5) A void space or an enclosed space immediately above, below or adjacent to an integral cargo storage tank, including cofferdams and permanent (for example, segregated) ballast tanks adjacent to integral cargo storage tanks.

(6) A hold space containing an independent cargo storage tank.

(7) Compartments for cargo transfer hoses.

(8) Enclosed or semi-enclosed spaces in which pipes containing cargoes are located.

(9) Areas 7.5 meters beyond the cylinder and 7.5 meters beyond the hemisphere of the Class I Special Division 1 (Zone 0) hazardous locations cited in paragraph (b)(5) of this section.

(10) Areas 5.5 meters beyond the cylinder and 5.5 meters beyond the hemisphere of the Class I Special Division 1 (Zone 0) hazardous locations cited in paragraph (b)(6) of this section.

(d) The following are Class I Division 2 (Zone 2) locations:

(1) Areas on an open deck, or a semi-enclosed space on an open deck, that are 1.5 meters beyond the Class I Division 1 (Zone 1) areas cited in paragraphs (c)(1) through (4) of this section.

(2) Areas 1.5 meters beyond the cylinder and 1.5 meters beyond the hemisphere of the Class I Special Division 1 (Zone 1) hazardous locations cited in paragraph (c)(9) of this section.

(3) Areas 4 meters beyond the cylinder and 4 meters beyond the hemisphere of the Class I Division 1 (Zone 1) hazardous locations cited in paragraph (c)(10) of this section.

(4) Enclosed spaces beyond the open deck areas cited in paragraph (c)(3) of this section that are below the level of the main deck and have an opening onto the main deck or at a level less than 0.5 meters above the main deck, unless—

(i) The entrances to such spaces, including ventilation inlets and outlets, are situated at least 5 meters from the closest integral cargo tank bulkhead and at least 10 meters measured horizontally from any integral cargo tank outlet or gas or vapor outlet; and

(ii) The spaces are mechanically ventilated.

**§ 111.106–11 Classification of storage and handling locations of heated combustible liquid cargoes.**

(a) This section applies to locations surrounding the storage and handling of combustible liquid cargoes with closed-cup flashpoints exceeding 60 °C (140 °F).

(b) The interiors of independent storage tanks and integral tanks containing cargoes with closed-cup flashpoints of 60 °C (140 °F) or higher and heated to within 15 °C of their flashpoint are considered Class I Special Division 1 (Zone 0). The hazardous locations in § 111.106–9 of this subpart apply.

**§ 111.106–13 Cargo handling devices or cargo pump rooms handling flammable or combustible cargoes.**

(a) This section is applicable to enclosed areas containing devices handling flammable or combustible liquid cargoes with closed-cup flashpoints not exceeding 60 °C (140 °F).

(b) Enclosed hazardous locations containing devices that handle cargoes must comply with Clauses 6.3.1.2 of API RP 500 and 6.6.1.2 of API RP 505 (incorporated by reference, see § 110.10–1). Ventilation must not be used to reduce the classification of such areas.

(c) Cargo pump rooms must be isolated from all sources of vapor ignition by gastight bulkheads. The gastight bulkhead between the pump room and the pump-motor compartment may be pierced by fixed lights, drive shafts, and pump-engine control rods, provided that the shafts and rods are fitted with fixed oil reservoir gland seals, or pressure grease seals where they pass through the gastight bulkheads. Other types of positive pressure seals must be specially approved by the Commandant (CG–ENG). Access to a cargo handling enclosed area or room must be from the open deck.

(d) Fixed lights in cargo pump rooms or enclosed cargo handling areas must meet the arrangement and construction requirements in § 111.105–31(g) of this part.

(e) A cargo handling area or pump room that precludes the lighting arrangement of paragraph (d) of this section, or where the lighting arrangement of paragraph (d) of this section does not give the required illumination level, must have explosion-proof, flameproof (Ex ''d'') or flameproof-increased safety (Ex ''de'') lighting fixtures.

**§ 111.106–15 Ventilation of hazardous locations.**

(a) The ventilation design principles must comply with Clauses 8.1.3, 8.2, and 8.3 of IEC 60092–502 (incorporated by reference, see § 110.10–1).

Note to § 111.106–15(a): The word ''mechanical,'' as used in this section, is interchangeable with the word ''artificial'' used in IEC 60092–502.

(b) A ventilation system must—

(1) Be positioned so as not to recycle vapors from ventilation discharges;

(2) Have its operational controls outside the ventilated space, if the system is mechanical; and

(3) Have a protective metal screen of not more than 13 mm (0.512 in.) square mesh on each ventilation intake and exhaust opening.

(c) The mechanical ventilation of enclosed flammable or combustible liquid cargo handling or cargo pump rooms must be sufficient to effect a minimum complete 30 air changes per hour based on the volume of the pump room and associated trunks up to the deck at which access from the weather is provided. The power ventilation system must be designed to remove vapors from the bottom of the space at points where concentrations of vapors may be expected.

(d) The following spaces must have a supply-type mechanical ventilation system capable of providing at least 8 air changes per hour:

(1) Each space that contains electric motors for cargo handling equipment.

(2) Each cargo control station.

**§ 111.106–17 Piping: electrical bonding.**

(a) Tanks or piping systems that are separated from the hull structure by thermal isolation must be electrically bonded to the hull structure by a method under paragraph (c) of this section.

(b) A pipe joint or a hose connection fitting that has a gasket must be electrically bonded by a method under paragraph (c) of this section that bonds—

(1) Both sides of the connection to the hull structure; or

(2) Each side of the connection to the other side.

(c) An electrical bond must be made by at least one of the following methods:

(1) A metal bonding strap attached by welding or bolting;

(2) Two or more bolts that give metal-to-metal contact between the bolts and the parts to be bonded; or

(3) Other metal-to-metal contact between adjacent parts under designed operating conditions..

## PART 125—GENERAL

■ 21. The authority citation for part 125 is revised to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 3307; 49 U.S.C. App. 1804; sec. 617, Pub. L. 111–281, 124 Stat. 2905; Department of Homeland Security Delegation No. 0170.1.

■ 22. Amend § 125.100 as follows:

■ a. In paragraph (a), remove the words ''paragraph (c)'' and add, in their place, the words ''paragraphs (c) or (e)'';

■ b. In paragraph (b) introductory text, remove the word ''be'' and add, in its place, the words ''have been'';

■ c. In paragraph (c), remove the word ''complete'' and add, in its place, the words ''have completed'';

■ d. Redesignate paragraphs (d) and (e) as new paragraphs (f) and (g), respectively;

■ e. Add new paragraphs (d) and (e);

■ f. In redesignated paragraph (g), remove the word ''alteration'' and add, in its place, the word ''conversion''; and

■ g. In the Note, after the word ''Note'', add the words ''to § 125.100''.

The additions read as follows:

**§ 125.100 Applicability.**

* * * * *

(d) Each OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned), as defined in § 125.160 of this part, contracted for, or the keel of which was laid, before August 18, 2014, must be constructed and inspected to comply with-–

(1) The regulations in effect until August 18, 2014 (46 CFR subchapter I), as they existed at the time of construction; or

(2) The regulations in this subchapter.

(e) Each OSV constructed and inspected in accordance with paragraph (d)(1) of this section must complete construction and have a Certificate of Inspection by August 18, 2016.

* * * * *

■ 23. Add § 125.103 to read as follows:

**§ 125.103 Tonnage measurement.**

(a) An OSV of at least 6,000 gross tonnage, as measured under section 14302 of Title 46, United States Code (hereafter referred to as an OSV of at least 6,000 GT ITC), must apply all regulations of the Coast Guard that depend on the vessel's tonnage using the tonnage as measured under the Convention measurement system.

(b) An OSV that is measured only under section 14502 of Title 46, United States Code, and that is at least 500 gross register tons as measured under that system (hereafter referred to as an OSV of at least 500 GRT), must apply all regulations of the Coast Guard that depend on the vessel's tonnage as if the

vessel's tonnage were at least 6,000 GT ITC.

(c) In this subchapter, tonnage thresholds expressed in terms of ''gross tons'' are applied using GRT, if assigned, and GT ITC if GRT is not assigned.

■ 24. Add § 125.105 to read as follows:

**§ 125.105 International certificates for OSVs of at least 6,000 GT ITC.**

An OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) must obtain and maintain the following international certificates as a prerequisite to obtaining a Certificate of Inspection:

(a) Cargo Ship Safety Construction Certificate in accordance with the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS, 1974, as amended).

(b) Cargo Ship Safety Equipment Certificate in accordance with SOLAS, 1974, as amended.

(c) Safety Management Certificate in accordance with SOLAS, 1974, as amended.

(d) International Oil Pollution Prevention Certificate in accordance with the International Convention for the Prevention of Pollution at Sea, as amended (MARPOL 73/78).

(e) International Air Pollution Prevention Certificate in accordance with MARPOL 73/78.

(f) International Load Line Certificate in accordance with the International Convention on Load Lines, 1966, as subsequently modified by its Protocol of 1988, as amended.

■ 25. Amend § 125.110 by adding paragraphs (b)(3) and (e) to read as follows:

**§ 125.110 Carriage of flammable or combustible liquid cargoes in bulk.**

* * * * *

(b) * * *

(3) Other flammable or combustible liquids as authorized in § 125.125 of this part.

* * * * *

(e) On an OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned), tanks authorized for carriage of oil as defined by 33 CFR 157.03, including drilling fluids containing oil as defined by 33 CFR 157.03, must comply with double hull requirements stated in 33 CFR 157.10d.

Note to § 125.110(e): Additional limitations on the carriage of flammable or combustible liquid cargoes are found in § 127.650 of this part.

■ 26. Add § 125.115 to read as follows:

**§ 125.115 Oil fuel tank protection.**

(a) An OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) that is delivered after August 1, 2010, with an aggregate capacity of 600 cubic meters or more of oil fuel, must comply with the requirements of Regulation 12A of Annex I to MARPOL 73/78 (incorporated by reference, see § 125.180) at all times.

(b) Transfer of excess fuel oil from the fuel supply tanks of an OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) to an offshore drilling or production facility will not cause Subchapter D of this chapter to apply to the OSV, provided that the vessel is—

(1) Not a tankship as defined in 46 CFR 30.10–67; and

(2) In the service of oil exploitation.

■ 27. In § 125.120, revise the section heading and paragraph (a) to read as follows:

**§ 125.120 Carriage of noxious liquid substances in bulk by OSVs of less than 6,000 GT ITC (500 GRT if GT ITC is not assigned).**

(a) Except as provided by this section, no OSV of less than 6,000 GT ITC (500 GRT if GT ITC is not assigned) may carry a noxious liquid substance (NLS) in bulk without the approval of the Commandant (CG–ENG).

* * * * *

■ 28. Add § 125.125 to read as follows:

**§ 125.125 Carriage of noxious liquid substances in bulk by OSVs of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned).**

(a) Except as provided by this section, no OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) may carry a noxious liquid substance (NLS) in bulk without the approval of the Commandant (CG–ENG).

(b) An OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) holding a valid Certificate of Fitness or a International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk in accordance with the provisions of IMO Resolution A.673(16) (incorporated by reference, see § 125.180), may carry in integral and fixed independent tanks—

(1) Drilling fluids, including muds, brines, and salts, subject to paragraph (c) of this section and § 125.110 of this subpart; and

(2) Additional NLSs that are—

(i) Hazardous and noxious liquids listed in Appendix 1 of IMO Resolution A.673(16);

(ii) Products that may be carried on a type 3 ship, as defined by the IBC Code (incorporated by reference, see § 125.180), except that cargoes with an ''S'' designation in the hazard column (column d) in Chapter 17 of the IBC Code may only be carried if they are not designated as toxic products as per section 15.12 of that Code; or

(iii) Not listed in Chapter 17 of the IBC Code, but otherwise meet the specific carriage requirements established by the Commandant (CG–ENG).

(c) An OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) that meets the stability and cargo tank location requirements—

(1) Of IMO Resolution A.673(16) may carry any of those cargoes listed in paragraph (b) of this section up to a maximum aggregate quantity of 800 cubic meters or 40 percent of the vessel's deadweight calculated with a cargo density of 1.0, whichever is less; or

(2) Of a well stimulation vessel in accordance with IMO Resolution A.673(16) may carry—

(i) In unlimited quantity, those combustible cargoes in paragraph (b)(1) of this section, as defined in 46 CFR 30.10–15; and

(ii) In quantities not to exceed 20 percent of the vessel's deadweight, drilling fluids of Grade C, as defined in § 30.10–22 of this chapter, and those cargoes in paragraph (b)(2) of this section.

(d) Each OSV carrying NLS in bulk in integral tanks or fixed independent tanks must maintain a Cargo Record Book and have on board an approved Shipboard Marine Pollution Emergency Plan in accordance with Annex II to MARPOL 73/78 (incorporated by reference, see § 125.180).

(e) An OSV is not allowed to discharge NLS residues into the sea. This must be stated in the approved Procedures and Arrangements Manual required by Regulation 14 of Annex II to MARPOL 73/78. The Manual may, in lieu of the requirements as outlined in Annex II Appendix 4, be approved with the following changes:

(1) Section 2.6 may read ''This vessel is prohibited from discharging Noxious Liquid Substance (NLS) residues to the sea, and is not equipped with an underwater discharge outlet.''

(2) Section 2.8 may be marked ''N/A''.

(3) Section 2.9 may read, ''This vessel is not equipped with a tank washing system.'', unless the vessel is equipped with a tank washing system.

(4) Section 3.3 may read, ''This vessel is prohibited from discharging Noxious Liquid Substance (NLS) residues to the sea and is not equipped with a tank stripping system.'', unless the vessel is equipped with a tank stripping system.

(5) Section 4.4.2 may read, ''This vessel is prohibited from discharging Noxious Liquid Substance (NLS) residues to the sea and is not equipped

with a tank stripping system.'', unless the vessel is equipped with a tank stripping system.

(6) Section 4.4.3 may read, ''This vessel is prohibited from discharging Noxious Liquid Substance (NLS) residues to the sea.''

(7) Section 4.4.6 should refer the reader to appropriate compatibility guides.

(8) Section 4.4.7 may read, ''This vessel is prohibited from discharging Noxious Liquid Substance (NLS) residues to the sea. All NLS residues must be discharged to an appropriate reception facility.''

(9) Section 4.4.8 may read, ''This vessel is prohibited from discharging Noxious Liquid Substance (NLS) residues to the sea.''

(10) Section 4.4.9 may read, ''All cleaning agents and additives must be treated as substances of their assigned NLS category. This vessel is prohibited from discharging Noxious Liquid Substance (NLS) residues to the sea. All NLS residues must be discharged to an appropriate reception facility.''

(11) Section 4.4.10 may be marked ''N/A''.

(f) An OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) may transfer the following materials to and from a portable tank by following the procedures in § 98.30, including § 98.30–17 (b)(2), of this chapter:

(1) The materials in § 98.30–5 of this chapter.

(2) Hazardous and noxious liquids listed in appendix 1 of IMO Resolution A.673(16).

(3) Products which may be carried on a type 2 or 3 ship, as defined by the IBC Code.

(4) Products which may be carried with a cargo containment system II or III, as defined by Table 1 to part 153.

(g) An OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) may not transfer Certain Dangerous Cargoes, as defined by 33 CFR 160.204, to or from a portable tank.

■ 29. Amend § 125.140 by redesignating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

**§ 125.140 Loadlines.**

* * * * *

(b) Each OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) must be assigned an international load line in accordance with the International Convention on Load Lines, 1966, as amended (incorporated by reference, see § 125.180).

■ 30. Revise § 125.150 to read as follows:

**§ 125.150 Lifesaving systems.**

(a) Lifesaving appliances and arrangements on OSVs of less than 6,000 GT ITC (500 GRT if GT ITC is not assigned) must comply with part 133 of this subchapter.

(b) Lifesaving appliances and arrangements on OSVs of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) must comply with subparts A, B, and D of part 199 of this chapter.

■ 31. Amend § 125.160 as follows:

■ a. Add the definitions, in alphabetical order, for ''Gross register tons or GRT'', and ''Gross tonnage ITC or GT ITC'';

■ b. Revise the definition for ''Offshore supply vessel''; and

■ c. Remove the definition of ''OSV''.

The additions and revision read as follows:

**§ 125.160 Definitions.**

* * * * *

*Gross register tons* or *GRT* means the gross ton measurement of the vessel under the Regulatory Measurement System described in 46 U.S.C. 14502.

*Gross tonnage ITC* or *GT ITC* means the gross tonnage measurement of the vessel under the Convention Measurement System described in 46 U.S.C. 14302.

* * * * *

*Offshore supply vessel* or *OSV* means a vessel that—

(1) Is propelled by machinery other than steam;

(2) Does not meet the definition of a passenger-carrying vessel in 46 U.S.C. 2101(22) or 46 U.S.C. 2101(35);

(3) Is more than 15 gross tons; and

(4) Regularly carries goods, supplies, individuals in addition to the crew, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources.

* * * * *

■ 32. Revise § 125.180 to read as follows:

**§ 125.180 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Operating and Environmental Standards (CG–OES), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7126, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) American Bureau of Shipping (ABS), ABS Plaza, 16855 Northchase Drive, Houston, TX 77060, 281–877–5800, *http://www.eagle.org.*

(1) Rules for Building and Classing Steel Vessels Under 61 Meters (200 Ft) in Length, 1983, IBR approved for § 127.210.

(2) Rules for Building and Classing Steel Vessels, 1995, IBR approved for §§ 127.210 and 129.360.

(3) Rules for Building and Classing Aluminum Vessels, 1975, IBR approved for § 127.210.

(4) Rules for Building and Classing Mobile Offshore Drilling Units, 1994, IBR approved for §§ 133.140 and 133.150.

(c) American National Standards Institute (ANSI), 25 West 43rd St., New York, NY 10036, 212–642–4900, *http://www.ansi.org.*

(1) B 31.1–1986—Code for Pressure Piping, Power Piping, IBR approved for § 128.240.

(2) Z 26.1–1977 (including 1980 Supplement)—Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways, IBR approved for § 127.430.

(d) American Society of Mechanical Engineers (ASME) International, Three Park Avenue, New York, NY 10016–5990, 800–843–2763, *http://www.asme.org.*

(1) Boiler and Pressure Vessel Code Section I, Power Boilers, July 1989 with 1989 addenda, IBR approved for § 128.240.

(2) [Reserved]

(e) ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500, *http://www.astm.org.*

(1) ASTM D 93–97—Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester (''ASTM D 93''), IBR approved for § 128.310(a) and (b).

(2) ASTM F1014—02 (Reapproved 2007)—Standard Specification for Flashlights on Vessels, approved May 1, 2007, IBR approved for § 132.365(b).

(f) American Yacht and Boat Council, Inc. (AYBC): 3069 Solomon's Island Rd., Edgewater, MD 21037–1416, 410–990–4460, *http://www.abycinc.org.*

(1) A–3–1993—Galley Stoves, IBR approved for § 129.550.

(2) A–7–1970—Recommended Practices and Standards Covering Boat

Heating Systems, IBR approved for § 129.550.

(3) E–1–1972—Bonding of Direct-Current Systems, IBR approved for § 129.120.

(4) E–8–1994—Alternating-Current (AC) Electrical Systems on Boats, IBR approved for § 129.120.

(5) E–9–1990—Direct-Current (DC) Electrical Systems on Boats, IBR approved for § 129.120.

(g) Institute of Electrical and Electronics Engineers (IEEE), IEEE Service Center, 445 Hoes Lane, Piscataway, NJ 08855, 732–981–0060, *http://www.ieee.org.*

(1) No. 45–1977—Recommended Practice for Electric Installations on Shipboard, IBR approved for § 129.340.

(2) [Reserved]

(h) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *http://www.imo.org.*

(1) International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, Consolidated Edition, 2006 (''MARPOL 73/78''), IBR approved for §§ 125.115(a) and 125.125(d) and (e).

(2) International Convention for the Safety of Life at Sea, Consolidated Edition, 1992 (''SOLAS 74/83''), IBR approved for § 126.170.

(3) International Convention for the Safety of Life at Sea, 1974, as amended, Consolidated Edition, 2009, including Erratum (''SOLAS, 1974, as amended''), IBR approved for §§ 127.225(a), 127.610(a), 127.620, 127.630, and 127.640(a).

(4) Resolution A.520(13)—Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Life-saving Appliances and Arrangements, dated 17 November, 1983, IBR approved for § 133.40.

(5) Resolution A.658(16)—Use and Fitting of Retro-Reflective Materials on Life-saving Appliances, dated 20 November, 1989, IBR approved for §§ 131.855, 131.875, and 133.70.

(6) Guidelines for the Transport and Handling of Limited Amounts of Hazardous and Noxious Liquid Substances in Bulk on Offshore Support Vessels, 2007 edition (''Resolution A.673(16)''), IBR approved for § 125.125(b).

(7) Resolution A.760(18)—Symbols Related to Life-Saving Appliances and Arrangements, dated 17 November, 1993, IBR approved for §§ 131.875, 133.70, and 133.90.

(8) International Convention on Load Lines, 1966 and Protocol of 1988, as amended in 2003, Consolidated Edition, 2005 (''International Convention on Load Lines, 1966''), IBR approved for § 125.140(b).

(9) Annex 7 to IMO MEPC 52/54, Report of the Marine Environment Protection Committee on its Fifty-Second Session, ''Resolution MEPC.119(52), 2004 Amendments to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code),'' adopted October 15, 2004 (''IBC Code''), IBR approved for § 125.125(b).

(i) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02269–9101, 617–770–3000, *http://www.nfpa.org:*

(1) NFPA 10—Standard for Portable Fire Extinguishers, 1994 Edition, IBR approved for § 132.350.

(1) NFPA 70—National Electrical Code, 1993 Edition, IBR approved for §§ 129.320, 129.340 and 129.370.

(3) NFPA 302—Fire Protection Standard for Pleasure and Commercial Motor Craft, 1994 Edition, IBR approved for § 129.550.

(2) NFPA 306—Control of Gas Hazards on Vessels, 1993 Edition, IBR approved for § 126.160.

(3) NFPA 1963—Fire Hose Connections, 1993, IBR approved for § 132.130.

(4) NFPA 10—Standard for Portable Fire Extinguishers, 1994, IBR approved for § 132.350.

(5) NFPA 302—Fire Protection Standard for Pleasure and Commercial Motor Craft, 1994, IBR approved for § 129.550.

(j) UL (formerly Underwriters Laboratories, Inc.), 12 Laboratory Drive, Research Triangle Park, NC 27709–3995, 919–549–1400, *http://www.ul.com:*

(1) UL 19–1992—Lined Fire Hose and Hose Assemblies, IBR approved for § 132.130.

(2) UL 57–1976—Electric Lighting Fixtures, IBR approved for § 129.410.

(3) UL 486A–1992—Wire Connectors and Soldering Lugs for Use with Copper Conductors, IBR approved for § 129.340.

(4) UL 489–1995—Molded-Case Circuit Breakers and Circuit-Breaker Enclosures, IBR approved for § 129.380.

(5) UL 595–1991—Marine-Type Electric Lighting Fixtures, IBR approved for § 129.410.

(6) UL 1570–1995—Fluorescent Lighting Fixtures, IBR approved for § 129.410.

(7) UL 1571–1995—Incandescent Lighting Fixtures, IBR approved for § 129.410.

(8) UL 1572–1995—High Intensity Discharge Lighting Fixtures, IBR approved for § 129.410.

(9) UL 1573–1995—Stage and Studio Lighting Units, IBR approved for § 129.410.

(10) UL 1574–1995—Track Lighting Systems, IBR approved for § 129.410.

## PART 126—INSPECTION AND CERTIFICATION

■ 33. The authority citation for part 126 is revised to read as follows:

**Authority:** 33 U.S.C. 1321(j); 46 U.S.C. 3205, 3306, 3307; 46 U.S.C. Chapter 701; sec. 617, Pub. L. 111–281, 124 Stat. 2905; Executive Order 11735, 38 FR 21243, 3 CFR 1971–1975 Comp., p. 793; Department of Homeland Security Delegation No. 0170.1.

### § 126.170 [Amended]

■ 34. In § 126.170(a), after the words ''exceed 36'', add the words '', unless the vessel meets the applicability and construction requirements of subpart F of part 127 of this subchapter''.

## PART 127—CONSTRUCTION AND ARRANGEMENTS

■ 35. The authority citation for part 127 is revised to read as follows:

**Authority:** 46 U.S.C. 3306; sec. 617, Pub. L. 111–281, 124 Stat. 2905; Department of Homeland Security Delegation No. 0170.1.

■ 36. Add § 127.200 to subpart B to read as follows:

### § 127.200 Classification society standards.

Each OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) must, in addition to the requirements contained elsewhere in this subchapter, be classed by a classification society recognized under the provisions of part 8 of subchapter A (Procedures Applicable to the Public) of this chapter.

■ 37. Add § 127.225 to read as follows:

### § 127.225 Structural fire protection.

(a) Each OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) must comply with the provisions of Chapter II–2 of SOLAS, 1974, as amended (incorporated by reference, see § 125.180), for Method IC cargo ships.

(b) All structural fire-protection materials must be approved by the Coast Guard in accordance with the regulations of subpart 2.75 of this chapter.

(c) The exterior boundaries of superstructures, except wheelhouses, containing accommodation, service and control spaces, facing the cargo area must be constructed of steel and comply with §§ 32.56–20, 32.56–21, and 32.56–22 of this chapter.

(d) Cargo pump rooms must be separated from accommodation spaces, service spaces, and control stations by A–60 divisions.

(e) Cargo pump rooms must be separated from machinery spaces of category A by A–0 divisions.

■ 38. Amend § 127.230 by redesignating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

**§ 127.230 Subdivision and stability.**

* * * * *

(b) An OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) that is of at least 80 meters in length is not required to comply with part 174, subpart G of this chapter.

■ 39. Add subpart F, consisting of §§ 127.600 through 127.650, to read as follows:

## Subpart F—Construction and Arrangements for OSVs Carrying More Than 36 Offshore Workers.

Sec.
127.600 Applicability.
127.610 Damage stability requirements.
127.620 Marine engineering requirements.
127.630 Electrical installation requirements.
127.640 Fire-protection requirements.
127.650 Bulk liquid cargo limitations.

**§ 127.600 Applicability.**

This subpart applies to OSVs of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned).

**127.610 Damage stability requirements.**

(a) Each OSV that is authorized to carry more than 240 persons must comply with the following provisions of SOLAS, 1974, as amended, as though the OSV is a passenger ship and the offshore workers are considered as passengers: chapter II–1, parts B–1, B–2, and B–4, and regulation II–1/35–1 (incorporated by reference, see § 125.180).

(b) Each OSV that is authorized to carry less than 240 persons must comply with the provisions of chapter II–1 of SOLAS, 1974, as amended:

(1) Part B–1 and regulation II–1/35–1 of SOLAS, 1974, as amended, as though the OSV is a passenger ship and the offshore workers are considered as passengers, except that—

(i) The required subdivision index used must be the R value calculated according to regulation II–1/6.2.3 of SOLAS, 1974, as amended, multiplied by the factor F, where:

F = (N + 720)/960
N = total number of persons authorized; and

(ii) Compliance with regulations II–1/8 and II–1/8–1 of SOLAS, 1974, as amended, is not required.

(2) Parts B–2 and B–4 as though the OSV is a cargo ship and the offshore workers are considered as crew, except that regulations II–1/9, II–1/13, II–1/19, II–1/20, and II–1/21 of SOLAS, 1974, as amended, must be applied as though the OSV is a passenger ship.

**§ 127.620 Marine engineering requirements.**

Steering gear on OSVs authorized for carriage of more than 240 persons must comply with regulation II–1/29.6.1.1 of SOLAS, 1974, as amended (incorporated by reference, see § 125.180) in lieu of SOLAS regulation II–1/29.6.1.2.

**§ 127.630 Electrical installation requirements.**

Electrical installations must comply with regulation II—1/42 of SOLAS, 1974, as amended (incorporated by reference, see § 125.180) in lieu of regulation II–1/43.

**§ 127.640 Fire-protection requirements.**

(a) Except as provided in this section, each OSV must comply with the fire-protection provisions of chapter II–2 of SOLAS, 1974, as amended (incorporated by reference, see § 125.180) applicable to passenger vessels carrying more than 36 passengers.

(b) OSVs authorized for carriage of 240 or fewer persons may comply with the fire-protection provisions of chapter II–2 of SOLAS, 1974, as amended, applicable to passenger vessels carrying not more than 36 passengers but need not comply with regulations II–2/21 and II–2/22.

**§ 127.650 Bulk liquid cargo limitations.**

Notwithstanding § 125.110 of this subchapter, no OSV carrying more than 240 total persons may carry flammable or combustible liquid cargoes of Grade D or higher in bulk.

## PART 128—MARINE ENGINEERING: EQUIPMENT AND SYSTEMS

■ 40. The authority citation for part 128 is revised to read as follows:

**Authority:** 46 U.S.C. 3306; sec. 617, Pub. L. 111–281, 124 Stat. 2905; Department of Homeland Security Delegation No. 0170.1.

■ 41. Revise § 128.110 to read as follows:

**§ 128.110 Equipment and systems.**

(a) Except as provided by this part, the design, installation, testing, and inspection of materials, machinery, pressure vessels, and piping for OSVs of less than 6,000 GT ITC (500 GRT if GT ITC is not assigned) must comply with subchapter F of this chapter.

(b) Except as specifically provided by § 128.310, the design, plan approval, installation, testing, and inspection of materials, machinery, automation, pressure vessels, and piping for OSVs of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) must comply with subchapter F of this chapter.

(c) This part contains requirements for equipment and systems commonly found on an OSV. If additional or unique systems, such as for low-temperature cargoes, are to be installed, they must comply with subchapter F of this chapter.

■ 42. Revise § 128.310 to read as follows:

**§ 128.310 Fuel.**

(a) *OSVs of less than 6,000 GT ITC (500 GRT if GT ITC is not assigned).* (1) Except as provided in paragraph (a)(2) of this section, each internal-combustion engine installed on an OSV of less than 6,000 GT ITC (500 GRT if GT ITC is not assigned), whether for main propulsion or for auxiliaries, must be driven by a fuel having a flashpoint of not lower than 43° C (110° F) as determined by ASTM D 93 (incorporated by reference, see § 125.180).

(2) The use of a fuel with a flashpoint of lower than 43° C (110° F) must be specifically approved by the Commandant (CG–ENG), except in an engine for a gasoline-powered rescue boat.

(b) *OSVs of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned).* (1) Except as provided by paragraph (b)(2) of this section, each internal-combustion engine installed on an OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned), whether for main propulsion or for auxiliaries, must be driven by a fuel having a flashpoint not lower than 60° C (140° F) as determined by ASTM D 93 (incorporated by reference, see § 125.180).

(2) The use of a fuel with a flashpoint lower than 60° C (140° F) must be specifically approved by the Commandant (CG–ENG), except in an engine for a gasoline-powered rescue boat or emergency generator, or as provided in paragraph (b)(2) of this section.

## PART 129—ELECTRICAL INSTALLATIONS

■ 43. The authority citation for part 129 is revised to read as follows:

**Authority:** 46 U.S.C. 3306; sec. 617, Pub. L. 111–281, 124 Stat. 2905; Department of Homeland Security Delegation No. 0170.1.

■ 44. Revise § 129.110 to read as follows:

**§ 129.110 Applicability.**

(a) Electrical installations on OSVs of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) must comply with subchapter J of this chapter.

(b) Except as specifically provided in this subchapter, electrical installations on an OSV of less than 6,000 GT ITC (500 GRT if GT ITC is not assigned) must comply with subchapter J of this chapter.

■ 45. Amend § 129.315 by revising the section heading and paragraph (a) to read as follows:

**§ 129.315 Power sources for OSVs.**

(a) The requirements of this section apply to OSVs between 100 GRT and 500 GRT or less than 6,000 GT ITC instead of those in subpart 111.10 of this chapter.

* * * * *

■ 46. Add § 129.570 to read as follows:

**§ 129.570 Overfill protection.**

(a) This section applies to OSVs of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned).

(b) Each cargo oil tank with a capacity of 1,000 or more cubic meters (approximately 6,290 barrels) must have one overfill device that is permanently installed on each oil tank, with an intrinsically safe high-level alarm that meets the requirements of this section.

(c) The high-level alarm and tank overfill alarm required by paragraph (b) of this section must—

(1) Be independent of each other;

(2) Alarm in the event of loss of power to the alarm system or failure of electrical circuitry to the tank level sensor; and

(3) Be able to be checked at the tank for proper operation prior to each transfer or contain an electronic self-testing feature that monitors the condition of the alarm circuitry and sensor.

(d) The high-level alarm required by paragraph (b) of this section must—

(1) Alarm before the tank overfill alarm, but before the tank capacity goes below 95 percent;

(2) Be appropriately marked at the indicator panel; and

(3) Have audible and visible alarm indications that can be seen and heard on the vessel where oil transfer is controlled.

(e) The tank overfill alarm required by paragraph (b) of this section must—

(1) Be independent of the oil gauging system;

(2) Alarm early enough to allow the person in charge of transfer operations to stop the transfer operation before the oil tank overflows;

(3) Be appropriately marked at the indicator panel; and

(4) Have audible and visible alarm indications that can be seen and heard on the vessel where oil transfer is controlled and in the cargo deck area.

## PART 130—VESSEL CONTROL, AND MISCELLANEOUS EQUIPMENT AND SYSTEMS

■ 47. The authority citation for part 130 is revised to read as follows:

**Authority:** 46 U.S.C. 3306; Department of Homeland Security Delegation No. 0170.1. Sections 130.140 and 130.400 also issued under sec. 617, Pub. L. 111–281, 124 Stat. 2905.

**§ 130.140 [Amended]**

■ 48. In § 130.140(a) introductory text, remove the words ''Each OSV of 100 or more gross tons'' and add, in their place, the words ''Except as provided in § 128.110 of this subchapter, each OSV of 100 GRT or more''.

**§ 130.400 [Amended]**

■ 49. In § 130.400, remove the word ''This'' and add, in its place, the words ''Except as provided in § 128.110 of this subchapter, this''.

## PART 131—OPERATIONS

■ 50. The authority citation for part 131 is revised to read as follows:

**Authority:** 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101, 10104; E.O. 12234, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1. Section 131.990 also issued under sec. 617, Pub. L. 111–281, 124 Stat. 2905.

■ 51. Add § 131.990 to read as follows:

**§ 131.990 Maneuvering characteristics.**

This section applies to OSVs of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned).

(a) The following maneuvering information must be prominently displayed in the pilothouse on a fact sheet:

(1) For full and half speed, a turning circle diagram to port and starboard that shows the time and the distance of advance and transfer required to alter the course 90 degrees with maximum rudder angle and constant power settings.

(2) The time and distance to stop the vessel from full and half speed while maintaining approximately the initial heading with minimum application of rudder.

(3) For each vessel with a fixed propeller, a table of shaft revolutions per minute for a representative range of speeds.

(4) For each vessel with a controllable pitch propeller, a table of control settings or a representative range of speeds.

(5) For each vessel that is fitted with an auxiliary device to assist in maneuvering, such as a bow thruster, a table of vessel speeds at which the auxiliary device is effective in maneuvering the vessel.

(b) The maneuvering information must be provided in the normal load and normal light condition with normal trim for a particular condition of loading, assuming the following:

(1) Calm weather—wind 10 knots or less, calm sea.

(2) No current.

(3) Deep water conditions—water depth twice the vessel's draft or more.

(4) Clean hull.

(c) At the bottom of the fact sheet, the following statement must appear:

(1) Warning, the response of the [NAME OF THE VESSEL] may be different from those listed above if any of the following conditions, upon which the maneuvering information is based, are varied:

(i) Calm weather—wind 10 knots or less, calm sea.

(ii) No current.

(iii) Deep water conditions—water depth twice the vessel's draft or more.

(iv) Clean hull.

(v) Intermediate drafts or unusual trim.

(d) The information on the fact sheet must be—

(1) Verified 6 months after the vessel is placed into service; or

(2) Modified 6 months after the vessel is placed into service and verified within 3 months thereafter.

(e) The information that appears on the fact sheet may be obtained from—

(1) Trial trip observations;

(2) Model tests;

(3) Analytical calculations;

(4) Simulations;

(5) Information established from another vessel of similar hull form, power, rudder and propeller; or

(6) Any combination of the above.

(f) The accuracy of the information on the fact sheet must be at a level comparable with that attainable by ordinary shipboard navigation equipment.

(g) The requirements for information for fact sheets for specialized craft, such as semi-submersibles and other vessels of unusual design, will be specified on a case-by-case basis.

## PART 132—FIRE–PROTECTION EQUIPMENT

■ 52. The authority citation for part 132 is revised to read as follows:

**Authority:** 46 U.S.C. 3306, 3307; sec. 617, Pub. L. 111–281, 124 Stat. 2905; Department of Homeland Security Delegation No. 0170.1.

■ 53. Amend § 132.100 by redesignating paragraph (d) as paragraph (e) and adding paragraph (d) to read as follows:

**§ 132.100 General.**

* * * * *

(d) Each OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) must, in addition to complying with the requirements necessary to satisfy § 125.105(a) and (b) of this subchapter—

(1) Have two fire pumps, each capable of delivering water simultaneously from the two highest outlets at a pitot tube pressure of approximately 75 p.s.i.; and

(2) Have fire hoses and nozzles that comply with § 34.10–10 of this chapter.

■ 54. Add § 132.200 to subpart B to read as follows:

**§ 132.200 General.**

(a) Except as provided by paragraph (b) of this section, each OSV must be equipped with portable and semiportable fire extinguishers that comply with this subpart.

(b) Each OSV of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) must, in addition to complying with the requirements necessary to satisfy § 125.105(a) and (b) of this subchapter, be equipped with the number and type of portable and semiportable fire extinguishers listed in § 34.50 of this chapter.

■ 55. Add § 132.365 to read as follows:

**§ 132.365 Emergency outfits.**

(a) Two emergency outfits, stored for use in widely separated, accessible locations, are required on all OSVs of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) that have cargo tanks that exceed 15 feet in depth, measured from the tank top to the lowest point at which cargo is carried.

(b) Each emergency outfit must have on board the following equipment:

(1) One pressure-demand, open-circuit, self-contained breathing apparatus, approved by the Mine Safety and Health Administration and by the National Institute for Occupational Safety and Health and having at a minimum a 30-minute air supply, a full facepiece, and a spare charge.

(2) One lifeline with a belt or a suitable harness.

(3) One Type II or Type III flashlight constructed and marked in accordance with ASTM F1014—02 (incorporated by reference, see § 125.180).

(4) One fire axe.

(5) One pair of boots and gloves of rubber or other electrically nonconducting material.

(6) One rigid helmet that provides effective protection against impact.

(7) One set of protective clothing of material that will protect the skin from the heat of fire and burns from scalding steam. The outer surface must be water resistant.

(c) Lifelines must be of steel or bronze wire rope. Steel wire rope must be either inherently corrosion resistant or made so by galvanizing or tinning. Each end must be fitted with a hook with keeper having a throat opening that can be readily slipped over a ⅝-inch bolt. The total length of the lifeline must be dependent upon the size and arrangement of the vessel, and more than one line may be hooked together to achieve the necessary length. No individual lifeline may be less than 50 feet in length. The assembled lifeline must have a minimum breaking strength of 1,500 pounds.

■ 56. Add § 132.390 to read as follows:

**§ 132.390 Added requirements for carriage of flammable or combustible cargo.**

(a) This section applies to OSVs of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned).

(b) Cargo tanks containing flammable or combustible liquids must not be located beneath the accommodations or machinery space. Separation by cofferdams is not acceptable for meeting this requirement.

(c) Except for OSVs complying with paragraph (d)(1) of this section, each OSV must carry at least two approved semiportable dry chemical fire extinguishers for the protection of all weather deck areas within 10 feet (3 m) of any tank openings, pumps, flanges, valves, vents, or loading manifolds. Each extinguisher must have—

(1) A minimum capacity of 135 kg. If the protected area exceeds 90 $m^2$, additional extinguishers must be provided to supply a total combined capacity of dry chemical in kilograms equal to the total combined protected area in square meters multiplied by 3;

(2) A minimum flow rate of 3 kg/min from each discharge hose;

(3) A sufficient number of discharge hoses of adequate length to protect the areas required above without moving any of the extinguishers; and

(4) The frame or support for each semi-portable dry chemical fire extinguisher welded or otherwise permanently attached to the vessel's structure.

(d) Each OSV with fixed cargo tanks that have an aggregate capacity of 3,000 cubic meters or more intended for the carriage of flammable or combustible liquids with a closed-cup flashpoint of 60° C or below must have:

(1) An approved fixed-deck foam system arranged as follows:

(i) If the flammable or combustible liquid tanks extend vertically to the weather deck, the foam system must comply with §§ 34.20–10 and 34.20–15 of this chapter, and protect the entire weather deck cargo area, including any tank openings, pumps, flanges, valves, vents, or loading manifolds. If petroleum products are carried, the minimum foam system discharge rate in liters per minute must be determined by multiplying the total cargo deck area by 6 lpm/$m^2$. If polar solvent cargoes are carried, the minimum foam system discharge rate in liters per minute must be determined by multiplying the total cargo deck area by 10 lpm/$m^2$, unless the approved foam system design manual specifies a different rate for the cargoes carried.

(ii) If the flammable or combustible liquid tanks do not extend vertically to the weather deck, the foam system must be capable of protecting all weather deck areas within 10 feet (3 m) of any tank openings, pumps, flanges, valves, vents, or loading manifolds. The foam system must consist of at least one hoseline, and either fixed-foam monitors or fixed-foam nozzles that provide foam coverage of all required areas. The minimum foam system discharge rate must be calculated in accordance with paragraph (d)(1)(i) of this section, using the combined horizontal area of all parts of the deck requiring protection, instead of the total deck area.

(iii) All foam liquid concentrate must be compatible with all flammable or combustible liquids carried.

(iv) Sufficient foam liquid concentrate must be carried to allow operation of the system at its maximum discharge rate for at least 20 minutes.

(2) A fixed-gas fire-suppression system complying with § 34.05–5(a)(4) of this chapter, or other approved fire-extinguishing system determined acceptable by the Commandant, for the protection of any accessible below-deck cargo pump rooms or other spaces that have tank openings, pumps, flanges, valves, or loading manifolds associated with tanks carrying flammable or combustible liquids with a closed cup flashpoint of 60° C or below.

## PART 134—ADDED PROVISIONS FOR LIFTBOATS

■ 57. The authority citation for part 134 is revised to read as follows:

**Authority:** 46 U.S.C. 3306, 3307; Department of Homeland Security Delegation No. 0170.1. Section 134.100 also issued under sec. 617, Pub. L. 111–281, 124 Stat. 2905.

■ 58. Revise § 134.100 to read as follows:

**§ 134.100 Applicability.**

(a) This part, as well as parts 125 through 133 of this subchapter, applies

to each liftboat of United States flag to which this subchapter applies.

(b) The design, construction and operating standards for liftboats of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) must be specially approved by Commandant (CG–5PS).

## PART 174—SPECIAL RULES PERTAINING TO SPECIFIC VESSEL TYPES

■ 59. The authority citation for part 174 is revised to read as follows:

**Authority:** 42 U.S.C. 9118, 9119, 9153; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1. Section 174.180 also issued under sec. 617, Pub. L. 111–281, 124 Stat. 2905.

■ 60. Revise § 174.180 to read as follows:

### § 174.180 Applicability.

This subpart applies to OSVs except liftboats inspected under subchapter L of this chapter and OSVs of at least 6,000 GT ITC (500 GRT if GT ITC is not assigned) as defined in § 125.160 of this chapter.

Dated: July 28, 2014.

**Paul F. Zukunft,**

*Admiral, U.S. Coast Guard, Commandant.*

[FR Doc. 2014–18721 Filed 8–15–14; 8:45 am]

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