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Contents

Federal Register

Vol. 79, No. 195

Wednesday, October 8, 2014

Agricultural Marketing Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Dairy Product Mandatory Reporting Program, 60804–60805

Agriculture Department
See Agricultural Marketing Service
See Farm Service Agency

Bureau of Consumer Financial Protection
PROPOSED RULES
Defining Larger Participants of the Automobile Financing Market and Certain Automobile Leasing Activity as a Financial Product or Service, 60762–60783
NOTICES
Proposed Language Access Plan, 60840–60842

Coast Guard
RULES
Regulated Navigation Areas:
South Bristol Gut Bridge Replacement, South Bristol, ME, 60745–60748
NOTICES
Requests for Nominations:
Merchant Marine Personnel Advisory Committee, 60860–60861

Commerce Department
See Foreign-Trade Zones Board
See Industry and Security Bureau
See National Oceanic and Atmospheric Administration

Defense Acquisition Regulations System
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 60842–60843

Defense Department
See Defense Acquisition Regulations System
See Navy Department
PROPOSED RULES
Background Checks on Individuals in DoD Child Care Services Programs, 60794–60795

Drug Enforcement Administration
NOTICES
Importers of Controlled Substances; Applications:
Fisher Clinical Services, Inc., 60864
Importers of Controlled Substances; Registrations:
Alkermes Gainesville, LLC, 60864–60865
Manufacturers of Controlled Substances; Applications:
Austin Pharma, LLC, 60865
Manufacturers of Controlled Substances; Registrations:
Siemens Healthcare Diagnostics, Inc., 60865

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Evaluation of Preschool Special Education Practices Phase I, 60844–60845
Meetings:
National Board for Education Sciences, 60845

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Senior Executive Service; Performance Review Board:
Designation of Performance Review Board Chair, 60846
Designation of Performance Review Board Standing Register, 60845

Environmental Protection Agency
RULES
Exemption from the Requirement of a Tolerance:
Pseudomonas fluorescens strain D7, 60748–60750
National Emission Standards:
Hazardous Air Pollutants; Generic Maximum Achievable Control Technology Standards; Manufacture of Amino/Phenolic Resins, 60898–60935
Significant New Use Rule on Certain Chemical Substances; Correction, 60759–60761
State Hazardous Waste Management Programs:
Florida—Final Authorization to Revisions, 60756–60759
Waste Isolation Pilot Plant:
Disposal Regulations—Compliance Certification and Recertification; Panel Closure Redesign, 60750–60756
PROPOSED RULES
State Hazardous Waste Management Programs:
Florida—Final Authorization to Revisions, 60795–60796
NOTICES
Meetings:
National Advisory Council for Environmental Policy and Technology; Teleconference, 60848
National Drinking Water Advisory Council Lead and Copper Rule Working Group, 60848
Spatial Aquatic Model Development, 60848–60849

Executive Office of the President
See Presidential Documents

Farm Service Agency
RULES
Farm Loan Programs; Entity Eligibility, 60739–60745
NOTICES
Farm Loan Pilot Projects, 60805–60807

Federal Aviation Administration
PROPOSED RULES
Airworthiness Directives:
Various Sikorsky–Manufactured Transport and Restricted Category Helicopters, 60789–60793
Establishment of Class E Airspace:
Edgeley, ND, 60793–60794

Federal Communications Commission
PROPOSED RULES
Radio Broadcasting Services:
Silverton, TX, 60796

Federal Emergency Management Agency
NOTICES
Public Assistance Policy on Insurance, RP9530.1, 60861–60862

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 60846–60848

Federal Highway Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 60889

Federal Housing Finance Agency
PROPOSED RULES
Federal Home Loan Bank Capital Stock and Capital Plans, 60783–60789

Federal Housing Finance Board
PROPOSED RULES
Federal Home Loan Bank Capital Stock and Capital Plans, 60783–60789

Federal Maritime Commission
NOTICES
Agreements Filed, 60849–60850

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 60850

Federal Motor Carrier Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Annual Grant Program Effectiveness Survey, 60889–60891
Exemption Applications:
Choice Truckaway System, Inc; Parts and Accessories Necessary for Safe Operation, 60891–60892

Federal Reserve System
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 60850

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Additional Criteria and Procedures for Classifying Over-the-Counter Drugs as Generally Recognized as Safe and Effective and Not Misbranded, 60851
Citizen Petitions; Petition for Reconsideration or Stay of Action; Advisory Opinions, 60851
Determinations that Products were Not Withdrawn from Sale for Reasons of Safety or Effectiveness:
LUPRON DEPOT (Leuprolide Acetate for Depot Suspension), Injectable 3.75 Milligrams/Vial, 60852
Guidance:
Critical Path Innovation Meetings, 60852–60853
Effect of Uniform National Policy on Drug Product Tracing, Wholesale Drug Distributor and Third-Party Logistics Provider Standards: Q & A, 60853–60854
Over-the-Counter Pediatric Liquid Drug Products Containing Acetaminophen, 60854–60855
Meetings:
Drug Safety and Risk Management Advisory Committee, 60856
Science Board to the Food and Drug Administration Advisory Committee, 60856–60857
Prescription Drug User Fee Act Patient-Focused Drug Development, 60857–60859

Foreign Assets Control Office
NOTICES
Blocking or Unblocking of Persons and Property, 60892

Foreign-Trade Zones Board
NOTICES
Proposed Production Activities:
Brightstar Corporation, Foreign-Trade Zone 32—Miami, FL, 60807

Health and Human Services Department
See Food and Drug Administration
See National Institutes of Health
NOTICES
Meetings:
Putting the Person at the Center: Integrating Plans for Long-Term Services and Supports and Health Care Delivery Through Health Information Technology; Public Workshop, 60850–60851

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency

Indian Affairs Bureau
PROPOSED RULES
Rights-of-Way on Indian Land, 60794

Industry and Security Bureau
NOTICES
Denials of Export Privileges:
Ming Xie a/k/a Michael Xie, Horizon RX Systems, 60807–60809

Interior Department
See Indian Affairs Bureau
See Land Management Bureau
See National Park Service

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 60893–60896

Justice Department
See Drug Enforcement Administration

Labor Department
See Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Quarterly Census of Employment and Wages, 60866

Land Management Bureau
NOTICES
Realty Actions:
Modified Competitive Sale of Public Lands in Polk County, OR, 60862–60863

Mine Safety and Health Federal Review Commission
See Federal Mine Safety and Health Review Commission

National Archives and Records Administration
NOTICES
Meetings:
Freedom of Information Act Advisory Committee, 60867–60868
Records Schedules, 60868–60869

National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application Forms for Research Development and Training Grants, 60859–60860
Generic Submission for Theory Development and Validation, 60859

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
Skates Management in the Bering Sea and Aleutian Islands Management Area; Habitat Areas of Particular Concern, 60802–60803
International Fisheries:
Western and Central Pacific Fisheries for Highly Migratory Species; Restrictions on the Use of Fish Aggregating Devices in Purse Seine Fisheries for 2015, 60796–60802
NOTICES
Identifying Research Funding Priorities for Potential Competitive Financial Assistance:
Conservation and Recovery of Pinnipeds in Waters off Alaska, 60809–60810
Meetings:
Marine Fisheries Advisory Committee, 60810
New England Fishery Management Council, 60810
Permits:
Marine Mammals; File No. 14330, 60810–60811
Takes of Marine Mammals Incidental to Specified Activities:
Low-Energy Marine Geophysical Survey in the Scotia Sea and South Atlantic Ocean, September to October 2014, 60811–60831
Rocky Intertidal Monitoring Surveys along the Oregon and California Coasts, 60831–60839

National Park Service
NOTICES
Request for Nominations:
Acadia National Park Advisory Commission, 60863–60864

National Science Foundation
NOTICES
Meetings:
Advisory Committee for Geosciences, 60869
Astronomy and Astrophysics Advisory Committee, 60869

National Transportation Safety Board
NOTICES
Meetings:
Awake, Alert, Alive—Overcoming the Dangers of Drowsy Driving, 60870

Navy Department
NOTICES
Meetings:
U.S. Naval Academy Board of Visitors, 60843–60844

Nuclear Regulatory Commission
NOTICES
Meetings:
Advisory Committee on Reactor Safeguards on Metallurgy and Reactor Fuels, 60870–60871
Subcommittee on Reliability and PRA, Advisory Committee on Reactor Safeguards, 60870
Meetings; Sunshine Act, 60871

Occupational Safety and Health Administration
NOTICES
Online Outreach Training Programs FY 2014:
Competition and Request for Proposals for Providers, 60866–60867

Postal Regulatory Commission
NOTICES
New Postal Products, 60871–60872

Presidential Documents
PROCLAMATIONS
Special Observances:
Child Health Day (Proc. 9186), 60941–60942
Fire Prevention Week (Proc. 9185), 60937–60940
German-American Day (Proc. 9187), 60943–60944
Trade:
Trade Act of 1974; List of Beneficiary Developing Countries, Modification (Proc. 9188), 60945–60947
EXECUTIVE ORDERS
Alcohol, Tobacco, Firearms, and Explosives, Bureau of; Conversion Authority Provision for Criminal Investigators (EO 13678), 60949–60950

Securities and Exchange Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 60872–60873
Self-Regulatory Organizations; Proposed Rule Changes:
Chicago Mercantile Exchange Inc., 60873–60874, 60879–60881
Financial Industry Regulatory Authority, Inc., 60874–60876
NASDAQ OMX PHLX LLC, 60876–60879
NASDAQ OMX PHLX, LLC, 60883–60887
NYSE Arca, Inc., 60882–60883

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Motor Carrier Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Recognizing Aviation and Aerospace Innovation in Science and Engineering, 60887–60889

Treasury Department
See Foreign Assets Control Office
See Internal Revenue Service

Veterans Affairs Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
VA Meds by Mail Order Form, 60896

Separate Parts In This Issue

Part II
Environmental Protection Agency, 60898–60935

Part III
Presidential Documents, 60937–60947, 60949–60950

Reader Aids

Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

9185.....60939
9186.....60941
9187.....60943
9188.....60945

Executive Orders:

13678.....60949

7 CFR

761.....60739
762.....60739
763.....60739
764.....60739
765.....60739

12 CFR

Proposed Rules:

931.....60783
933.....60783
1001.....60762
1090.....60762
1277.....60783

14 CFR

Proposed Rules:

39.....60789
71.....60793

25 CFR

Proposed Rules:

169.....60794

32 CFR

Proposed Rules:

86.....60794

33 CFR

165.....60745

40 CFR

63.....60898
180.....60748
194.....60750
271.....60756
721.....60759

Proposed Rules:

271.....60795

47 CFR

Proposed Rules:

73.....60796

50 CFR

Proposed Rules:

300.....60796
679.....60802

Rules and Regulations

Federal Register
Vol. 79, No. 195
Wednesday, October 8, 2014

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

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DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Parts 761, 762, 763, 764, and 765

RIN 0560–AI25

Farm Loan Programs; Entity Eligibility

AGENCY: Farm Service Agency, USDA.

ACTION: Interim final rule.

SUMMARY: The Farm Service Agency (FSA) is amending the Farm Loan Programs (FLP) regulations for loan making and servicing on eligibility conditions for certain legal entities, allowing additional flexibility for loan applicants to meet the required farming experience, and increasing the maximum total indebtedness on Microloans (ML) to $50,000. The changes implement provisions of the Agricultural Act of 2014 (2014 Farm Bill). The changes will help increase the number of entities eligible to participate in certain FLP loans and adjust to better reflect the changes in the way farms are owned and operated by legal entities. The changes will allow FSA to extend credit and servicing to family farm operations that may have been ineligible under existing regulations.

DATES: *Effective date:* November 7, 2014.

Comment date: We will consider comments that we receive by: December 8, 2014.

ADDRESSES: We invite you to submit comments on this rule. In your comment, please specify RIN 0560–AI25 and include the volume, date, and page number of this issue of the **Federal Register**. You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Director, Loan Making Division, the Farm Loan Program (FLP), FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 0522, Washington, DC 20250–0522.

Comments will be available for viewing online at *http://www.regulations.gov.* In addition, comments will be available for public inspection at the above address during business hours from 8 a.m. to 5 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Steven K. Ford; telephone: (202) 304–7932. Persons with disabilities or who require alternative means for communications (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

FSA makes and services a variety of direct and guaranteed loans to farmers who are temporarily unable to obtain private commercial credit. FSA also provides direct loan customers with credit counseling and supervision to enhance their opportunity for success. FSA loan applicants are often beginning farmers and socially disadvantaged farmers who do not qualify for conventional loans because of insufficient net worth or established farmers who have suffered financial setbacks due to natural disasters or economic downturns. FSA loans are tailored to a customer's needs and may be used to buy farmland and to finance agricultural production.

As discussed below, this rule amends the FLP regulations for loan making and servicing on eligibility conditions for certain legal entities, allowing additional flexibility for loan applicants to meet the required farming experience, and increasing the maximum total indebtedness on ML to $50,000.

FSA is implementing the amendments included in this rule in keeping with the related provisions in the 2014 Farm Bill (Pub. L. 113–79).

Eligible Entities

Sections 5001, 5002, 5101, and 5201 of the 2014 Farm Bill amend eligibility criteria in the Consolidated Farm and Rural Development Act (CONACT, 7 U.S.C. 1981–2008r) for various FSA loans allowing FSA to include other legal entities the Secretary considers appropriate. (See CONACT sections 302(a) (7 U.S.C. 1922(a)), 304(c) (7 U.S.C. 1924(c)), 311(a) (7 U.S.C. 1941(a), and 321(a) (7 U.S.C. 1961(a).) Prior to the 2014 Farm Bill, FSA could only lend to those legal entity types specifically mentioned in the CONACT. In many situations, FSA had to require a family farm to modify its operating structure in order to qualify for an FLP loan. Otherwise, FSA determined that the loan applicant was ineligible for the FLP loans.

FSA supports farmers structuring their operations to take advantage of financial planning techniques that entity arrangements have to offer. Therefore, to implement the 2014 Farm Bill amendments to the CONACT mentioned above, FSA is amending the definition of an entity in 7 CFR 761.2 to include a type of organization, as determined by the Secretary, authorized to conduct business in the state in which it operates. There are two types of organizations that continue to be ineligible—estates and nonprofit organizations.

FSA will not include estates as an eligible entity since they are designed to be temporary in nature, and not an ongoing business entity. Nonprofit organizations also will not be considered an eligible entity since they are inconsistent with FSA's mission to establish and improve family farm operations and assist them in becoming profitable and self-sufficient so they may qualify for commercial credit.

All other existing rules regarding operating a family farm, availability of other credit, and individual liability for debt will continue to apply.

Definition of ''Farm'' and ''Family Farm''

For clarity, FSA is amending the definition of ''family farm'' in 7 CFR 761.2 to specify that ''family farm'' refers to the farm business operation, not real estate. This clarification reflects FSA's long-standing interpretation and application of the term ''family farm'' as the business operation and ''farm'' as the farm real estate. Minor amendments are included in §§ 762.120, 763.5, and 764.152 to clarify that the term ''family farm'' refers to the business operation and the word ''farm'' refers to real estate.

Eligibility of Certain Operating-Only Entities

Section 5001(a) of the 2014 Farm Bill amends section 302(a)(2) of the

CONACT (7 U.S.C. 1922(a)(2)) to allow an operating entity to meet the owner-operator requirements and thereby qualify for a direct or guaranteed Farm Ownership (FO) loan, provided the individuals that are the owners of the farm (real estate) own at least 50 percent of the family farm (operating entity). The 2014 Farm Bill specifies ''more than 50 percent'' and also permits the Secretary to determine another appropriate percentage of ownership. Frequently, two-person entities are established using equal (50/50) ownership shares. Therefore, FSA determined that the appropriate percentage of ownership is ''at least 50 percent.''

To qualify for an FO loan, a loan applicant must be or become an owner and operator of a family farm. Prior to this rule, borrowers were required to own the farm real estate in the same legal manner as they operated the farm. This practice has become less common. Many family farm operations may own the farm real estate under a separate legal entity, which facilitates estate planning and the transfer of farm assets between generations. In many situations, the individuals that own the farm real estate and those operating the family farm business are identical even though multiple entities are involved. FSA is amending 7 CFR 762.120 and 764.152 to allow an applicant that is an entity and that does not own a farm (real estate) to qualify for an FO loan if the individuals who own the farm own at least 50 percent of the family farm (operating entity).

Similarly, 7 CFR 763.5 is being amended for the Land Contract Guarantee Program to reflect the eligibility of certain operating-only entities meeting the at least 50 percent ownership requirement.

These changes allow existing operations to maintain their operating structure, and allow new FLP borrowers to structure their operations in a manner that works best for them. These amendments will allow FSA to extend credit to family farm operations that may have been ineligible under existing regulations.

This rule also includes minor amendments to existing language in 7 CFR 762.120 and 7 CFR 762.152 addressing the treatment of entity applicants who are related or not related by blood or marriage. The authority for this change is in section 302(a)(1) of the CONACT (7 U.S.C. 1922). This change was needed to make the Direct Loan and Guaranteed Loan program regulations consistent.

In 7 CFR 761.2, FSA is clarifying the definition of ''operator'' to specify that operating-only entities may be considered owner-operators when the individuals that own the farm real estate own at least 50 percent of the family farm (operating entity).

Eligibility of Certain Embedded Entities

Sections 5001, 5101, and 5201 of the 2014 Farm Bill amend FLP eligibility criteria to allow an applicant that is owned by another entity or entities (''embedded entities''), to qualify for direct or guaranteed FO, direct or guaranteed Operating Loans (OL), or Emergency Loans (EM) provided that the individuals that own the family farm own at least 75 percent of each embedded entity.

Previously, FSA required all entity applicants to be owned by individuals and not other entities. This requirement was established to help direct FLP loan funds to family farms as intended and avoid larger, more complex operations. However, over time this rule has become a barrier for many family farm operations. It has become an increasingly common business practice to separate certain segments of family farm operations for liability and financial planning reasons. Many operations are structured this way to facilitate the entry and exit of family members as operations grow and age.

Therefore, this rule adds a definition of ''embedded entity'' and ''entity member'' to 7 CFR 761.2, which will apply to all FLP loans. These changes will allow entity applicants to be eligible even if members of the entity applicant are entities themselves. ''Entity member'' will mean all individuals and all embedded entities, as well the individual members of the embedded entities, having an ownership interest in the assets of the entity.

In addition, FSA is modifying 7 CFR 762.120, 763.5, and 764.101 to allow multiple levels of entity ownership, provided at least 75 percent of each embedded entity is owned by individuals actively managing or operating the family farm. Adding the limitation that the individuals making up the at least 75 percent ownership must be actively managing or operating the family farm is an essential requirement, and is consistent with FSA's mission to assist family farm operations. The requirement for at least 75 percent of the owners to be active operators or managers separates out those who are simply investors when applying the 75 percent test.

Furthermore, existing rules governing the family farm and test for credit will remain in place to further ensure FLP funds are targeted to family farms otherwise unable to obtain credit. This approach meets FSA's mission to provide credit to family farm operators rather than larger farming operations with many investors.

FSA is modifying 7 CFR 762.130 and 764.402 to require debt instruments for Direct and Guaranteed loans be executed to show evidence for liability of any embedded entity, as well as the applicant and all individuals in all entities. The change is needed to protect the government's interest and ensure collectability of the debt.

FSA is modifying 7 CFR 763.7 and 764.51 to change the requirements from requiring ''current personal financial statements from each member of the entity'' to remove the word ''personal'' and to require ''current financial statements from each member of the entity.'' These changes are being made as a conforming change resulting from the allowance of embedded entities.

Finally, FSA is making conforming changes in 7 CFR part 765 to address the transfer or assumption to other entities. In § 765.401, the requirement to assume personal liability for the loan was required for the entity and each member—it is being changed to the entity and each entity member. In § 765.402, several conforming changes are being made to reflect entity members instead of just members (which previously was assumed to be individual members), and to expand the types of entities to include other legal business organizations as determined by the Secretary.

Direct Farm Ownership Experience Requirement

Section 5001(b) of the 2014 Farm Bill amends provisions for direct FO loans, allowing the Secretary additional flexibility to establish requirements for a loan applicant to meet the test that they have participated in the operation of a farm for at least 3 years.

Previously, an applicant for a direct FO had to have participated in the operations of a farm for at least 3 years. The rule was established to encourage a responsible path toward starting and growing a farming operation. However, this 3-year requirement has proven to be overly restrictive and incompatible with the current mode of entry for many beginning farmers. Section 5001(b) of the 2014 Farm Bill allows applicants to demonstrate previous experience by having participated in the business operations of a farm or ranch for not less than 3 years or having other acceptable experience for a period of time as determined by the Secretary.

Many of today's beginning farmers do not have farm backgrounds, but come to the industry through a variety of

avenues such as post-secondary education, farm apprenticeship, veteran training, and extension programs. The 3-year requirement provides a reasonable foundation for successful farm ownership, but ignores certain training and experiences that can be just as valuable, and in some cases more valuable than limited farm business operations experiences. A formal farming apprenticeship, operation or management of a non-farm business, leadership or management experience while serving in any branch of the military, advanced education in an agricultural field, and significant experience in a farm-related agricultural career are examples of experiences that can provide some of the knowledge, skills, and abilities essential for successful farm ownership. FSA concluded that while some actual farm operational experience remains essential, it is reasonable to consider other work, business, or education as contributing toward a portion of the 3 year requirement. Therefore, FSA is modifying both the definition of ''participated in the business operations of a farm'' in 7 CFR 761.2 and the requirement in 7 CFR 764.152 to acknowledge the value of these other experiences.

ML Changes

FSA revised the direct OL regulations to implement the ML Program to better serve the unique operating needs of small family farm operations through a rule published in the **Federal Register** on January 17, 2013 (78 FR 3828–3836). The purpose of the ML Program is to make the OL program more widely available and useful to small operators through reduced application requirements, faster application processing, and added flexibility in meeting the managerial ability eligibility requirement. The ML Program was implemented with the requirement that both the loan amount and the applicant's total FSA OL indebtedness, at the time of loan closing, would not exceed $35,000. Section 5106 of the 2014 Farm Bill allows the Secretary to set the maximum for the total principal indebtedness outstanding at any one time for ML made to any one borrower at $50,000. The regular OL application process will be used for OL requests and applicant indebtedness that exceed the maximum amount.

During the rulemaking process that implemented the ML Program, there were suggestions to set the ML maximum at a higher level or lower level than the proposed $35,000. FSA agreed to review the success of the ML Program and reevaluate the loan amounts periodically. The average ML obligated during the first year of implementation is $19,800. ML made at the $35,000 maximum amount account for nearly 25 percent of all direct OLs currently made since the ML Program began. Therefore, this rule is amending the maximum amount for MLs to $50,000.

Notice and Comment

In general, the Administrative Procedure Act (APA, 5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the **Federal Register** and interested persons be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation, except when the rule involves a matter relating to public property, loans, grants, benefits, or contracts (5 U.S.C. 553(a)(2)). Although FSA could use the APA exemption and publish this rule as a final rule without the opportunity for public comment, FSA is implementing the regulatory changes through an interim rule to provide an opportunity for public comment while also implementing the rule without unnecessary delay to benefit FSA customers with the additional flexibility provided by the changes.

Executive Order 12866 and 13563

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

The Office of Management and Budget (OMB) designated this rule as significant under Executive Order 12866, ''Regulatory Planning and Review,'' and, therefore, OMB has reviewed this rule. The estimated costs and benefits of this rule are summarized below. The full cost benefit analysis is available on regulations.gov.

Clarity of the Regulation

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this rule, we invite your comments on how to make the rule easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

Cost Benefit Analysis Summary

Legal entities (partnerships, LLCs, etc.) comprised 13.3 percent of all farms (2012 Census of Agriculture). While the number of entities has remained relatively stable over the past 20 years, the complexity of their business structures has increased. One example is farm land ownership. Given high land prices and huge capital requirements, many farm operations lack the financial resources to purchase full ownership of farmland tracts that they operate and consequently, some have turned to alternative business structures where farmland is owned by an entity. Prior to the implementation of this rule, family farms using such strategies to acquire farmland may have found themselves ineligible for FSA credit programs. This is because the regulations prior to this rule change required the farm real estate to be owned by the same legal structure as the farm operation. This rule change will permit a family farm entity to receive an FO loan as long as the family farm entity resulting after the loan is closed is at least 50-percent owned by the owners of the farm real estate, provided all other loan eligibility requirements are satisfied.

Embedded entities—where the members of an entity are entities themselves—provide another example of increasingly complex business structures. Though not widespread, a noteworthy number of family farm operations organized as legal entities are owned partly or wholly by one or more embedded entities. The FSA Direct Attribution Reporting data base indicates that, in 2013, about 11 percent of all entities receiving payments had an embedded entity. Such entities would have been ineligible for FSA farm loans because regulations stipulated that an entity owned by one or more other entities was ineligible for an FSA farm loan. The changes implemented in this

rule would allow such entities to be eligible for FSA loans as long as each embedded entity is at least 75-percent owned by embedded entity members actively involved in managing or operating the family farm, and provided that all other eligibility requirements are satisfied.

Many new family farm entrants are neither raised on a farm nor have specific experience operating a farm business, but may have the experience or the knowledge necessary to manage a farm business. Prior to implementation of this rule, an FO applicant was required to have participated in the management of a farm business for at least 3 years. Changes implemented by this rule allow other non-traditional avenues, such as post-secondary education, farm apprenticeship, leadership or management experience while serving in any branch of the military, or extension programs to count toward the 3 year experience requirement.

In 2012, FSA implemented the microloan program to provide greater flexibility in serving the needs of small and beginning farm businesses. This rule increases the maximum microloan size (and maximum direct operating loan indebtedness for borrowers receiving such loans) from $35,000 to $50,000.

Combined, the three provisions in this rule are expected to enable FSA to benefit 2,210 farm businesses through direct and guaranteed loan programs. Changes to entity eligibility requirements are expected to enable FSA to serve an additional 660 entities. Changes in the farm business experience eligibility requirement are expected to impact 650 beginning farmers who will be able to benefit from FSA credit programs earlier than under the prior regulations. In the context of the entire direct and guaranteed loan portfolio, the additional 1,310 farm businesses impacted by revised entity eligibility and farm business experience requirements should increase demand, though the overall impacts should be marginal. And finally, changes to the ML program will only affect new or existing borrowers with total direct operating loan indebtedness between $35,000 and $50,000, and are estimated at 900 borrowers of which 100 are forecast to be new borrowers.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by APA or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because as noted above, this rulemaking is exempt from the notice and comment rulemaking requirements of APA and no other law requires that a proposed rule be published for this rulemaking initiative.

Environmental Review

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA (7 CFR part 1940, subpart G). All changes included in the rule are required by the 2014 Farm Bill, with some minor discretionary decisions on the implementation methods. FSA concluded that this rule will not have a significant impact on the quality of the human environment either individually or cumulatively and, therefore, is categorically excluded and not subject to environmental assessments or environmental impact statements in accordance with 7 CFR 1940.310(e)(3).

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affected by proposed federal financial assistance. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal Financial assistance and direct Federal development. For reasons set forth in the final rule related notice regarding 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities within this rule are excluded from the scope of Executive Order 12372.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the application of the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 are to be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects 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.

FSA has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under Executive Order 13175. If a Tribe requests consultation, FSA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by the 2014 Farm Bill.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments, or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rule with Federal mandates that may result in expenditures of $100 million or more in any year for State, local, or Tribal governments, in the aggregate, or

to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates as defined in Title II of UMRA for State, local, and Tribal governments, or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

SBREFA

This rule is not a major rule under SBREFA (Pub. L. 104–121). Therefore, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Accordingly, this rule is effective on the date of publication in the **Federal Register**.

Federal Assistance Programs

The title and number of the Federal Assistance Programs, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are:

10.099 Conservation Loans;
10.404 Emergency Loans;
10.406 Farm Operating Loans; and
10.407 Farm Ownership Loans.

Paperwork Reduction Act

The regulatory changes in this rule do not require changes to the information collection requests currently approved by OMB control numbers of 0560–0155, 0560–0233, 0560–0236, 0560–0237, 0560–0238, and 0560–0230.

E-Government Act Compliance

FSA is committed to complying 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 other purposes.

List of Subjects

7 CFR Part 761

Accounting, Loan programs—agriculture, Rural areas.

7 CFR Part 762

Agriculture, Banks, Banking, Credit, Loan programs—agriculture.

7 CFR Part 763

Agriculture, Banks, Banking, Credit, Loan programs—agriculture.

7 CFR Part 764

Agriculture, Credit, Loan programs—agriculture.

7 CFR Part 765

Agriculture, Agricultural commodities, Credit, Livestock, Loan programs—agriculture.

For the reasons discussed above, FSA amends 7 CFR chapter VII as follows:

PART 761—FARM LOAN PROGRAM; GENERAL PROGRAM ADMINISTRATION

■ 1. The authority citation for part 761 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

Subpart A—General Provisions

■ 2. Amend § 761.2(b) as follows.
■ a. Add the definitions of ''Embedded entity'' and ''Entity member'' in alphabetical order;
■ b. Revise the definition of ''Entity'';
■ c. In the definition of ''Established farmer,'' revise the introductory text and paragraphs (4) and (5) and add paragraph (6);
■ d. In the definition of ''Family farm'' in the introductory text, remove the word ''farm'' and add with the word ''business operation'' in its place;
■ e. In the definition of ''Operator'' add a sentence at the end; and
■ f. In the definition of ''Participated in the business operations of a farm'' in paragraph (3), add the parenthetical phrase ''(which can include a farm-related apprenticeship, internship, or similar educational program with applied work experience)'' immediately following the words ''worked on a farm''.

The additions and revisions read as follows:

§ 761.2 Abbreviations and definitions.

* * * * *

(b) * * *

Embedded entity means an entity that has a direct or indirect interest, as a stockholder, member, beneficiary, or otherwise, in another entity.

* * * * *

Entity means a corporation, partnership, joint operation, cooperative, limited liability company, trust, or other legal business organization, as determined by the Agency, that is authorized to conduct business in the state in which the organization operates. Organizations operating as non-profit entities under Internal Revenue Code 501 (26 U.S.C. 501) and estates are not considered eligible entities for Farm Loan Programs purposes.

Entity member means all individuals and all embedded entities, as well as the individual members of the embedded entities, having an ownership interest in the assets of the entity.

* * * * *

Established farmer means a farmer who operates the farm (in the case of an entity, its members as a group) who meets all of the following conditions:

* * * * *

(4) In the case of an entity, is primarily engaged in farming and has over 50 percent of its gross income from all sources from its farming operation based on the operation's projected cash flow for the next crop year or the next 12-month period, as mutually determined;

(5) Is not an integrated livestock, poultry, or fish processor who operates primarily and directly as a commercial business through contracts or business arrangements with farmers, except a grower under contract with an integrator or processor may be considered an established farmer, provided the farming operation is not managed by an outside full-time manager or management service and Agency loans will be based on the applicant's share of the agricultural production as specified in the contract; and

(6) Does not employ a full time farm manager.

* * * * *

Operator. * * * Operating-only entities may be considered owner-operators when the individuals who own the farm real estate own at least 50 percent of the family farm operation.

* * * * *

PART 762—GUARANTEED FARM LOANS

■ 3. The authority citation for part 762 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

■ 4. Amend § 762.120 as follows:
■ a. Revise paragraphs (j)(1) and (j)(2)(i) through (iii);
■ b. Add paragraphs (j)(3) and (4); and
■ c. Revise paragraphs (k)(4) and (1)(3).

The additions and revisions read as follows.

§ 762.120 Applicant eligibility.

* * * * *

(j) * * *

(1) The individual must be the operator of not larger than a family farm and the owner of a farm after the loan is closed. Ownership of the family farm operation or the farm real estate may be held either directly in the individual's name or indirectly through interest in a legal entity.

(2) * * *

(i) An ownership entity must be authorized to own a farm in the state or states in which the farm is located. An operating entity must be authorized to operate a farm in the state or states in which the farm is located; and

(ii) If the entity members holding a majority interest are related by marriage

or blood, at least one member of the entity must operate the family farm and at least one member of the entity or the entity must own the farm; or

(iii) If the entity members holding a majority interest are not related by marriage or blood, the entity members holding a majority interest must operate the family farm and the entity members holding a majority interest or the entity must own the farm.

(3) If the entity is an operator-only entity, the individuals that own the farm (real estate) must own at least 50 percent of the family farm (operating entity).

(4) All ownership may be held either directly in the individual's name or indirectly through interest in a legal entity.

(k) * * *

(4) If the applicant has one or more embedded entities, at least 75 percent of the individual ownership interests of each embedded entity must be owned by members actively involved in managing or operating the family farm.

(l) * * *

(3) If the applicant has one or more embedded entities, at least 75 percent of the individual ownership interests of each embedded entity must be owned by members actively involved in managing or operating the family farm; and

* * * * *

■ 5. Revise § 762.130(e)(4) to read as follows:

§ 762.130 Loan approval and issuing the guarantee.

* * * * *

(e) * * *

(4) The note is executed by the individual liable for the loan. For entity applicants, the promissory note will be executed to evidence the liability of the entity, any embedded entities, and the individual liability of all entity members. Individual liability can be waived by the Agency for members holding less than 10 percent ownership in the entity if the collectability of the loan will not be impaired; and

* * * * *

PART 763—LAND CONTRACT GUARANTEE PROGRAM

■ 6. The authority citation for part 763 continues to read as follows:

Authority: 5 U.S.C. 501 and 7 U.S.C. 1989.

■ 7. Amend § 763.5(b) as follows:

■ a. Revise paragraphs (b)(2) introductory text and (b)(2)(ii) and (iii);

■ b. In paragraphs (b)(2)(iv)(A) and (b)(2)(v)(A), add the word ''family'' immediately before the word ''farm'';

■ c. Add paragraphs (b)(2)(vi) and (vii); and

■ d. Revise paragraph (b)(3).

The revisions and additions read as follows.

§ 763.5 Eligibility.

* * * * *

(b) * * *

(2) Is the owner and operator of a family farm after the Contract is completed. Ownership of the family farm operation or the farm real estate may be held either directly in the individual's name or indirectly through interest in a legal entity. In the case of an entity buyer:

* * * * *

(ii) If the applicant has one or more embedded entities, at least 75 percent of the individual ownership interests of each embedded entity must be owned by members actively involved in managing or operating the family farm.

(iii) An ownership entity must be authorized to own a farm in the state or states in which the farm is located. An operating entity must be authorized to operate a farm in the state or states in which the farm is located.

* * * * *

(vi) If the entity is an operator-only entity, the individuals that own the farm (real estate) must own at least 50 percent of the family farm (operating entity).

(vii) All ownership may be held either directly in the individual's name or indirectly through interest in a legal entity.

(3) Must have participated in the business operations of a farm or ranch for at least 3 years out of the last 10 years prior to the date the application is submitted. Of those 3 years, 1 year can be substituted with the following experience:

(i) Postsecondary education in agriculture business, horticulture, animal science, agronomy, or other agricultural related fields,

(ii) Significant business management experience, or

(iii) Leadership or management experience while serving in any branch of the military.

* * * * *

§ 763.7 [Amended]

■ 9. In § 763.7(b)(3)(ii), remove the word ''personal''.

PART 764—DIRECT LOAN MAKING

■ 10. The authority citation for part 764 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

§ 764.51 [Amended]

■ 11. Amend § 764.51 as follows:

■ a. In paragraph (b)(2)(ii) remove the word ''personal'';

■ b. In paragraph (c)(1)(ii), remove ''$35,000'' both times it appears and add ''$50,000'' in its place.

■ 12. Revise § 764.101(1) to read as follows:

§ 764.101 General eligibility requirements.

* * * * *

(1) *Entity composition.* If the applicant has one or more embedded entities, at least 75 percent of the individual ownnership interests of each embedded entity must be owned by members actively involved in managing or operating the family farm.

■ 13. Amend § 764.152 as follows:

■ a. Revise paragraphs (c) introductory text and (c)(2) and (3);

■ b. Add paragraph (c)(4); and

■ c. In paragraph (d), add a sentence at the end; and

■ d. Add paragraphs (d)(1) through (3).

The revisions and additions read as follows.

§ 764.152 Eligibility requirements

* * * * *

(c) Must be the owner-operator of the farm financed with Agency funds after the loan is closed. Ownership of the family farm operation and farm real estate may be held either directly in the individual's name or indirectly through interest in a legal entity. In the case of an entity:

* * * * *

(2) An ownership entity must be authorized to own a farm in the state or states in which the farm is located. An operating entity must be authorized to operate a farm in the state or states in which the farm is located.

(3) If the entity members holding majority interest are:

(i) Related by blood or marriage, at least one member of the entity must operate the family farm and at least one member of the entity or the entity must own the farm; or,

(ii) Not related by blood or marriage, the entity members holding a majority interest must operate the family farm and the entity members holding a majority interest or the entity must own the farm.

(4) If the entity is an operator only entity, the individuals that own the farm (real estate) must own at least 50 percent of the family farm (operating entity).

(d) * * * One of these three years can be substituted with the following experience:

(1) Postsecondary education in agriculture business, horticulture,

animal science, agronomy, or other agricultural related fields,

(2) Significant business management experience, or

(3) Leadership or management experience while serving in any branch of the military.

* * * * *

■ 14. Revise § 764.402(a)(2) to read as follows:

§ 764.402 Loan closing.

* * * * *

(a) * * *

(2) For entity applicants, the promissory note will be executed to evidence the liability of the entity, any embedded entities, and the individual liability of all entity members.

* * * * *

PART 765—DIRECT LOAN SERVICING—REGULAR

■ 15. The authority citation for part 765 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

Subpart I—Transfer of Security and Assumption of Debt

§ 765.401 [Amended]

■ 16. Amend § 765.401(a)(2), second sentence, by adding the word ''entity'' immediately before the word ''member''.

■ 17. Amend § 765.402(e) as follows:

■ a. In paragraph (e)(1) remove the words ''that is'' and add the words ''in which the entity members are'' in their place;

■ b. In paragraph (e)(2) remove the words ''original members'' and add the words ''original entity members'' in their place;

■ c. Revise paragraphs (e)(3) introductory text and (e)(3)(i);

■ d. In paragraph (e)(3)(ii), second sentence, add the word ''entity'' immediately before the word ''members''.

The revisions read as follows.

§ 765.402 Transfer of security and loan assumption on same rates and terms.

* * * * *

(e) * * *

(3) A corporation, limited liability company, cooperative, or other legal business organization, the transferee must:

(i) Have been a corporate stockholder, cooperative member or other member of a legal business organization, when the Agency made the original loan or will be an entity comprised solely of entity members who were entity members when the entity received the loan; and

* * * * *

Signed on September 30, 2014.

Val Dolcini,

Administrator, Farm Service Agency.

[FR Doc. 2014–24046 Filed 10–7–14; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0214]

RIN 1625–AA11

Regulated Navigation Area; South Bristol Gut Bridge Replacement, South Bristol, ME

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a regulated navigation area (RNA) on the navigable waters of The Gut in South Bristol, ME in support of bridge construction. This regulated navigation area allows the Coast Guard to enforce speed and wake restrictions and prohibit all vessel traffic through the regulated navigation area during bridge replacement operations, both planned and unforeseen, which could pose an imminent hazard to persons and vessels operating in the area. This rule is necessary to provide for the safety of life on the navigable waters during bridge structural repair operations.

DATES: This rule is effective without actual notice from October 8, 2014 until April 30, 2017. For the purposes of enforcement, actual notice will be used from the date the rule was signed, September 19, 2014, until October 8, 2014.

ADDRESSES: Documents mentioned in this preamble as being available in the docket, are part of docket [USCG–2014–0214]. To view documents mentioned in this preamble, 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 Chief Craig D. Lapiejko, Waterways Management at Coast Guard First District, at (617) 223–8385 or email at *Craig.D.Lapiejko@uscg.mil;* or Lieutenant Junior Grade David B. Bourbeau, Waterways Management Division Chief at Coast Guard Sector Northern New England, at (207) 347–5015 or email at *David.T.Bourbeau@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, at (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**

A. Regulatory History and Information

On January 24, 2014, Sector Northern New England received notice of a proposed replacement of The Gut Bridge in South Bristol, ME between Rutherford Island and Bristol Neck. A Bridge Permit was awarded to Maine Department of Transportation (MEDOT) on April 15, 2014 to begin in accordance with Plans dated September 24, 2013.

MEDOT held seven public meetings between June 2009 and August 2013 and mariners have expressed no significant concerns.

On November 8, 2013, Public Notice 1–132 was disseminated by the First Coast Guard District. This notice included the official plans being submitted for approval of a bridge permit and solicited comments from the public. Twenty-five comments were received. All comments were in support of burying the existing overhead electrical cables rather than allowing them to remain in place above the water. There were no comments received in opposition of the proposed construction project or potential closures to the channel.

On July 25, 2014, the Coast Guard published a notice of proposed rulemaking (NPRM) regarding the creation of this regulated navigation area. No comments were received during the public comment period of the NPRM.

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**. Delaying the effectiveness of this rule would be impracticable and contrary to the public interest as immediate action is needed to protect the boating public from the hazards associated with a dangerous construction site. The Coast Guard finds it impractical and unnecessary to move the start of construction to

accommodate the 30-day delayed effective date. The public has known about this pending construction through public meetings and publication of an NPRM for more than a year, so delaying an additional thirty days is unnecessary. The regulated area is small in scope and will only be enforced as needed for boating safety in the affected waters. The most significant impact on the boating public will not take place until 2015.

B. Basis and Purpose

Under the Ports and Waterways Safety Act, the Coast Guard has the authority to establish regulated navigation areas in defined water areas that are determined to have hazardous conditions and in which vessel traffic can be regulated in the interest of safety. See 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1.

Starting in September 2014, MEDOT is replacing the existing movable bobtail swing bridge over The Gut, which carries State Route 129 from Bristol Neck to Rutherford Island, with a movable trunnion-style lift bridge on the same alignment. The project is necessary to replace a structurally and operationally deficient bridge that has exceeded its useful life. The new bridge will measure approximately 68 feet in length and will be 41 feet wide out-to-out. All parts of the existing bridge will be removed in their entirety. Before demolition of the existing bridge commences, a temporary fixed detour bridge will be constructed on the east side of the existing bridge to provide for vehicular and pedestrian traffic throughout the project. This temporary bridge will not be movable and will have a fixed vertical clearance of 3 feet 11 inches. The existing bridge has a vertical clearance of 4 feet 2 inches when closed.

The First District Commander has determined that this bridge construction project will pose a risk to vessels transiting the waters in the vicinity of the Route 129 bridge at Bristol Neck and Rutherford Island. The purpose of this rule is to ensure the safe transit of vessels in the area, and to protect all persons, vessels, construction crews, and the marine environment during bridge construction operations on The Gut in South Bristol, ME, between Rutherford Island and Bristol Neck.

C. Discussion of Final Rule

In order to mitigate the inherent risks involved in construction, it is necessary to control vessel movement through the area. Accordingly, the Coast Guard is establishing a regulated navigation area on the navigable waters of The Gut in the vicinity of South Bristol, ME. Generally, this RNA imposes two requirements on the public. Each is discussed further below.

First, this RNA imposes a speed restriction on vessels within the RNA. Heavy-lift operations are sensitive to water movement, and wake from passing vessels could pose significant risk of injury or death to construction workers. In order to minimize such unexpected or uncontrolled movement of water, the RNA will limit vessel speed and wake in the vicinity of the bridge construction zone. This will be achieved by implementing a five (5) knot speed limit and ''NO WAKE'' zone in the vicinity of the construction within the regulated area. While in the RNA, all vessels must proceed with caution and operate in such a manner as to produce no wake unless a higher minimum speed is necessary to maintain steering.

The second requirement imposed by this rule pertains to waterway closures. When necessary for safety, this RNA will prohibit vessel access to the regulated area. This will ensure that vessels are only permitted to transit the area when it is safe to do so. The Coast Guard may close the regulated area described in this rule to all vessel traffic during any circumstance that poses an imminent threat to waterway users operating in the area. Complete waterway closures will be made with as much advanced notice as possible. At present, the Coast Guard is aware of one 213-day closure that will begin on or after September 10, 2015 and will end on or prior to May 22, 2016. Vessels will not be permitted to transit through ''The Gut'' for the duration of this 213-day closure. In addition, shorter duration channel closures may be enforced between October 15, 2014 and April 30, 2015 and between October 15, 2015 and April 30, 2016 between the hours of 9:00 a.m. and 3:00 p.m. and between the hours of 10:00 p.m. and 4:00 a.m. These shorter closures will occur only as required to safely perform operations in the channel. Marine traffic will be detoured around Rutherford Island during all closure periods. Transit time around Rutherford Island is approximately 20–60 minutes for mariners.

Generally, except in the case of the aforementioned 213-day period which will require closure of the channel 24-hours per day, the Coast Guard intends to enforce the speed restrictions and the waterway closures only during limited hours of the day to minimize impacts on vessel traffic. The public will be advised of the enforcement dates and times of this RNA via Local Notice to Mariners, Broadcast Notice to Mariners, and other means described in 33 CFR 165.7. Such notices will be provided in advance of closure times.

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. We expect the economic impact of this rule to be minimal because mariners are able to make a short transit (approximately 20–60 minutes) around Rutherford Island to reach any destination on the other side of The Gut.

2. Impact on Small Entities

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

This rule would not affect small entities, because all areas of the waterway are accessible and an alternate route is provided to mariners during the full closure of the bridge.

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

8. Taking of Private Property

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

9. Civil Justice Reform

This 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 would 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 would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This 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 made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of an RNA. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

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; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0214 to read as follows:

§ 165.T01–0214 Regulated Navigation Area; South Bristol Gut Bridge Replacement, South Bristol, ME.

(a) *Location.* The following area is a Regulated Navigation Area (RNA): All navigable waters of The Gut in South Bristol, ME, from surface to bottom, within a 300 yard radius of position 43°51′43″ N, 069°33′30″ W.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.11 and 165.13 apply within the RNA.

(2) In accordance with the general regulations, entry into or movement within this RNA, during periods of enforcement, is prohibited unless authorized by the First District Commander or the Captain of the Port Sector Northern New England (COTP).

(3) Persons and vessels may request permission to enter the RNA during periods of enforcement by contacting the COTP or the COTP's on-scene representative on VHF–16 or via phone at (207) 767–0303.

(4) During periods of enforcement, a speed limit of five knots will be in effect within the RNA and all vessels must proceed through the area with caution and operate in such a manner as to produce no wake unless a higher minimum speed is necessary to maintain steering.

(5) Vessels permitted to enter the RNA during periods of enforcement must comply with all directions given to them by the First District Commander, COTP, or the COTP's on-scene representative. The ''on-scene representative'' of the COTP is any

Coast Guard commissioned, warrant or petty officer who has been designated by the COTP to act on the COTP's behalf. The on-scene representative may be on a Coast Guard vessel; Maine State Police, Maine Marine Patrol or other designated craft; or may be on shore and communicating with vessels via VHF–FM radio or loudhailer. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(6) All other relevant regulations, including but not limited to the Rules of the Road (33 CFR chapter I, subchapter E) remain in effect within the regulated area and must be strictly followed at all times.

(c) *Effective and enforcement period.* This regulation is effective and enforceable 24 hours a day from 12:01 a.m. on September 19, 2014, until 11:59 p.m. on April 30, 2017.

(1) Prior to commencing or suspending enforcement of this regulation, the COTP will give notice by appropriate means to inform the affected segments of the public, to include dates and times. Such means of notification will include, but are not limited to, Broadcast Notice to Mariners, Local Notice to Mariners, and other means described in 33 CFR 165.7.

(2) Violations of this RNA may be reported to the COTP at (207) 767–0303 or on VHF-Channel 16.

Dated: September 19, 2014.

V.B. Gifford,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 2014–24080 Filed 10–7–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2013–0569; FRL–9916–13]

Pseudomonas Fluorescens Strain D7; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of *Pseudomonas fluorescens* strain D7 in or on all food commodities when used in accordance with label directions and good agricultural practices. Ag-Chem Consulting, agent for Northwest Agricultural Products submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Pseudomonas fluorescens* strain D7 under FFDCA.

DATES: This regulation is effective October 8, 2014. Objections and requests for hearings must be received on or before December 8, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2013–0569, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2013–0569 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before December 8, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2013–0569, by one of the following methods:

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

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

II. Background and Statutory Findings

In the **Federal Register** of September 12, 2013 (78 FR 56185) (FRL–9399–7), EPA issued a notice pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 2F8103) by Northwest Agricultural Products, 821 South Chestnut Ave., Pasco, WA 99301. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *Pseudomonas fluorescens* strain D7 in or on growing crops and rangeland. That notice referenced a summary of the petition prepared by the petitioner Ag-Chem Consulting as agent for Northwest Agricultural Products, which is available in the docket via *http://www.regulations.gov.* No relevant comments were received in response to the notice of filing.

III. Final Rule

A. The EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider ''available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity.''

The EPA evaluated the available toxicity and exposure data on *Pseudomonas fluorescens* strain D7 and considered its validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which the EPA relied and its risk assessment based on that data can be found within the August 22, 2014 document entitled, ''Federal Food, Drug, and Cosmetic Act (FFDCA) Considerations for *Pseudomonas fluorescens* strain D7.'' This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES.**

Based upon that evaluation, the EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Pseudomonas fluorescens* strain D7. Therefore, an exemption from the requirement of a tolerance is established for residues of *Pseudomonas fluorescens* strain D7 in or on all food commodities when used in accordance with label directions and good agricultural practices.

EPA notes that although the petitioner requested an exemption from the requirement of a tolerance for residues of *Pseudomonas fluorescens* strain D7 in or on ''growing crops and rangeland,'' neither of those terms is a recognized food commodity term used by the Agency in the establishment of tolerances. Nevertheless, the Agency considers the term ''growing crops'' to be quite broad, without limitations to the types of food commodities that it might cover and thus, is establishing a tolerance using the commodity terminology of ''all food commodities'' instead.

B. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes for the reasons contained in the document entitled, ''Federal Food, Drug, and Cosmetic Act (FFDCA) Considerations for *Pseudomonas fluorescens* strain D7,'' and because the EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for *Pseudomonas fluorescens* strain D7.

IV. Statutory and Executive Order Reviews

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

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

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the

various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

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

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: August 29, 2014.

Marty Monell,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. Add § 180.1326 to subpart D to read as follows:

§ 180.1326 Pseudomonas fluorescens strain D7; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of *Pseudomonas fluorescens* strain D7 in or on all food commodities when used in accordance with label directions and good agricultural practices.

[FR Doc. 2014–24028 Filed 10–7–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 194

[EPA–HQ–OAR–2013–0684; FRL–9917–57–OAR]

RIN 2060–AR60

Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance With the Disposal Regulations; Panel Closure Redesign

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: With this document, the U.S. Environmental Protection Agency (EPA, or the Agency) approves the U.S. Department of Energy's (DOE, or the Department) planned change request to implement the Run-of-Mine Panel Closure System (ROMPCS) at the Waste Isolation Pilot Plant (WIPP) and amends the WIPP Compliance Criteria to allow an EPA-approved panel closure other than the currently-required Option D design. Technical analyses demonstrate that, with the modified panel closure design, WIPP remains in compliance with the 10,000 year release limits set by the ''Environmental Standards for the Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic (TRU) Radioactive Waste.'' The changes do not lessen the requirements for complying with the Compliance Criteria, nor do these changes impact the technical approach that the EPA will employ when considering any future planned changes to the panel closure system. Compliance with environmental or public health regulations other than the EPA's long-term radioactive waste disposal regulations and WIPP Compliance Criteria is not addressed by today's action.

DATES: Effective October 8, 2014.

ADDRESSES: *Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. The EPA has established a docket for this action under Docket ID No. [EPA–HQ–OAR–2013–0684; FRL–9917–57–OAR]. Publicly available docket materials related to this action (e.g., the Technical Support document [TSD]) are available either electronically through *www.regulations.gov,* on the Agency's WIPP Web site (*http://www.epa.gov/radiation/wipp*) or in hard copy at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the Air and Radiation Docket is (202) 566–1742. In accordance with the EPA's regulations at 40 CFR part 2 and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Ray Lee or Jonathan Walsh, Radiation Protection Division, Mail Code 6608J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC, 20460; telephone number: 202–343–9463 or 202–343–9238; fax number: 202–343–2305; email address: *lee.raymond@epa.gov* or *walsh.jonathan@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble Acronyms and Abbreviations

Several acronyms and terms used to describe components of the WIPP disposal system and performance assessment computer models are included in this preamble. To ease the reading of this preamble and for reference purposes, the following terms are defined here:

BRAGFLO Computer model used to simulate brine and gas flow
CBFO Carlsbad Field Office
CCA Compliance Certification Application
CCDF Complementary Cumulative Distribution Function
CFR Code of Federal Regulations
DBR Direct Brine Release
DOE U.S. Department of Energy
DRZ Disturbed Rock Zone
EPA U.S. Environmental Protection Agency
FEPs Features, Events and Processes
LWA Land Withdrawal Act
MSHA Mine Safety and Health Administration
NMED New Mexico Environment Department
OPC Ordinary Portland Cement
PA Performance Assessment
PABC Performance Assessment Baseline Calculation
PAVT Performance Assessment Verification Test
PCS Panel Closure System
PCS–2012 Panel Closure System 2012 Performance Assessment
PCR Planned Change Request
PC3R Panel Closure Redesign and Repository Reconfiguration Performance Assessment
PMR Permit Modification Request

RCRA Resource Conservation and Recovery Act
ROM Run-of-Mine
ROMPC, or ROMPCS Run-of-Mine Salt Panel Closure System
SMC Salado Mass Concrete
SNL Sandia National Laboratories
TRU Transuranic
TSD Technical Support Document
VOC Volatile Organic Compound
WIPP Waste Isolation Pilot Plant

Table of Contents

I. What is the WIPP?
II. What did the EPA propose?
A. Approving the ROMPCS
B. Modifying Condition 1
III. How did the EPA incorporate public comments in the final rule?
IV. Administrative Requirements
A. Executive Order 12866
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
D. Unfunded Mandates Reform Act
E. Executive Order 12898
F. National Technology Transfer & Advancement Act of 1995
G. Executive Order 13045: Children's Health Protection
H. Executive Order 13132: Federalism
I. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
J. Executive Order 13211: Energy Effects

I. What is the WIPP?

The WIPP is a disposal system for defense-related transuranic (TRU) radioactive waste. Developed by the DOE, the WIPP is located near Carlsbad in southeastern New Mexico. At the WIPP, radioactive waste is disposed of 2,150 feet underground in an ancient formation of salt which will eventually ''creep'' and encapsulate the waste. The WIPP has a total capacity of 6.2 million cubic feet of waste.

Congress authorized the development and construction of the WIPP in 1980 ''for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States.'' [1] Waste which may be emplaced in the WIPP is limited to TRU radioactive waste generated by defense activities associated with nuclear weapons; no high-level waste or spent nuclear fuel from commercial power plants may be disposed of at the WIPP. TRU waste is defined as materials containing alpha-emitting radioisotopes, with half-lives greater than twenty years and atomic numbers above 92, in concentrations greater than 100 nanocuries per gram of waste.[2] Most TRU waste disposed at the WIPP consists of items that have become contaminated as a result of activities associated with the production of nuclear weapons (or with the clean-up of weapons production facilities), e.g., rags, equipment, tools, protective gear, soil and organic or inorganic sludges. Some TRU waste is mixed with hazardous chemicals. The waste to be disposed at the WIPP is currently located at federal facilities across the United States, including locations in California, Idaho, Illinois, New Mexico, Nevada, Ohio, South Carolina, Tennessee and Washington.

The WIPP Land Withdrawal Act (LWA), initially passed by Congress in 1992 and amended in 1996, provides the EPA authority to oversee and regulate the WIPP for compliance with EPA's long-term radioactive waste disposal regulations. In 1996, the Agency issued the WIPP Compliance Criteria, which are found at 40 CFR part 194.[3] After reviewing DOE's Compliance Certification Application (CCA), the Agency issued its certification decision on May 18, 1998, as required by Section 8 of the WIPP LWA (63 FR 27354–27406), determining that the WIPP met the standards for radioactive waste disposal. The complete record and basis for the EPA's 1998 certification decision can be found in Air Docket A–93–02.

EPA's certification of WIPP's performance was based upon the repository design the Department submitted in Chapter 3 of the CCA. The underground waste disposal region at WIPP is divided into panels. A panel is a group of rooms mined into the salt, connected by tunnels called drifts. When all of the rooms of a panel are filled with waste, the DOE intends to seal the drifts with engineered structures called panel closures.

[1] Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980, Public Law 96–164, section 213.

[2] WIPP Land Withdrawal Act, Public Law 102–579, section 2(18), as amended by the 1996 WIPP LWA Amendments, Public Law 104–201.

[3] 61 FR 5224–5245 (February 9, 1996).

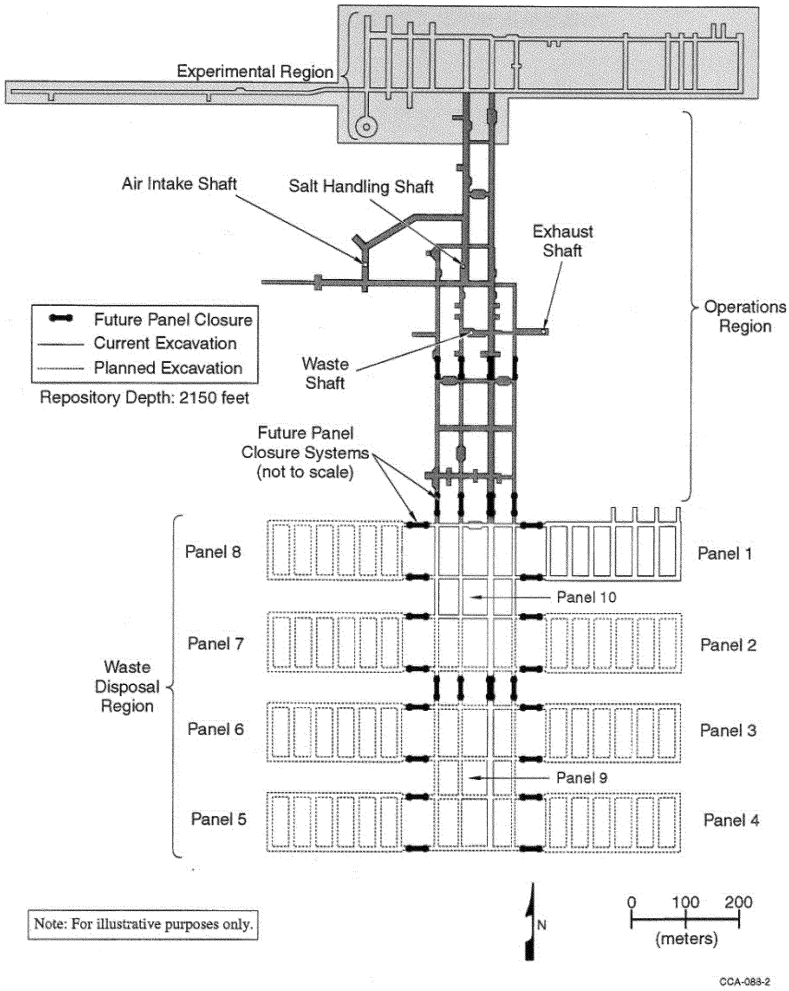

Figure 3-2. Plan View of WIPP Underground Facility and Panel Closure Systems

DOE/CAO 1996-2184 3-5 October 1996

In the CCA, the Department presented four options for the design of the panel closure system, but did not specify which would be constructed at the WIPP facility. The Agency based its certification decision on the DOE's use of the most robust design, referred to in the CCA as ''Option D''. Condition 1, requiring DOE to Implement the Option D panel closure system, was appended to 40 CFR part 194 as part of the certification decision. (63 FR 27354, May 18, 1998) The Option D design called for the drift to be sealed using a concrete block wall and a poured concrete monolith.

The Department submitted a PCR to the EPA on September 28, 2011, proposing to alter the panel closure design. Citing experience and data gained since the CCA, the DOE's PCR states that the Option D panel closure would be extremely difficult and costly to install, and that the highly engineered design is unnecessary for either worker safety or environmental protection during the operational period. The DOE instead proposed a new panel closure design, the Run-of-Mine Salt Panel Closure System (ROMPCS), which consists of mined salt emplaced between steel bulkheads.

II. What did EPA propose?

The EPA completed a technical review of the DOE's PCR and supporting documentation. The goal of the Agency's technical review process was to determine whether, with the new design, the WIPP adequately demonstrates compliance with the requirements of 40 CFR part 194 and the release limits of 40 CFR part 191, Subparts B and C. This process is fully documented in the TSD, ''Review of the DOE's Planned Change Request to Modify the WIPP Panel Closure System,'' (EPA–HQ–OAR–2013–0684–0002) and discussed in the notice of proposed rulemaking (78 FR 72612, Dec. 3, 2013). The Agency concluded that the WIPP will remain in compliance with its release limits with the ROMPCS design. The Agency therefore proposed to approve the DOE's PCR to implement the redesigned panel closure at the WIPP, and to modify 40 CFR part 194 Appendix A, Condition 1 to allow panel closure designs other than Option D, as long as DOE has demonstrated WIPP's continued compliance with the long-term release standards.

A. Approving the ROMPCS

The EPA's Compliance Criteria at 40 CFR part 194 does not require a panel closure for the purpose of long-term compliance with release limits for radionuclides. The purpose of 40 CFR part 194 is to demonstrate compliance with the disposal regulations at 40 CFR part 191 for containment of

radionuclides, which specify that long-term releases of radionuclides to the accessible environment must be unlikely to exceed specific release limits for 10,000 years after disposal, based on the amount of waste in the repository at the time of closure (§ 194.31). Assessment of the likelihood that the WIPP will not exceed release limits is accomplished through a process called performance assessment, or PA. The WIPP PA process culminates in a series of computer simulations that model the physical attributes of the disposal system (e.g., site characteristics, waste forms and quantities, engineered features) in a manner that captures the behaviors and interactions among its various components. The results of the PA indicate the probability of exceeding various levels of normalized releases (§ 194.34). Because the Agency based its certification of the WIPP's compliance with the disposal regulations on the accurate representation of the repository in performance assessment, including a panel closure, Condition 1 was appended to 40 CFR part 194 during the certification of the WIPP. No other design feature of the repository is required by the Compliance Criteria in a similarly explicit way.

The Option D panel closure design consists of a 12-foot thick ''explosion-isolation wall'' constructed of solid concrete blocks filling the drift on the waste disposal side, a short section of open drift called an ''isolation zone'' and a monolithic concrete barrier on the side of the open drift. Fractured rock in the immediate vicinity of the drift—called the disturbed rock zone, or DRZ—would be removed, and the resulting void space filled by the concrete monolith. In its current PCR, the DOE states that ''large scale testing has demonstrated that using SMC [Salado Mass Concrete] cannot meet the design and performance requirements for the panel closures as specified in the CCA.'' Even if the Option D monolith could be constructed as planned, the Agency acknowledges that it would be installed at significant cost to the Department. Additional occupational hazards would be incurred by moving and pouring large amounts of concrete in the underground and disposal operations would be significantly disrupted as well.

The DOE's new panel closure design, the ROMPCS, consists primarily of run-of-mine (ROM) salt—impure halite that has been mined in the course of normal repository operations and not subjected to additional processing or grading. The ROMPCS design consists of two standard steel ventilation bulkheads with a minimum of 100 feet of run-of-mine (ROM) salt between them, filling the drift from floor to ceiling. In Panels 1, 2 and 5, where explosion walls have already been constructed, salt will be placed directly against the explosion wall and a standard steel ventilation bulkhead placed on the outer end of the panel closure. The DOE has stated that the ROMPCS will provide adequate protection during the operational period. Upon initial emplacement, the run-of-mine salt will exhibit the properties of a loosely consolidated or unconsolidated material. Over time, as the open areas of the repository close due to salt creep, the panel closures will consolidate and eventually heal to a state resembling intact salt.

As in the past, the Agency's consideration of the panel closure system focused on its representation in repository performance assessment, so that the EPA can ultimately certify the WIPP's ability to meet long-term performance standards. In support of its panel closure PCR, the DOE initially submitted a performance assessment calculation called the Panel Closure Redesign and Repository Reconfiguration (PC3R) PA, which incorporated multiple planned changes. The Agency determined that to approve the PCR, it was necessary to isolate the impacts, if any, of the change in panel closure design. In response, the DOE prepared the PCS–2012 PA, with the explicit goal of changing only those aspects of the current baseline PA that are directly related to the change in the panel closure design. Thus, results of the PCS–2012 PA may be directly compared to results of the current Performance Assessment Baseline Calculation (PABC–09) to see the impact of changes in the panel closure on modeled releases from the facility. The EPA undertook a review of the PCS–2012 PA. The majority of the technical effort expended by the Agency was spent determining how the changes in the panel closures should be represented in the performance assessment models. The entire review process is fully documented in the Agency's TSD, ''Review of DOE's Planned Change Request to Modify the WIPP Panel Closure System.'' (EPA–HQ–OAR–2013–0684–0002) Based on its review and on the results of performance assessment, the Agency concludes that the WIPP will continue to comply with the EPA's disposal standards with the ROMPCS. Therefore, the Agency proposed to approve the DOE's PCR and allow the implementation of the ROMPCS design at the WIPP.

B. Modifying Condition 1

The Option D panel closure is currently required by 40 CFR part 194, Appendix A, Condition 1. Therefore, accepting a redesigned panel closure requires modification of Condition 1. Condition 1 was appended to 40 CFR part 194 because the DOE presented multiple panel closure options, and the EPA originally certified the WIPP's performance based on the expected properties of the Option D panel closure. It is the only engineered aspect of the repository design that is explicitly required by rule. At this time, DOE has proposed a single panel closure that it intends to implement in all waste panels at WIPP. Furthermore, at the time of the CCA, limited performance assessment results were available to indicate the impact of the panel closure design on repository performance. Due to the evolution of the WIPP PA since the CCA, the DOE and the EPA have gained a greater understanding of panel closures' influence on PA results. Changes to the representation of the panel closure in the performance assessment models have resulted in small differences in the results, indicating that the panel closure design does not disproportionately impact the long-term performance of WIPP compared to other design features of the repository. For these reasons, the Agency does not believe that it is necessary or appropriate for the specific design of the panel closure to remain as a condition of certification. Rather, panel closures should be treated in a similar manner as any other engineered feature of the repository.

This change does not grant the DOE the ability to alter the panel closure design at will. As with any engineered component of the disposal system, the Agency must be informed of any departure from the current, approved design as required by § 194.4(b)(3)(i). The EPA would expect such a request to be supported by complete technical documentation, including any updated information concerning ''the geology, hydrology, hydrogeology, and geochemistry of the WIPP disposal system'' and ''WIPP materials of construction, standards applied to design and construction,'' as required by § 194.14, Content of certification applications. The Agency would use this information to determine whether or not the WIPP remains in compliance with the disposal standards. As with any other planned change, based on the potential impact to the WIPP's compliance, the EPA would determine whether the change ''departs significantly from the most recent

compliance application,'' and must be addressed by rule in accordance with § 194.65.

III. How did the EPA incorporate public comments in the final rule?

The EPA held informal public meetings in Carlsbad, New Mexico, on December 5, 2012, and Santa Fe, New Mexico, on December 6, 2012, to provide the public with background on the DOE's panel closure system planned change request, and to give the public the opportunity to raise any technical issues that the Agency should consider in its decision. After publishing the notice of proposed rulemaking, the EPA held public meetings in Carlsbad and Albuquerque on January 22 and 23, 2014. Summaries of these meetings have been included in the docket.

In addition to comments delivered verbally, the Agency received seven sets of written comments. The majority of these comments expressed support of DOE's planned change, and of EPA's proposed approval. No comments of a technical nature were submitted, and therefore no further analysis needed to be performed in response to comments. One set of comments raised valid questions about further changes to the panel closure design. In response, EPA made a minor clarification to the rule language.

Several commenters expressed appreciation for the ability to voice their comments. The EPA feels that public participation has strengthened the WIPP regulatory program, and remains committed to involve the public in its decision process.

Many commenters stated that the ROMPCS design will meet regulatory requirements, while reducing operational costs and occupational hazards. The EPA focused on WIPP's ability to meet regulatory release standards, but has acknowledged DOE's stated operational motivations for revising the panel closure design.

Several commenters expressed confidence in the performance assessment calculations that the EPA relied on to reach its decision. Others pointed out that salt is an appropriate material for a panel closure because salt is being relied upon to encapsulate waste in every direction except the panel closure. The Agency agrees with the use of a material that is physically and chemically compatible with the repository environment, and has relied on a body of data indicating that in time, the salt panel closure will return to a physical state similar to the halite that surrounds it.

Many commenters expressed confidence that, based upon monitoring data taken in the underground, the ROMPCS will be adequate to protect workers and the public against hydrogen, methane, and VOCs during the operational life of the repository. As stated in the Notice of Proposed Rulemaking, it is the responsibility of the New Mexico Environment Department to evaluate the ability of the ROMPCS to perform these functions, and DOE must demonstrate the adequacy of the panel closure design to the NMED through a parallel process. One commenter expressed concern that EPA's approval of DOE's PCR will unduly influence the NMED permit modification process, and suggested the Agency defer its decision. The Agency disagrees with this viewpoint. Whenever it proposes any change to the repository system, it is the responsibility of DOE to demonstrate compliance to each regulator independently. NMED must determine whether the design adequately protects against VOCs, regardless of EPA's determination of WIPP's compliance with the long-term disposal standards.

The same commenter pointed out that the proposed rule language stated that ''any'' change to the design must be submitted to EPA as a planned change request, and expressed concern that if the change process imposed by EPA is overly burdensome, DOE loses flexibility in meeting NMED requirements. The EPA designed the rule to allow flexibility in approaching future changes to the design. By eliminating the absolute necessity of a rulemaking, the Agency will be able to employ a graded approach when considering any future changes to the panel closure design requested by DOE. Because it is the responsibility of the EPA to determine that the compliance model reasonably reflects the actual design of the repository, DOE must inform EPA of any change to the panel closure design described in DOE's current PCR. Depending on the scope of the changes, however, DOE may not need to provide the level of documentation typically included in a planned change request. As an example, the Agency has determined that steel ventilation bulkheads do not impact long-term performance, and need not be represented in the compliance models. It is unlikely that any additional analysis would be required to approve a change to the configuration of ventilation bulkheads, because the compliance model used to approve the design remains valid. The language of the proposed rule seemed to require a PCR for any proposed change to the panel closure design. The language of the rule modification has been altered so that DOE's obligation is to inform EPA of any proposed change. The Agency will determine the level of documentation necessary to evaluate the request.

On February 14, 2014, an incident took place in the underground at WIPP, resulting in the release of a small amount of radioactive material to the environment and a disruption of operations at the facility. EPA has been closely involved in the investigation of the incident and has determined that it does not change the basis of this panel closure decision. The incident took place in the active waste panel. Panel closures are installed only after waste emplacement in a panel is complete, and therefore would not have impacted the event. More importantly, as described above, EPA's approval of the proposed ROMPCS is based upon WIPP's compliance with the long-term disposal standards from facility closure to 10,000 years after closure. Although EPA regulations limit radiation dose to the public from facility operations, there is no indication that DOE has violated those limits, and EPA does not prescribe the technical means that DOE must use to meet those limits. Lastly, as described above, the revised condition allows EPA to apply a graded approach when considering any further modifications to the panel closure design. It is possible that adjustments will be made to the design, as a result of either NMED's evaluation of the panel closures' ability to protect workers and the public from hazardous waste during facility operation, or as part of DOE's plan to reopen the repository. This rule change both approves a design that can be installed quickly if it is needed, and gives EPA the ability to efficiently evaluate any future changes to that design based on their impacts to long-term repository performance.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, (58 FR 51735; October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create

a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) materially alter the budgetary impact of entitlements, grants, user fees or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities or the principles set forth in the Executive Order. Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action.''

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') generally requires any federal agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless they certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and small governmental jurisdictions. This rule sets forth requirements which apply only to federal agencies. Therefore, I certify this action will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paper Reduction Act, 44 U.S.C. 3501 *et seq.* The Compliance Criteria in 40 CFR part 194 requirements are applicable only to the DOE and the EPA and do not establish any form of collection of information from the public.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA''), Public Law 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local and tribal governments and the private sector. Pursuant to Title II of the UMRA, we have determined that this regulatory action is not subject to the requirements of sections 202 and 205, because this action does not contain any ''federal mandates'' for state, local or tribal governments or for the private sector. This rule applies only to federal agencies.

E. Executive Order 12898

Pursuant to Executive Order 12898 (59 FR 7629; February 16, 1994), entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' the Agency has considered environmental justice related issues with regard to the potential impacts of this action on the environmental and health conditions in low-income, minority and Native-American communities. We have complied with this mandate. However, the requirements specifically set forth by the Congress in the Waste Isolation Pilot Plant Land Withdrawal Act (Pub. L. 102–579), which prescribes the EPA's role at the WIPP, did not provide authority for the Agency to examine impacts in the communities in which wastes are produced, stored and transported, and Congress did not delegate to the EPA the authority to consider the issue of alternative locations for the WIPP. During the development of the existing provisions in 40 CFR part 194, the EPA involved minority and low income populations early in the rulemaking process. In 1993, the EPA representatives met with New Mexico residents and government officials to identify the key issues that concern them, the types of information they wanted from the Agency and the best ways to communicate with different sectors of the New Mexico public. The feedback provided by this group of citizens formed the basis for the EPA's WIPP communications and consultation plan. To help citizens (including a significant Hispanic population in Carlsbad and the nearby Mescalero Indian Reservation) stay abreast of the EPA's WIPP-related activities, the Agency developed many informational products and services. The EPA translated several documents regarding WIPP into Spanish, including educational materials and fact sheets describing the EPA's WIPP oversight role and the radioactive waste disposal standards. The Agency established a toll-free WIPP Information Line, recorded in both English and Spanish, providing the latest information on upcoming public meetings, publications and other WIPP-related activities. The EPA also developed a mailing list, which includes many low-income, minority and Native-American groups, to systematically provide interested parties with copies of EPA's public information documents and other materials. Even after the final rule, in 1998, the EPA has continued to implement outreach services to all WIPP communities based on the needs determined during the certification. The Agency has established a WIPP–NEWS email listserv to facilitate communications with interested stakeholders not only in New Mexico and surrounding areas, but nationally and internationally as well. The EPA's WIPP Web site is also continuously updated with relevant news and updates on current and future WIPP activities.

F. National Technology Transfer & Advancement Act of 1995

Section 12 of the National Technology Transfer & Advancement Act of 1995 is intended to avoid ''re-inventing the wheel.'' It aims to reduce costs to the private and public sectors by requiring federal agencies to draw upon any existing, suitable technical standards used in commerce or industry. To comply with the Act, the EPA must consider and use ''voluntary consensus standards,'' if available and applicable, when implementing policies and programs, unless doing so would be ''inconsistent with applicable law or otherwise impractical.'' We have determined that this regulatory action is not subject to the requirements of National Technology Transfer & Advancement Act of 1995 as this rulemaking is not setting any technical standards.

G. Executive Order 13045: Children's Health Protection

This rule is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885; April 23, 1997) because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

H. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255; August 10, 1999), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action revises a specific condition of the Compliance Criteria in 40 CFR part 194. These criteria are applicable only to the DOE (operator) and the EPA

(regulator) of the WIPP disposal facility. Thus, Executive Order 13132 does not apply to this rule. In the spirit of Executive Order 13132, and consistent with the Agency's policy to promote communications between the EPA and state and local governments, the EPA specifically solicited comment on the proposed rule from state and local officials.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249; November 9, 2000), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have tribal implications, as specified in Executive Order 13175. This action revises a condition of the Compliance Criteria in 40 CFR part 194. The Compliance Criteria are applicable only to Federal agencies. Thus, Executive Order 13175 does not apply to this rule.

J. Executive Order 13211: Energy Effects

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355; May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 194

Environmental protection, Nuclear materials, Nuclear power plants and reactors, Radiation protection, Waste treatment and disposal.

Dated: September 30, 2014.

Janet G. McCabe,

Acting Assistant Administrator, Office of Air and Radiation.

For the reasons set out in the preamble, 40 CFR part 194 is amended as follows:

PART 194—CRITERIA FOR THE CERTIFICATION AND RECERTIFICATION OF THE WASTE ISOLATION PILOT PLANT'S COMPLIANCE WITH THE 40 CFR PART 191 DISPOSAL REGULATIONS

■ 1. The authority citation for part 194 continues to read as follows:

Authority: Pub. L. 102–579, 106 Stat. 4777, as amended by Public Law 104–201, 110 Stat. 2422; Reorganization Plan No. 3 of 1970, 35 FR 15623, Oct. 6, 1970, 5 U.S.C. app. 1; Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011–2296 and 10101–10270.

■ 2. Amend Appendix A to Part 194 by revising Condition 1: § 194.14(b) to read as follows:

Appendix A to Part 194—Certification of the Waste Isolation Pilot Plant's Compliance With the 40 CFR Part 191 Disposal Regulations and the 40 CFR Part 194 Compliance Criteria

* * * * *

Condition 1: § 194.14(b), Disposal system design, panel closure system. The Department shall close filled waste panels in a manner that has been specifically approved by the Agency. DOE must inform EPA of any modification to the approved panel closure design pursuant to § 194.4(b)(3)(i), and provide any supporting information required by § 194.14, *Content of compliance certification application.* The Administrator or Administrator's authorized representative will determine whether the change differs significantly from the design included in the most recent compliance certification, and whether the planned change would require modification of the compliance criteria. The EPA's approval of a panel closure change request requires that performance assessment calculations adequately represent the waste panel closure design, and that those calculations demonstrate the WIPP's compliance with the release standards set by 40 CFR part 191, Subpart B in accordance with § 194.34, *Results of performance assessments.*

* * * * *

[FR Doc. 2014–24025 Filed 10–7–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R04–RCRA–2012–0179; FRL–9917–53–Region–4]

Florida: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Florida has applied to the Environmental Protection Agency (EPA) for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this immediate final rule. In the ''Proposed Rules'' section of today's **Federal Register**, EPA is also publishing a separate document that serves as the proposal to authorize these changes. EPA believes this action is not controversial and does not expect comments that oppose it. Unless EPA receives written comments that oppose this authorization during the comment period, the decision to authorize Florida's changes to its hazardous waste program will take effect. If EPA receives comments that oppose this action, EPA will publish a document in the **Federal Register** withdrawing today's immediate final rule before it takes effect, and the separate document published in today's ''Proposed Rules'' section of this **Federal Register** will serve as the proposal to authorize the changes.

DATES: This final authorization will become effective on December 8, 2014 unless EPA receives adverse written comment by November 7, 2014. If EPA receives such comment, EPA will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–RCRA–2012–0179, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: shipley.anita@epa.gov*
- *Fax:* (404) 562–9964 (prior to faxing, please notify the EPA contact listed below).
- *Mail:* Send written comments to Anita K. Shipley, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
- *Hand Delivery or Courier:* Deliver your comments to Anita K. Shipley, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: EPA must receive your comments by November 7, 2014. Direct your comments to Docket ID No. EPA–R04–RCRA–2012–0179. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute. Do not submit

information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. (For additional information about EPA's public docket, visit the EPA Docket Center homepage at *www.epa.gov/epahome/dockets.htm*).

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov,* or in hard copy.

You may view and copy Florida's applications and associated publicly available materials from 8:00 a.m. to 4:00 p.m. at the following locations: EPA, Region 4, RCRA Division, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960; telephone number: (404) 562–8466; and the Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400; telephone number: (850) 245–8713. Interested persons wanting to examine these documents should make an appointment with the office at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Anita K. Shipley, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960; telephone number: (404) 562–8466; fax number: (404) 562–9964; email address: *shipley.anita@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why are revisions to state programs necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) take effect in authorized States at the same time that they take effect in unauthorized States. Thus, EPA will implement those requirements and prohibitions in Florida, including the issuance of new permits implementing those requirements, until the State is granted authorization to do so.

B. What decisions has EPA made in this rule?

On August 10, 2009, July 1, 2010, and August 30, 2012, Florida submitted final complete program revision applications, seeking authorization of changes to its hazardous waste program that correspond to certain Federal rules promulgated between July 1, 2007 and June 30, 2009, and July 1, 2010 and June 30, 2011 (also known as RCRA Clusters XVIII, XIX, and XXI). EPA concludes that Florida's applications to revise its authorized program meet all of the statutory and regulatory requirements established by RCRA, as set forth in RCRA section 3006(b), 42 U.S.C. 6926(b), and 40 CFR Part 271. Therefore, EPA grants Florida final authorization to operate its hazardous waste program with the changes described in the authorization applications, and as outlined below in Section G of this document.

Florida has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program applications, subject to the limitations of HSWA, as discussed above.

C. What is the effect of this authorization decision?

The effect of this decision is that the changes described in Florida's authorization applications will become part of the authorized State hazardous waste program, and will therefore be federally enforceable. Florida will continue to have primary enforcement authority and responsibility for its State hazardous waste program. EPA retains its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to:

- Conduct inspections, and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements, including authorized State program requirements, and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Florida is being authorized by today's action are already effective, and enforceable requirements under State law, and are not changed by today's action.

D. Why wasn't there a proposed rule before today's rule?

Along with this immediate final rule, EPA is publishing a separate document in the ''Proposed Rules'' section of today's **Federal Register** that serves as the proposal to authorize these State program changes. EPA did not publish a proposed rule before today because EPA views this as a routine program change and does not expect comments that oppose this approval. EPA is providing an opportunity for public comment now, as described in Section E of this document.

E. What happens if EPA receives comments that oppose this action?

If EPA receives comments that oppose this authorization, EPA will withdraw today's immediate final rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposed rule mentioned in the previous section, after considering all comments received during the comment period, and will address all such comments in a later final rule. You may not have another opportunity to comment on these State program changes. If you want to

comment on this authorization, you must do so at this time.

If EPA receives comments that oppose only the authorization of a particular change to the State hazardous waste program, EPA will withdraw that part of today's immediate final rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What has Florida previously been authorized for?

Florida initially received Final authorization on January 29, 1985, effective February 12, 1985 (50 FR 3908), to implement a RCRA hazardous waste management program. EPA granted authorization for changes to Florida's program on December 1, 1987, effective March 3, 1988 (52 FR 45634); December 16, 1988, effective January 3, 1989 (53 FR 50529); December 14, 1990, effective February 12, 1991 (55 FR 51416); February 5, 1992, effective April 6, 1992 (57 FR 4371); February 7, 1992, effective April 7, 1992 (57 FR 4738); May 20, 1992, effective July 20, 1992 (57 FR 21351); November 9, 1993, effective January 10, 1994 (58 FR 59367); July 11, 1994, effective September 9, 1994 (59 FR 35266); April 16, 1994, effective October 17, 1994 (59 FR 41979); October 26, 1994, effective December 27, 1994 (59 FR 53753); April 1, 1997, effective June 2, 1997 (62 FR 15407); September 18, 2000, effective November 18, 2000 (65 FR 56256); August 23, 2001, effective October 22, 2001 (66 FR 44307); August 20, 2002, effective October 21, 2002 (67 FR 53886 and 67 FR 53889); October 14, 2004, effective December 13, 2004 (69 FR 60964); August 10, 2007, effective October 9, 2007 (72 FR 44973); and February 7, 2011, effective April 8, 2011 (76 FR 6564). The authorized Florida program, through RCRA Cluster IV, was incorporated by reference into the CFR on January 20, 1998, effective March 23, 1998 (63 FR 2896).

G. What changes is EPA authorizing with this action?

On August 10, 2009, July 1, 2010, and August 30, 2012, Florida submitted final complete program revision applications seeking authorization of its changes in accordance with 40 CFR 271.21. EPA now makes an immediate final decision, subject to receipt of written comments that oppose this action, that Florida's hazardous waste program revisions are equivalent to, consistent with, and no less stringent than the Federal program, and therefore satisfy all of the requirements necessary to qualify for final authorization. Therefore, EPA grants Florida final authorization for the following program changes:

Description of federal requirement	Federal register date and page	Analogous state authority [1]
216—Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthesis Gas.	73 FR 57, 01/02/08	F.A.C. 62–730.020(1) and F.A.C. 62–730.030(1).
217—NESHAP: Final Standards for Hazardous Waste Combusters (Phase I Final Replacement Standards and Phase II) Amendments.	73 FR 18970, 04/08/08	F.A.C. 62–730.180(1) and F.A.C. 62–730.181(1).
220—Academic Laboratories Generator Standards ...	73 FR 72912, 12/01/08	F.A.C. 62–730.030(1) and F.A.C. 62–730.160(1).
225—Removal of Saccharin and its Salts from the Lists of Hazardous Wastes.	75 FR 78918, 12/17/10	F.A.C. 62–730.030(1) and F.A.C. 62–183.
226—Corrections to the Academic Laboratories Generator Standards.	75 FR 79304, 10/20/10	F.A.C. 62–730.160(1).
227—Revision of the Land Disposal Treatment Standards for Carbamate Wastes.	76 FR 34147, 06/13/11	F.A.C. 62–730.183.

[1] The Florida provisions for RCRA Cluster XVIII (Checklists 216–217) are from Florida Administrative Code (F.A.C.) Chapter 62–730, effective May 8, 2009. The Florida provisions for RCRA Cluster XIX (Checklist 220) are from F.A.C. Chapter 62–730, effective June 8, 2010. The Florida provisions for RCRA Cluster XXI (Checklists 225–227) are from F.A.C. Chapter 62–730, effective June 29, 2012.

H. Where are the revised State rules different from the Federal rules?

There are no State requirements in the authorized program revisions listed above that are considered to be more stringent or broader in scope than the Federal requirements. However, Florida has made several State-initiated changes to its regulations that the EPA considers to be beyond the scope of the Federal program. These broader-in-scope requirements include the following:

- Form 8700–12F, to the extent that it requires notification for used oil filter transporters, transfer facilities, processors, and end users.
- F.A.C. 62–730.171(3)(a)(1), which requires that a transfer facility's initial notification include a certification that the proposed location of the transfer facility satisfies the criteria of F.S. 403.7211(2).
- F.A.C. 62–730.182, which adds criteria to determine whether changes at a hazardous waste facility constitute a ''substantial modification'' for purposes of the location standards of F.S. 403.7211.

Broader-in-scope requirements are not part of the State's authorized program and EPA cannot enforce them. Although these requirements must be complied with in accordance with State law, they are not RCRA requirements.

With this immediate final rule, EPA is also correcting an error that appeared in the February 7, 2011, **Federal Register** document authorizing certain other changes to Florida's hazardous waste program. At that time, EPA concluded that Florida's universal pharmaceutical waste rule, F.A.C. 62–730.186, was broader in scope than the Federal program. This determination was in error. Florida was previously authorized on April 1, 1997, 62 FR 15407, for its universal waste rules, F.A.C. 62–730.185, which allow the State to add additional wastes to its list of universal wastes. As a result, Florida's addition of hazardous pharmaceutical waste to its universal waste rules is appropriate and consistent with 40 CFR part 273, subpart G. Therefore, at this time, EPA is authorizing the specific management requirements for universal pharmaceutical waste as set forth at F.A.C. 62–730.186, as revised on April 23, 2013. These requirements are different, but equivalent to, the Federal program.

I. Who handles permits after the authorization takes effect?

Florida will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer

any RCRA hazardous waste permits or portions of permits which EPA issued prior to the effective date of this authorization until they expire or are terminated. EPA will not issue any more permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Florida is not authorized.

J. How does today's action affect Indian Country (18 U.S.C. 1151) in Florida?

Florida is not authorized to carry out its hazardous waste program in Indian Country within the State, which includes the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida. EPA will continue to implement and administer the RCRA program in these lands.

K. What is codification and is EPA codifying Florida's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA is not codifying the authorization of Florida's changes at this time. However, EPA reserves the amendment of 40 CFR part 272, subpart K, for the authorization of Florida's program changes at a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective December 8, 2014, unless objections to this authorization are received.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b), of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: August 27, 2014.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2014–24006 Filed 10–7–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2012–0727; FRL–9917–25]

RIN 2070–AB27

Significant New Use Rule on Certain Chemical Substances; Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: EPA issued final significant new use rules (SNURs) in the **Federal Register** of September 2, 2014 for 36 chemical substances which were the subject of premanufacture notices (PMNs). For the chemical substance identified generically as diisocyanate terminated polycarbodiimide (PMN P–04–640), EPA inadvertently omitted the *de minimus* exemption from the worker protection requirements. Also, for the chemical substance identified generically as hexanedioic acid, polymer with .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)],1,1′-methylenebis[4-isocyanatobenzene], dihydroxydialkyl

ether and dialkanol ether (PMN P–11–311) a typographical error in the PMN number has been identified. The amendments in this document are being issued to correct the omission and the typographical error.

DATES: This technical correction is effective November 3, 2014.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2012–0727, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Jim Alwood, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8974; email address: *alwood.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

The Agency included in the September 2, 2014 final rule a list of those who may be potentially affected by this action.

II. What does this technical correction do?

EPA issued a final rule in the **Federal Register** of September 2, 2014 (79 FR 51899) (FRL–9914–19) for significant new uses for 36 chemical substances that were the subject of PMN notices. EPA omitted the *de minimus* exemption of 1.0% from the worker protection requirements for § 721.10643. EPA also erroneously identified the chemical substance in the regulatory text for § 721.10653 as being submitted with PMN P–09–311. The correct number should be PMN P–11–311. This action corrects the omission and the typographical error.

III. Why is this correction issued as a final rule?

Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment. In Unit V. of the September 2, 2014 final rule containing EPA's response to comments, EPA stated in the response to comment 10 that it would include a *de minimus* exemption of 1.0% from the worker protection requirements for § 721.10643. The typographic error of P–09–311 only appears in the regulatory text for § 721.10653. In the proposed rule and the preamble to the final rule EPA properly identified the chemical substance subject to § 721.10653 as being submitted with P–11–309, thereby making clear the intention of the Agency in promulgating the rule. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

IV. Do any of the statutory and executive order reviews apply to this action?

No. For a detailed discussion concerning the statutory and executive order review, refer to Unit X. of the September 2, 2014 final rule.

V. Congressional Review Act

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

List of Subjects in 40 CFR Part 721

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

Dated: October 2, 2014.

Maria J. Doa,

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

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

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

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

■ 2. In § 721.10643, revise paragraph (a)(2)(i) to read as follows:

§ 721.10643 Diisocyanate terminated polycarbodiimide (generic).

(a) * * *

(2) * * *

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), (a)(6)(ii), and (b) (concentration set at 1.0 percent). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent or reduce exposure, where feasible. A National Institute for Occupational Safety and Health (NIOSH)-certified supplied-air respirator operated in pressure demand or other positive pressure mode and equipped with a tight-fitting full facepiece with an assigned protection factor (APF) of at least 2,000 meets the minimum requirements of § 721.63(a)(4). As an alternative to the respiratory requirements listed here, a manufacturer, importer, or processor may choose to follow the new chemical exposure limit (NCEL) provisions listed in the TSCA section 5(e) consent order for this substance. The NCEL is 0.05 mg/m^3. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will receive NCELs provisions comparable to those contained in the corresponding section 5(e) consent order.

* * * * *

■ 3. In § 721.10653, revise paragraph (a)(1) to read as follows:

§ 721.10653 Hexanedioic acid, polymer with .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)],1,1′-methylenebis[4-isocyanatobenzene], dihydroxydialkyl ether and dialkanol ether (generic).

(a) * * *

(1) The chemical substance identified generically as hexanedioic acid, polymer with .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)],1,1′-methylenebis[4-isocyanatobenzene], dihydroxydialkyl ether and dialkanol ether (PMN P–11–311) is subject to reporting under this section for the significant new uses

described in paragraph (a)(2) of this section.

* * * * *

[FR Doc. 2014–24027 Filed 10–7–14; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 79, No. 195
Wednesday, October 8, 2014

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

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Parts 1001 and 1090

[Docket No. CFPB–2014–0024]

RIN 3170–AA46

Defining Larger Participants of the Automobile Financing Market and Defining Certain Automobile Leasing Activity as a Financial Product or Service

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Proposed rule with request for public comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau or CFPB) proposes to amend the regulation defining larger participants of certain consumer financial product and service markets by adding a new section to define larger participants of a market for automobile financing. The new section would define a market that includes grants of credit for the purchase of an automobile, refinancings of such credit obligations, and purchases or acquisitions of such credit obligations (including refinancings). It would also include automobile leases and purchases or acquisitions of such automobile lease agreements. The Bureau is proposing this rule pursuant to its authority, under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), to supervise certain nonbank covered persons for compliance with Federal consumer financial law and for other purposes. The Bureau has the authority to supervise nonbank covered persons of all sizes in the residential mortgage, private education lending, and payday lending markets. In addition, the Bureau has the authority to supervise nonbank ''larger participant[s]'' of markets for other consumer financial products or services, as the Bureau defines by rule. The proposal (Proposed Rule) would identify a market for automobile financing and define as larger participants of this market certain nonbank covered persons that would be subject to the Bureau's supervisory authority. The Proposed Rule would also define certain automobile leases as a ''financial product or service'' under section 1002(15)(A)(xi)(II) of the Dodd-Frank Act. Finally, the Proposed Rule would make certain technical corrections to existing larger-participant rules.

DATES: Comments must be received on or before December 8, 2014.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2014–0024 or RIN 3170–AA46, by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002.

Instructions: All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1275 First Street NE., Washington, DC 20002, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Jolina Cuaresma, Counsel, Andrea Pruitt Edmonds and Amanda Quester, Senior Counsels, Office of Regulations, at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Overview

Section 1024 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), codified at 12 U.S.C. 5514,[1] gives the Bureau supervisory authority over all nonbank covered persons [2] offering or providing three enumerated types of consumer financial products or services: (1) Origination, brokerage, or servicing of consumer loans secured by real estate, and related mortgage loan modification or foreclosure relief services; (2) private education loans; and (3) payday loans.[3] The Bureau also has supervisory authority over ''larger participant[s] of a market for other consumer financial products or services,'' as the Bureau defines by rule.[4]

This Proposed Rule, if adopted, would (1) define certain nonbank covered persons as larger participants of a market for automobile financing that would include grants of credit for the purchase of an automobile, refinancings of such credit obligations and any subsequent refinancings thereof, purchases or acquisitions of such credit obligations (including refinancings), automobile leases, and purchases or

[1] Public Law 111–203, section 1024, 124 Stat. 1376, 1987 (2010) (codified at 12 U.S.C. 5514).

[2] The provisions of 12 U.S.C. 5514 apply to certain categories of nondepository (nonbank) covered persons, described in subsection (a)(1), and expressly exclude from coverage persons described in 12 U.S.C. 5515(a) or 5516(a). ''Covered persons'' include: ''(A) any person that engages in offering or providing a consumer financial product or service; and (B) any affiliate of a person described [in (A)] if such affiliate acts as a service provider to such person.'' 12 U.S.C. 5481(6).

[3] 12 U.S.C. 5514(a)(1)(A), (D), (E). The Bureau also has the authority to supervise any nonbank covered person that it ''has reasonable cause to determine, by order, after notice to the covered person and a reasonable opportunity . . . to respond . . . is engaging, or has engaged, in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services.'' 12 U.S.C. 5514(a)(1)(C); *see also* 12 CFR part 1091 (prescribing procedures for making determinations under 12 U.S.C. 5514(a)(1)(C)). In addition, the Bureau has supervisory authority over very large depository institutions and credit unions and their affiliates. 12 U.S.C. 5515(a). Furthermore, the Bureau has certain authorities relating to the supervision of other depository institutions and credit unions. 12 U.S.C. 5516(c)(1), (e). One of the Bureau's mandates under the Dodd-Frank Act is to ensure that ''Federal consumer financial law is enforced consistently without regard to the status of a person as a depository institution, in order to promote fair competition.'' 12 U.S.C. 5511(b)(4).

[4] 12 U.S.C. 5514(a)(1)(B), (a)(2); *see also* 12 U.S.C. 5481(5) (defining ''consumer financial product or service'').

acquisitions of automobile lease agreements; (2) define, pursuant to section 1002(15)(A)(xi)(II) of the Dodd-Frank Act, the term ''financial product or service'' to include certain types of automobile leases that banks are authorized to offer and that the Bureau finds have or likely will have a material impact on consumers; and (3) make certain technical corrections to revise a term used in subpart A of 12 CFR part 1090 and to clarify the affiliate aggregation requirements in two earlier larger-participant rules.

This Proposed Rule would be the fifth in a series of rulemakings to define larger participants of markets for other consumer financial products or services for purposes of section 1024(a)(1)(B) of the Dodd-Frank Act.[5] The Proposed Rule would establish the Bureau's supervisory authority over certain nonbank covered persons participating in a market for automobile financing. The Proposed Rule would describe this market for consumer financial products or services, which the Proposed Rule labels ''automobile financing.'' The proposed definition would not encompass all activities that could be considered auto financing. Any reference herein to ''the automobile financing market'' means only the particular market for automobile financing identified by the Proposed Rule.

The Bureau is authorized to supervise nonbank covered persons subject to section 1024 of the Dodd-Frank Act for purposes of: (1) Assessing compliance with Federal consumer financial law; (2) obtaining information about such persons' activities and compliance systems or procedures; and (3) detecting and assessing risks to consumers and consumer financial markets.[6] The Bureau conducts examinations, of various scopes, of supervised entities. In addition, the Bureau may, as appropriate, request information from supervised entities without conducting examinations.[7]

The Bureau prioritizes supervisory activity among nonbank covered persons on the basis of risk, taking into account, among other factors, the size of each entity, the volume of its transactions involving consumer financial products or services, the size and risk presented by the market in which it is a participant, the extent of relevant State oversight, and any field and market information that the Bureau has on the entity. Such field and market information might include, for example, information from complaints and any other information the Bureau has about risks to consumers posed by a particular entity.

The specifics of how an examination takes place vary by market and entity. However, the examination process generally proceeds as follows. Bureau examiners contact the entity for an initial conference with management and often request records and other information. Bureau examiners will ordinarily also review the components of the supervised entity's compliance management system. Based on these discussions and a preliminary review of the information received, examiners determine the scope of an on-site examination and then coordinate with the entity to initiate the on-site portion of the examination. While on-site, examiners spend a period of time discussing with management the entity's policies, processes, and procedures; reviewing documents and records; testing transactions and accounts for compliance; and evaluating the entity's compliance management system. Examinations may involve issuing confidential examination reports, supervisory letters, and compliance ratings. In addition to the process described above, the Bureau may also conduct off-site examinations.

The Bureau has published a general examination manual describing the Bureau's supervisory approach and procedures.[8] As explained in the manual, the Bureau will structure examinations to address various factors related to a supervised entity's compliance with Federal consumer financial law and other relevant considerations.

This Proposed Rule would establish a category of nonbank covered persons that is subject to the Bureau's supervisory authority under section 1024 by defining ''larger participants'' of a market for automobile financing.[9] The aspect of the Proposed Rule defining larger participants of a market for automobile financing pertains only to that purpose and would not impose new substantive consumer protection requirements. Nonbank covered persons generally are subject to the Bureau's regulatory and enforcement authority, and any applicable Federal consumer financial law, regardless of whether they are subject to the Bureau's supervisory authority.

The Bureau proposes to add § 1001.1 and § 1001.2(a) in new part 1001 to title 12 of the Code of Federal Regulations. Proposed § 1001.1 would state the authority and purpose of part 1001, which is to implement the Bureau's authority, granted by section 1002(15)(A)(xi) of the Dodd-Frank Act, to define the term ''financial product or service'' to include financial products or services in addition to those defined in sections 1002(15)(A)(i)–(x). Proposed § 1001.2(a) would define the term ''financial product or service'' under that same authority to include certain automobile leases.

II. Summary of Proposed Rule

The Bureau is authorized to define larger participants in markets for consumer financial products or services. Subpart A of the Bureau's existing larger-participant rule, 12 CFR part 1090, prescribes various procedures, definitions, standards, and protocols that apply with respect to all markets in which the Bureau defines larger participants.[10] Those generally applicable provisions would also apply to the automobile financing market described by this Proposed Rule. The definitions in § 1090.101 should be used, unless otherwise specified, when interpreting terms in this Proposed Rule.

The Bureau includes relevant market descriptions and larger-participant tests, as it develops them, in subpart B.[11] Accordingly, the Proposed Rule defining larger participants of the automobile financing market would become § 1090.108 in subpart B.

The Proposed Rule would define a market for automobile financing that

[5] The first three rules defined larger participants of markets for consumer reporting, 77 FR 42874 (July 20, 2012) (Consumer Reporting Rule), consumer debt collection, 77 FR 65775 (Oct. 31, 2012) (Consumer Debt Collection Rule), and student loan servicing, 78 FR 73383 (Dec. 6, 2013) (Student Loan Servicing Rule). The Bureau also recently released a fourth rule, which defines larger participants of a market for international money transfers and is available at *http://files.consumerfinance.gov/f/201409_cfpb_final-rule_larger-participant-rule-international-money-transfer-market.pdf* (International Money Transfer Rule).

[6] 12 U.S.C. 5514(b)(1).

[7] *See* 12 U.S.C. 5514(b) (authorizing the Bureau both to conduct examinations and to require reports from entities subject to supervision).

[8] CFPB, CFPB Supervision and Examination Manual (Oct. 1, 2012), *available at http://www.consumerfinance.gov/guidance/supervision/manual/.*

[9] The Bureau's supervisory authority also extends to service providers of those covered persons that are subject to supervision under 12 U.S.C. 5514(a)(1). 12 U.S.C. 5514(e); *see also* 12 U.S.C. 5481(26) (defining ''service provider'').

[10] 12 CFR 1090.100–.103.

[11] 77 FR 42874, 42875 (Consumer Reporting Rule), 12 CFR 1090.104; 77 FR 65775, 65777 (Consumer Debt Collection Rule), 12 CFR 1090.105; 78 FR 73383, 73384 (Student Loan Servicing Rule), 12 CFR 1090.106. As noted above, the Bureau also recently released the International Money Transfer Rule, which is available at *http://files.consumerfinance.gov/f/201409_cfpb_final-rule_larger-participant-rule-international-money-transfer-market.pdf.*

would cover specific activities and would set forth a test to determine whether a nonbank covered person is a larger participant of that market. Nonbanks that are the subject of this Proposed Rule provide automobile financing by engaging in one or more of the following activities: Granting credit for the purpose of purchasing an automobile; refinancing existing credit obligations or previously refinanced credit obligations that had been made for the purchase of an automobile; purchasing or acquiring such credit obligations (including refinancings); providing automobile leases; and purchasing or acquiring automobile lease agreements.

The Bureau is not proposing to include automobile title lending or the securitization of automobile loans and leases within the meaning of the term ''automobile financing'' in this Proposed Rule, although as discussed below the Bureau is seeking comment on this approach. Moreover, the Proposed Rule excludes certain auto dealers.[12] The Proposed Rule also would not apply to depository institutions and credit unions that engage in automobile financing, including those already subject to the Bureau's supervisory authority.

The Proposed Rule would define ''automobile'' to mean any self-propelled vehicle primarily used for personal, family, or household purposes for on-road transportation.[13] The Proposed Rule would define ''annual originations'' as grants of credit for the purchase of an automobile, refinancings of such credit obligations and any subsequent refinancings thereof, and purchases or acquisitions of such credit obligations (including refinancings). It would also include ''automobile leases'' and purchases or acquisitions of automobile lease agreements. Under the Proposed Rule, the term ''automobile lease'' would mean leases that fall within the meaning of section 1002(15)(A)(ii) of the Dodd-Frank Act or meet the requirements of proposed § 1001.2(a), which is discussed below.

The Proposed Rule would set forth a test to determine whether a nonbank covered person is a larger participant of the automobile financing market. A nonbank covered person would be a larger participant if it has at least 10,000 aggregate annual originations. As prescribed by existing § 1090.102, any nonbank covered person that qualifies as a larger participant would remain a larger participant until two years after the first day of the tax year in which the person last met the applicable test.[14]

Pursuant to existing § 1090.103, a person would be able to dispute whether it qualifies as a larger participant in the automobile financing market. The Bureau would notify an entity when the Bureau intended to undertake supervisory activity; the entity would then have an opportunity to submit documentary evidence and written arguments in support of its claim that it was not a larger participant.[15] Section 1090.103(d) provides that the Bureau may require submission of certain records, documents, and other information for purposes of assessing whether a person is a larger participant of a covered market;[16] this authority would be available to the Bureau to facilitate its identification of larger participants of the automobile financing market, just as in other markets.

As noted above, the Bureau is proposing to include automobile leases in the criterion it would use to define larger participants in the market for automobile financing. Certain consumer leases are identified as a financial product or service under section 1002(15)(A)(ii) and, thus, the Bureau would have authority over such leases and those leases would count toward the threshold for the larger-participant test in this Proposed Rule. While most consumer leases fall within section 1002(15)(A)(ii), some likely will not because section 1002(15)(A)(ii) requires that leases be, among other things, the functional equivalent of purchase finance arrangements.[17] As discussed further below, the Bureau believes that the purpose of the Proposed Rule and the Bureau's overall mission would be best served by covering automobile leasing more broadly. Accordingly, the Bureau also proposes in § 1001.2(a) to define the term ''financial product or service'' under its authority granted by section 1002(15)(A)(xi)(II) of the Dodd-Frank Act to include automobile leases that do not fall under the definition in section 1002(15)(A)(ii).

Finally, the Proposed Rule would amend the Bureau's existing larger-participant rule. Specifically, the Bureau is proposing to make a technical correction to existing § 1090.101, by inserting the word ''financial'' before the term ''product or service'' in the definition of ''nonbank covered person.'' The Proposed Rule would also amend paragraph (iii)(D) of the definition of ''annual receipts'' in existing § 1090.104(a) and § 1090.105(a), which governs how the affiliate aggregation rules apply to formerly affiliated companies for purposes of the consumer reporting and consumer debt collection larger-participant rules. The proposal would clarify that if a company ceases to be an affiliated company of a nonbank covered person during the relevant measurement period, its annual receipts must be aggregated for the entire period of measurement.

III. Legal Authority and Procedural Matters

A. Rulemaking Authority

The Bureau is issuing this Proposed Rule pursuant to its authority under the Dodd-Frank Act: (1) Sections 1024(a)(1)(B) and (a)(2), which authorize the Bureau to supervise nonbanks that are larger participants of markets for consumer financial products or services, as defined by rule; [18] (2) section 1024(b)(7), which, among other things, authorizes the Bureau to prescribe rules to facilitate the supervision of covered persons under section 1024; [19] (3) section 1022(b)(1), which grants the Bureau the authority to prescribe rules as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of Federal consumer financial law, and to prevent evasions of such law; [20] and (4) section 1002(15)(A)(xi), which authorizes the Bureau to prescribe rules to define ''other financial product[s] or service[s],'' if the Bureau finds that such financial products or services are: (i) Entered into or conducted as a subterfuge or with a purpose to evade any Federal consumer financial law; or (ii) permissible for a bank or a financial holding company to offer or provide under any applicable Federal law or regulation, and have, or likely will have, a material impact on consumers.[21]

[12] Under section 1029 of the Dodd-Frank Act, the Bureau may not exercise its authority over certain auto dealers, as outlined in that section. As explained below, the proposed larger-participant rule would also exclude certain dealers that extend retail credit or leases without routinely assigning them to unaffiliated third parties, even though such dealers are not subject to the statutory exclusion.

[13] Any reference to the term ''automobile'' means only the particular vehicles identified by the Proposed Rule. The term ''auto'' as used in this Proposed Rule is intended to include a broader category of vehicles. Similarly, the term ''auto financing'' is used generically and more broadly than the proposed defined term ''automobile financing.''

[14] 12 CFR 1090.102.

[15] 12 CFR 1090.103(a).

[16] 12 CFR 1090.103(d).

[17] As discussed in greater detail below, section 1002(15)(A)(ii) also requires that leases be non-operating and have an initial term of at least 90 days. The Bureau believes that automobile leases in the current consumer leasing market meet these two criteria.

[18] 12 U.S.C. 5514(a)(1)(B), (a)(2).

[19] 12 U.S.C. 5514(b)(7).

[20] 12 U.S.C. 5512(b)(1).

[21] 12 U.S.C. 5481(15)(A)(xi).

B. Proposed Effective Date of Final Rule

The Administrative Procedure Act generally requires that rules be published not less than 30 days before their effective dates.[22] The Bureau is proposing that the final rule arising from this Proposed Rule would be effective 60 days after publication.

IV. Section-by-Section Analysis

A. 12 CFR Part 1001 Financial Product or Service

Section 1001.1 Authority and Purpose

Proposed § 1001.1 states the authority and purpose for new part 1001. It explains that under section 1002(15)(A)(xi) of the Dodd-Frank Act, the Bureau is authorized to define certain financial products or services for purposes of title X of the Dodd-Frank Act, in addition to those defined in sections 1002(15)(A)(i)–(x). As proposed § 1001.1 explains, the purpose of part 1001 is to implement that authority.

Section 1001.2 Definitions

2(a)

Proposed § 1001.2(a) would define the term ''financial product or service'' under section 1002(15)(A)(xi)(II) of the Dodd-Frank Act, to include certain automobile leases that (1) meet the requirements of section 108 of the Competitive Equality Banking Act of 1987 (CEBA),[23] as implemented by 12 CFR part 23, and are thus permissible for banks to offer or provide; and (2) are not currently defined as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act. Under section 1002(15)(A)(xi)(II), for purposes of title X of the Act, the Bureau may define as a covered financial product or service, by regulation: ''such other financial product or service . . . if the Bureau finds that such financial product or service is— . . . (II) permissible for a bank or for a financial holding company to offer or to provide under any provision of a Federal law or regulation applicable to a bank or a financial holding company, and has, or likely will have, a material impact on consumers.'' The Bureau is proposing § 1001.2(a) pursuant to this authority.

Depository institutions have long engaged in auto leasing activities, and nonbank entities are a major player in the leasing sector.[24] It is an important and growing part of the auto financing market for consumers. While the auto financing market is largely comprised of purchase loans, in recent years consumers have begun to migrate more towards leasing agreements.[25] As of the first quarter of 2014, leases comprise approximately 30 percent of new vehicle automotive financing transactions, which is up from about 20 percent five years ago.[26] Furthermore, of all new and used auto financing transactions recorded in the first quarter of 2014, approximately 14 percent occurred through leasing arrangements, while the remainder used purchase financing.[27]

The Bureau is proposing to include automobile leasing in the consumer financial product or service market for automobile financing for purposes of a rule defining larger participants in that market. Section 1002(15)(A)(ii) defines the term ''financial product or service'' to include certain leases that, among other things, are the functional equivalent of purchase finance arrangements.[28] As discussed below, the Bureau believes that most consumer automobile leases meet this requirement; however, some may not. The Dodd-Frank Act accounts for the possibility that the enumerated list of financial products and services in sections 1002(15)(A)(i)–(x) may not completely capture the markets for financial products or services available to consumers. Specifically, section 1002(15)(A)(xi)(II) grants the Bureau the authority to define additional financial products or services by regulation as described above. Pursuant to this authority, the Bureau is proposing § 1001.2(a) to define automobile leases that (1) meet the requirements of section 108 of CEBA, as implemented by 12 CFR part 23, and are thus permissible for banks to offer or provide; and (2) are not currently defined as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act.

Section 1002(15)(A)(ii) defines the term ''financial product or service,'' in relevant part, as: ''extending or brokering leases of personal . . . property that are the functional equivalent of purchase finance arrangements, if—(I) the lease is on a non-operating basis; [and] (II) the initial term of the lease is at least 90 days.'' [29] For ease of reference, the Bureau refers to these types of leasing arrangements herein as ''category (ii)'' leases. As explained below, in the Bureau's view, the features of a category (ii) lease are found in most consumer automobile leases.

The Bureau believes the phrase ''functional equivalent of purchase finance arrangements''—which is not defined in the Dodd-Frank Act [30]—is reasonably interpreted to encompass most automobile leases. Under section 1021 of the Dodd-Frank Act, the Bureau is charged with ''implement[ing], and, where applicable, enforc[ing] Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.'' [31] In light of this purpose and mandate, the Bureau believes the term ''functional equivalent of purchase finance arrangements'' is best interpreted from the perspective of the consumer.

For consumers, leasing a vehicle requires an application process and an ongoing contractual obligation that are both financial in nature and similar to entering into a financial arrangement to purchase a vehicle. Like a consumer seeking to qualify for a loan to purchase a vehicle, a consumer seeking to lease a vehicle must provide basic financial information such as income and credit history.[32] Though a consumer who leases an automobile need not finance the entire cost of the vehicle, the consumer still undertakes a major financial obligation in the form of a commitment to make a stream of payments over a significant period of time.[33] The consumer must consider

[22] 5 U.S.C. 553(d).

[23] Public Law 100–86, 101 Stat. 519 (1987) (codified at 12 U.S.C. 24(Tenth)).

[24] DBRS, *Methodology: Rating U.S. Auto Lease Securitizations* 4 (Jan. 2010), *available at http://www.dbrs.com/research/231458.*

[25] Melinda Zabritski, *Experian Automotive, State of the Automotive Finance Market First Quarter 2014* (June 5, 2014), *available at http://www.experian.com/assets/automotive/brochures/experian-auto-2014-q1-credit-webinar-presentation-6-5-2014.pdf?WT.srch=Auto_Q12014FinanceTrends_PDF.*

[26] *See id.* at 21.

[27] *See id.* at 20.

[28] Section 1002(15)(A)(ii) also requires that leases be non-operating and have an initial term of at least 90 days. The Bureau believes that automobile leases in the current consumer leasing market meet these two criteria.

[29] Section 1002(5) of the Dodd-Frank Act defines ''Consumer financial product or service'' as ''any financial product or service that is described in one or more categories under—(A) paragraph (15) and is offered or provided for use by consumers primarily for personal, family, or household purposes; or (B) clause (i), (iii), (ix), or (x) of paragraph (15)(A), and is delivered, offered, or provided in connection with a consumer financial product or service referred to in subparagraph (A).''

[30] The Bureau is not aware of any Federal or State statute or regulation that defines the term.

[31] 12 U.S.C. 5511(a).

[32] *See* Fed. Trade Comm'n, *Consumer Information: Understanding Vehicle Financing* (Jan. 2014), *available at http://www.consumer.ftc.gov/articles/0056-understanding-vehicle-financing.*

[33] Like consumers who borrow money to purchase a vehicle, consumers who lease are contractually obligated to make monthly lease payments during the lease term. *See* Fed. Res. Sys., *Key to Vehicle Leasing Consumer Guide* (Mar. 13,

Continued

how much cash to use, if any, for a down payment, the preferred lease term, and the affordability of monthly payments and other costs including maintenance, insurance, and state registration fees.

Auto leasing also shares many other features with auto lending. A consumer must demonstrate an ability to pay the monthly payments in order to qualify for a lease and a consumer's creditworthiness impacts the terms of the lease. An auto finance company may furnish information about a lessee, such as payment history, to credit bureaus in the same manner that the company does for a borrower. Also, similar to a consumer who finances an auto with a loan, a consumer who leases an auto bears the responsibility for the vehicle's upkeep and must maintain, repair, and service the vehicle during the lease term.[34] The consumer must also insure the vehicle and bears the risk should the vehicle become damaged or totaled.[35] Similarly, if a consumer fails to make loan or lease payments, the vehicle must be returned to the auto finance company, and fees or penalties may apply.[36] Most importantly, regardless of whether consumers seek to purchase or lease a vehicle, they must negotiate the price and terms. For all the foregoing reasons, automobile leases carry similar obligations and risks that vehicle loans present to consumers. In addition, in an auto leasing arrangement, the consumer can typically purchase the vehicle at the end of the lease term for a pre-determined amount, which is generally based on the residual value of the vehicle.[37] Accordingly, from the perspective of a consumer, leasing presents an alternative method to a loan for acquiring a vehicle through a series of installment payments, and is therefore reasonably understood to be the functional equivalent of purchase finance arrangements.

Moreover, autos are important to the financial well-being of consumers regardless of whether the consumer obtains the use of a vehicle through a lease or a loan. Consumers rely on autos for their transportation needs, including to and from the workplace. From a consumer's standpoint, whether a vehicle is leased or financed through a loan, any consumer financial law violation that impedes access to a vehicle or otherwise creates problems related to the loan or leasing arrangement can have a critical impact on the consumer. Thus, as interpreted by the Bureau, most automobile leases are the functional equivalent of purchase finance arrangements.

The Bureau believes that typical auto leases also meet the remaining two requirements of section 1002(15)(A)(ii) of the Dodd-Frank Act. First, auto leases are generally ''non-operating.'' Consistent with the definition in Regulation Y, which governs bank holding companies and changes in bank control, the Bureau interprets ''non-operating'' to mean that the lease provider is not, directly or indirectly, engaged in operating, servicing, maintaining, or repairing the leased property during the lease term.[38] Under most auto leases, the consumer, rather than the lessor, is responsible for ensuring the care and maintenance of the vehicle.[39] Second, most leases have terms well beyond 90 days. Lease terms for autos typically range from 12 to 60 months, with the majority of leases ranging from 24 to 48 months.[40] Thus, the Bureau believes that most automobile leases readily fall under section 1002(15)(A)(ii) as financial products or services.

However, as discussed above, the requirement that category (ii) leases be the functional equivalent of purchase finance arrangements means that coverage of leases under section 1002(15)(A)(ii) will necessarily depend on a number of factors and circumstances that may vary between particular leases and institutions. Given the potential variance in the terms of lease agreements, the Bureau is concerned that not all automobile leases that materially impact consumers will necessarily qualify for coverage under section 1002(15)(A)(ii) and that market participants may have a difficult time discerning which leases meet the definition and which do not. Such a result would make the automobile financing larger-participant rule difficult to administer with respect to leasing and would not provide optimal protection to consumers. To further the mandate of protecting consumers and for ease of administering the automobile financing larger-participant rule, the Bureau is proposing to exercise its authority under section 1002(15)(A)(xi)(II) of the Dodd-Frank Act to define certain automobile leases not covered under section 1002(15)(A)(ii) as financial products or services within the meaning of section 1002(15)(A) of the Dodd-Frank Act.

Under section 1002(15)(A)(xi)(II), for purposes of title X of the Dodd-Frank Act, the Bureau may define as a covered financial product or service, by regulation: ''such other financial product or service . . . if the Bureau finds that such financial product or service is— . . . (II) permissible for a bank or for a financial holding company to offer or to provide under any provision of a Federal law or regulation applicable to a bank or a financial holding company, and has, or will have, a material impact on consumers.'' In this proposal, the Bureau would define the term ''financial product or service'' under section 1002(15)(A)(xi)(II) to include certain automobile leases that: (1) meet the requirements of section 108 of CEBA, as implemented by 12 CFR part 23, and therefore are permissible for banks to offer or provide; and (2) are not the functional equivalent of purchase finance arrangements under section 1002(15)(A)(ii) of the Dodd-Frank Act.

Banks and financial holding companies are broadly authorized to engage in automobile leasing. With respect to national banks, CEBA amended the National Bank Act, to add, among other things, 12 U.S.C. 24(Tenth), which authorizes national banks to ''invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for lease financing transactions on a net lease basis.'' [41] Neither CEBA nor its

2013), *available at http://www.federalreserve.gov/pubs/leasing/*.

[34] *See id.*

[35] *See id.*

[36] *See id.* Also, if a consumer terminates a lease early, early termination fees may apply.

[37] CFPB, *Ask CFPB: What is residual value?* (June 24, 2012), *available at http://www.consumerfinance.gov/askcfpb/737/what-residual-value.html*. The residual value is the projected market value of the vehicle at the end of the lease, which is usually the amount the consumer would have to pay to purchase the vehicle at the end of the lease term. Additionally, the consumer may be responsible for any applicable taxes or fees.

[38] 12 CFR 225.28(b)(3)(i) n.6 (''The requirement that the lease be on a nonoperating basis means that the bank holding company may not, directly or indirectly, engage in operating, servicing, maintaining, or repairing leased property during the lease term. For purposes of the leasing of automobiles, the requirement that the lease be on a nonoperating basis means that the bank holding company may not, directly or indirectly: (1) Provide servicing, repair, or maintenance of the leased vehicle during the lease term; (2) purchase parts and accessories in bulk or for an individual vehicle after the lessee has taken delivery of the vehicle; (3) provide the loan of an automobile during servicing of the leased vehicle; (4) purchase insurance for the lessee; or (5) provide for the renewal of the vehicle's license merely as a service to the lessee where the lessee could renew the license without authorization from the lessor.'').

[39] *See supra* note 33.

[40] *See* Zabritski, *supra* note 25, at 25; *see also supra* note 33.

[41] Under the implementing regulations, net lease is defined as ''a lease under which the national bank will not, directly or indirectly, provide or be obligated to provide for:

(1) Servicing, repair, or maintenance of the leased property during the lease term;

(2) Parts or accessories for the leased property;

implementing regulations require that such leases be the functional equivalent of loans, credit, or purchase finance arrangements.[42] Similarly, under Regulation Y, bank and financial holding companies may engage in leasing of personal property irrespective of whether the leases are the functional equivalent of loans, credit, or purchase finance arrangements.[43]

Additionally, the Bureau believes that, whether or not a particular automobile lease qualifies as a category (ii) lease, all consumer automobile leasing, including leasing covered by the proposed definition, has a material impact on consumers. As discussed below, access to a vehicle is critical for consumers. Auto leasing is a significant financial obligation, and consumers are increasingly turning to leasing as a means to obtain a vehicle. The impact of automobile leasing on consumers and their financial well-being does not turn on whether a lease is the functional equivalent of a purchase finance arrangement.

Accordingly, as authorized under section 1002(15)(A)(xi)(II) of the Dodd-Frank Act, the Bureau is proposing to define the term ''financial product or service'' to include extending or brokering leases for automobiles, where the lease: (1) qualifies as a full-payout lease [44] and a net lease, as provided by 12 CFR 23.3(a), and has an initial term of not less than 90 days, as provided by 12 CFR 23.11; and (2) is not a financial product or service under section 1002(15)(A)(ii).[45] The proposed definition meets the requirements of section 1002(15)(A)(xi)(II). As discussed above, banks and financial holding companies are permitted to engage in automobile leasing described under this definition, and such automobile leasing has a material impact on consumers.

This proposed definition would ensure that such leases are subject to the same range of protections applicable to ''financial product[s] or service[s]'' under the Dodd-Frank Act. For example, it would ensure that the offering or providing of the defined leases is subject to the prohibition against unfair, deceptive, or abusive acts or practices in section 1031 of the Dodd-Frank Act.[46] Because leases that are not the functional equivalent of purchase finance arrangements can raise the same consumer protection concerns as category (ii) leases, the Bureau believes that it is appropriate to subject these additional leases to the Dodd-Frank Act provisions that apply to ''financial product[s] or service[s].'' Comprehensive coverage of automobile leasing will also make the Proposed Rule defining larger participants of the automobile financing market more accurately reflect the structure of that market and easier to administer by eliminating uncertainty about which types of leasing activities are counted.

The Bureau invites comments on its analysis regarding the leasing market and this proposed definition, and requests data on automobile leases generally.

B. 12 CFR Part 1090 Defining Larger Participants of Certain Consumer Financial Product and Service Markets

Section 1090.101 Definitions

The Bureau proposes to make a technical correction to the definition of ''nonbank covered person'' in § 1090.101 by substituting the term ''consumer financial product or service'' for ''consumer product or service'' where it appears. With this substitution, the definition would read:

Nonbank covered person means, except for persons described in 12 U.S.C. 5515(a) and 5516(a):

(1) Any person that engages in offering or providing a consumer financial product or service; and

(2) Any affiliate of a person that engages in offering or providing a consumer financial product or service if such affiliate acts as a service provider to such person.

Section 1090.104 Consumer Reporting Market

104(a) Market-related definitions

104(a), paragraph (iii)(D) of the definition of ''Annual receipts''—''Annual receipts of affiliated companies''

The Bureau proposes to make a technical correction to paragraph (iii)(D) of the definition of ''annual receipts'' in § 1090.104(a), which governs how the affiliate aggregation rules apply to formerly affiliated companies for purposes of the Consumer Reporting Rule. For the reasons explained below, the correction would clarify that if a company is an affiliated company of the nonbank covered person during the relevant measurement period but ceases to be an affiliated company during the same period, the annual receipts of the nonbank covered person and the formerly affiliated company must be aggregated for the entire period of measurement. As noted below, the Bureau is proposing to make the same change to paragraph (iii)(D) of the definition of ''annual receipts'' in § 1090.105(a) in the Consumer Debt Collection Rule.

Under section 1024(a)(3)(B) of the Dodd-Frank Act, the activities of affiliated companies are to be aggregated for purposes of computing activity levels for the larger-participant rules. In the Consumer Reporting and Consumer Debt Collection Rules, the Bureau has implemented the aggregation called for by section 1024(a)(3)(B) by prescribing the addition of all the receipts of a nonbank covered person and its affiliated companies to produce the nonbank covered person's annual receipts.[47] The Bureau has prescribed similar calculations for account volume in the Student Loan Servicing Rule and for aggregate annual international money transfers in the International Money Transfer Rule.[48]

The affiliate aggregation provisions of each of the larger-participant rules address circumstances where a

(3) Loan of replacement or substitute property while the leased property is being serviced;

(4) Payment of insurance for the lessee, except where the lessee has failed in its contractual obligation to purchase or maintain required insurance; or

(5) Renewal of any license or registration for the property unless renewal by the bank is necessary to protect its interest as owner or financier of the property.''

12 CFR 23.2(f).

[42] *See* 12 U.S.C. 24(Tenth); 12 CFR 23.2, 23.3.

[43] 12 CFR 225.28(b)(3). Bank holding companies are limited to leases that are non-operating, as described above, and have a term of at least 90 days. *Id.*

[44] Under the implementing regulations, ''full-payout lease'' is defined as ''a lease in which the national bank reasonably expects to realize the return of its full investment in the leased property, plus the estimated cost of financing the property over the term of the lease, from:

(1) Rentals;

(2) Estimated tax benefits; and

(3) The estimated residual value of the property at the expiration of the lease term.''

12 CFR 23.2(e).

[45] For purposes of this definition, ''automobile'' would be defined as proposed in 12 CFR 1090.108(a).

[46] The proposed definition would also expand the scope of certain other Bureau authorities under title X of the Dodd-Frank Act. Perhaps most significantly, the proposed definition would expand the Bureau's rulemaking authority under section 1032 of the Dodd-Frank Act, which authorizes the Bureau to prescribe rules to ensure that the features of any consumer financial product or service are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service. In addition, the proposed definition would expand the scope of the Bureau's authority under section 1022(c) of the Dodd-Frank Act to ''monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services,'' and the scope of the Bureau's authority under section 1033 of the Dodd-Frank Act to prescribe rules for covered persons with respect to consumer rights to access information concerning consumer financial products or services that the consumer received from such person.

[47] 12 CFR 1090.104(a), 1090.105(a).

[48] 12 CFR 1090.106(a), 1090.107(a).

company becomes affiliated with a nonbank covered person or ceases to be affiliated with the nonbank covered person during the relevant measurement period.[49] For simplicity and completeness of coverage, the Bureau believes it is appropriate in both circumstances to aggregate the activity of the company with that of the nonbank covered person for the entire period of measurement, even though the company was an affiliated company of the nonbank covered person for only part of the measurement period.

This is the approach used in the Student Loan Servicing Rule's definition of ''account volume'' and the International Money Transfer Rule's definition of ''aggregate annual international money transfers.'' [50] It is also the approach that the Bureau intended to adopt in the Consumer Reporting and Consumer Debt Collection Rules. However, the language addressing aggregation of formerly-affiliated companies in the definition of ''annual receipts'' in those rules is unclear.[51] To clarify the operation of those paragraphs, the Bureau proposes to replace the final sentence of paragraph (iii)(D) of § 1090.104(a)'s definition of ''annual receipts'' with: ''The annual receipts of a nonbank covered person and its formerly affiliated company are aggregated for the entire period of measurement if the affiliation ceased during the applicable period of measurement as set forth in paragraph (ii) of this definition.''

Section 1090.105 Consumer Debt Collection Market

105(a) Market-related definitions

105(a), paragraph (iii)(D) of the definition of ''Annual receipts''—''Annual receipts of affiliated companies''

For the same reasons described above with respect to § 1090.104(a), the Bureau proposes to replace the final sentence of paragraph (iii)(D) of § 1090.105(a)'s definition of ''annual receipts'' with: ''The annual receipts of a nonbank covered person and its formerly affiliated company are aggregated for the entire period of measurement if the affiliation ceased during the applicable period of measurement as set forth in paragraph (ii) of this definition.''

Section 1090.108 Automobile Financing Market

The Bureau is proposing § 1090.108 to define larger participants of the automobile financing market because of the important role that automobiles and related financing play in consumers' lives. Autos have become indispensable for most working individuals, with nearly 90 percent of the workforce commuting to work by car, and most driving alone.[52] Consumers' reliance on vehicles is underscored by recent studies on repayment patterns, which show that consumers pay their auto loans before other secured and unsecured debt.[53] Auto loans are the third largest category of outstanding household debt, behind mortgage and student loans. In the first quarter of 2014, consumers in the United States had 87.4 million outstanding auto loans valued at nearly $900 billion.[54]

As stated above, the Bureau is proposing to define a market for automobile financing that would include grants of credit for the purchase of an automobile, refinancings of such credit obligations and any subsequent refinancings thereof, and purchases or acquisitions of such credit obligations (including refinancings). It would also include automobile leases and purchases or acquisitions of automobile lease agreements. While a significant number of consumers obtain credit to purchase their automobile,[55] in recent years, consumers have begun to migrate more towards leasing agreements. Leasing is growing quickly as a proportion of new vehicle financing.[56]

Under the proposed automobile financing market, nonbank participants include: (1) Specialty finance companies, (2) ''captive'' nonbanks (commonly referred to as ''captives''), and (3) Buy Here Pay Here (BHPH) finance companies.[57] Specialty financing companies serve consumers in specialized markets. Many of these companies focus on providing financing to subprime borrowers who tend to have past credit problems, lower income, or limited credit histories, which prevent them from being able to obtain financing elsewhere.

Generally, captives are subsidiary finance companies owned by auto manufacturers. They provide consumers with financing for the primary purpose of facilitating their parent companies' and associated franchised dealers' auto sales.

BHPH finance companies are similar to captives in that they are associated with certain BHPH dealers,[58] which traditionally focus on subprime and deep subprime borrowers. While BHPH dealers are mostly independently-owned entities that serve as the primary lender and receive payments directly from consumers, some larger BHPH dealers will sell or assign their contracts to specific BHPH finance companies once the contract has been consummated with the consumer.

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[49] This aspect is addressed in paragraphs (iii)(B) and (iii)(D) of the definition of ''annual receipts'' in § 1090.104(a), paragraphs (iii)(B) and (iii)(D) of the definition of ''annual receipts'' in § 1090.105(a), paragraphs (iii)(B) and (iii)(C) of the definition of ''account volume'' in § 1090.106(a), and paragraph (iii)(B) of the definition of ''aggregate annual international money transfers'' in § 1090.107(a).

[50] Paragraph (iii)(C) of the definition of ''account volume'' in § 1090.106(a) provides: ''If two affiliated companies cease to be affiliated companies, the number of accounts of each continues to be included in the other's account volume until the succeeding December 31.'' Paragraph (iii)(B) of the definition of ''aggregate annual international money transfers'' in § 1090.107(a) provides:

The annual international money transfers of a nonbank covered person must be aggregated with the annual international money transfers of any person that was an affiliated company of the nonbank covered person at any time during the preceding calendar year. The annual international money transfers of the nonbank covered person and its affiliated companies are aggregated for the entire preceding calendar year, even if the affiliation did not exist for the entire calendar year.

[51] Paragraph (iii) of the definition of ''annual receipts'' in both § 1090.104(a) and § 1090.105(a) provides:

The annual receipts of a formerly affiliated company are not included if affiliation ceased before the applicable period of measurement as set forth in paragraph (ii) of this definition. This exclusion of annual receipts of formerly affiliated companies applies during the entire period of measurement, rather than only for the period after which affiliation ceased.

[52] *See* Brian McKenzie & Melanie Rapino, U.S. Census Bureau, *Commuting in the United States: 2009* (2011), *http://www.census.gov/prod/2011pubs/acs-15.pdf.*

[53] *See* TransUnion, *New Developments around the Consumer Payment Hierarchy* (2014), *http://media.marketwire.com/attachments/201403/233081_PaymentHierarchyInfographic2014FINAL.jpg (*Full report available at *http://www.transunioninsights.com/studies/behaviorstudy).*

[54] Fed. Res. Bank of N.Y., *Quarterly Report on Household Debt and Credit* (May 2014), *http://www.newyorkfed.org/householdcredit/2014-q1/data/pdf/HHDC_2014Q1.pdf.* According to the New York Federal Reserve, ''auto loans'' are ''loans taken out to purchase a car, including Auto Bank loans provided by banking institutions (banks, credit unions, savings and loan associations), and Auto Finance loans, provided by automobile dealers and automobile financing companies.''

[55] In addition to financing the initial acquisition of an automobile, some consumers refinance their existing automobile loans. Consumers typically refinance their automobile loans to lower their loan interest rates to achieve lower monthly payments. The level of refinancing depends on trends in interest rate levels over the term for most auto loans, which ranges from three to seven years.

[56] As stated above, at the end of the first quarter of 2014, leases comprised approximately 30 percent of new vehicle automotive financing transactions, which is up from about 20 percent five years ago. *See* Zabritski, *supra* note 25.

[57] Although dealers may also engage in some automobile financing activities, they are not included for purposes of this discussion of market participants.

[58] Unlike captives, however, not all BHPH finance companies are associated with specific automobile dealers. The Bureau is aware of BHPH finance companies that provide financing to independently-owned BHPH dealer franchises.

However, these BHPH finance companies do not focus on a particular auto manufacturer unlike captives whose primary purpose is to extend credit to consumers who want to purchase or lease a specific manufacturer's vehicles.[59]

According to the Bureau's estimates based on Experian Automotive's AutoCount® database,[60] the proposed automobile financing market includes over five hundred nonbank automobile lenders[61] and is fairly concentrated. As measured by the number of transactions identified in the AutoCount Lender Report℠, fewer than 40 entities comprise over 90 percent of the auto loan and lease transactions in the nonbank market.[62] The top tier of this market is dominated by large captives. The other large companies in the nonbank automobile financing market are either specialty finance companies or BHPH finance companies. The lower tiers of the nonbank market are comprised generally of smaller regional specialty finance companies.

Auto credit is provided both through direct and indirect channels creating different dynamics for consumers and industry participants. In the direct lending channel, a consumer seeks credit directly from the financing source, whereas in the indirect lending channel, the dealer typically facilitates a loan from a third-party finance source.[63] Depository institutions and credit unions have an advantage in the direct lending space because these entities often have a pre-existing relationship with consumers. Captives and other specialty finance companies are more active in the indirect channel. Most consumers who finance the purchase of an automobile—roughly 80 percent—use the indirect channel and look to automobile dealers to facilitate their purchase loans.[64]

With indirect lending, dealers rather than consumers typically select the lender who will provide the financing. Upon completion of the vehicle selection process, the dealer usually collects basic information regarding the applicant and uses an automated system to forward that information to prospective indirect automobile lenders. After evaluating the applicant, indirect auto lenders may provide the dealer with purchase eligibility criteria or stipulations including, but not limited to, a risk-based ''buy rate'' that establishes a minimum interest rate at which the lender is willing to purchase a retail installment sales contract executed between the consumer and the dealer for the purchase of the vehicle.[65]

A franchised dealer often can choose from a selection of funding sources.[66] However, a franchised dealer that is affiliated with a manufacturer can be incentivized to use a captive through mechanisms such as promotional discounts or limited-time financing offers that can be used to attract consumers. An independent auto dealer, which is not associated with a specific manufacturer or brand, typically does not have access to captive finance sources but will have access to other indirect sources, including depository institutions engaged in indirect lending as well as specialty finance companies.

With the relevant eligibility criteria and stipulations, the dealer then selects the indirect lender that will finance the loan to the consumer and extends the loan through a retail installment sales contract that the indirect lender purchases or acquires. The dealer is typically compensated for arranging indirect financing. For indirect automobile loans, the indirect automobile lender typically becomes responsible for servicing the loan and consumers will then make loan payments to the lender.

Similarly, leases may be obtained through direct or indirect channels, although most are through indirect channels. To purchase an automobile lease from a dealer, finance sources express their interest by providing the dealer with the relevant terms of a lease similar to those considered for a loan. These terms can include a ''money factor,'' which establishes how much a consumer will be paying in finance charges, and the length or term of the lease.[67] However, in a lease, a finance source will also quote a residual value, which is one of the elements comprising both the consumer's monthly payments and the consumer's pre-determined purchase option cost at the end of the lease term. As a practical matter, few auto dealers enter into a financing or leasing arrangement with a consumer unless there is an indirect lender or lessor who will purchase the retail installment sales contract or leasing contract.[68]

Refinancing of an existing credit obligation can enable a consumer to reduce his or her monthly auto payment. The refinancing market is highly dependent on interest rates and, thus, activity typically increases as rates decrease relative to the initial rate at origination. However, the average auto loan term for a new vehicle is relatively short at around 66 months,[69] and market rates during the loan repayment period typically do not differ much from the rates at origination. These dynamics explain why the Bureau believes that overall refinancing volumes comprise only a small niche of the broader auto financing market. Unfortunately, there is limited data available pertaining to refinancing volume because, among other things, publicly traded market participants generally tend to consolidate refinancing activity within origination activity for financial reporting purposes.

Section 1090.108(a) Market-Related Definitions

Unless otherwise specified, the definitions in § 1090.101 should be used when interpreting terms in this Proposed Rule. The Proposed Rule would define additional terms relevant

[59] The BHPH segment of the market primarily serves deep subprime borrowers. BHPH automobile dealers generally are indifferent to the consumers' automobile choice. Typically, only after the dealer assesses consumers' creditworthiness and determines their maximum monthly payment does the dealer present automobile options.

[60] Experian Automotive's AutoCount database is a vehicle database that collects monthly transaction data from State Departments of Motor Vehicles (DMVs). *See also infra* note 79 and accompanying text.

[61] To reach this estimate, the Bureau considered data from Experian Automotive's AutoCount database for calendar year 2013, with several adjustments. First, transactions with no lender listed were excluded from the sample. Second, entities with fewer than 360 loans and leases on an annual basis were excluded from the sample. Third, entities that were identified by Experian Automotive as ''Other'' in the lender type category were also excluded from the sample. Fourth, the Bureau excluded entities that already fall within the Bureau's supervisory authority or that it identified as BHPH dealers and title lenders. In some cases, entities were also consolidated due to known affiliations.

[62] These estimates were derived using the same methodology described in *supra* note 61.

[63] Such sources include depository institutions, nonbank affiliates of a depository institution, independent nonbanks, and captives.

[64] *See* Delvin Davis, Ctr. For Responsible Lending, *The State of Lending in America & Its Impact on U.S. Households* (Dec. 2012), *available at http://www.responsiblelending.org/state-of-lending/reports/4-Auto-Loans.pdf.*

[65] The Bureau is aware that an indirect auto lender may also have a policy that allows the dealer to mark up the interest rate above the indirect auto lender's buy rate. In the event that the dealer charges the consumer an interest rate that is higher than the lender's buy rate, the lender may pay the dealer what is typically referred to as ''reserve'' (or ''participation''), compensation based upon the difference in interest revenues between the buy rate and the actual note rate charged to the consumer in the retail installment contract executed with the dealer. Dealer reserve is one method lenders use to compensate dealers for the value they add by originating loans and finding financing sources. The exact computation of compensation based on dealer markup varies across lenders and may vary between programs at the same lender.

[66] *See supra* note 63 and accompanying text.

[67] Fed. Reserve Sys., *Glossary, Keys to Vehicle Leasing* (Mar. 13, 2013), *available at http://www.federalreserve.gov/pubs/leasing/glossary.htm.*

[68] This does not apply to those auto dealers, such as BHPH dealers, who serve as the primary lender.

[69] Zabritski, *supra* note 25, at 39.

to the proposed automobile financing market. These terms include ''aggregate annual originations,'' which the Proposed Rule would use as the criterion for assessing larger-participant status; ''annual originations''; ''automobile''; ''automobile financing''; ''automobile lease''; and ''refinancings.''

The Bureau seeks comment on each of the definitions set forth in the Proposed Rule and any suggested additions, clarifications, modifications, or alternatives.

Aggregate annual originations. The Bureau is proposing to use aggregate annual originations as the criterion to assess whether a nonbank covered person is a larger participant of the automobile financing market. Proposed § 1090.108(a) would define the term ''aggregate annual originations'' as the sum of the number of annual originations of a nonbank covered person and the number of annual originations of each of the nonbank covered person's affiliated companies, as calculated according to instructions set forth in the proposed regulation and as discussed below.

Annual originations. Proposed § 1090.108(a) would define the term ''annual originations'' to mean the sum of the following transactions for the preceding calendar year: Grants of credit for the purchase of an automobile, refinancings of such credit obligations and any subsequent refinancings thereof, and purchases or acquisitions of such credit obligations (including refinancings). It would also include automobile leases and purchases or acquisitions of automobile lease agreements. Only originations involving automobiles primarily used for personal, family or household purposes would be counted as annual originations for purposes of this larger-participant rule.

The Bureau proposes to exclude from annual originations any investments in asset-backed securities. Automobile asset-backed securities are investment vehicles in which the principal and interest payments from automobile loans serve as collateral for bonds sold to investors and do not generally alter the contractual obligation between the consumer and the entity that granted the credit or services the loan. Accordingly, the Bureau does not believe such transactions should be considered as annual originations under the Proposed Rule. The Bureau solicits comment as to whether this proposed exclusion for asset-backed securities is appropriate and whether the Bureau should define the term ''asset-backed securities'' in proposed § 1090.108(a).

The Bureau is also considering whether to include other types of automobile-secured loans. These could include, for example, automobile title loans, in which a lender extends credit to a consumer that is secured by the title to an automobile that the consumer owns. The Bureau is proposing to define a market for automobile financing that does not include automobile title loans because the Bureau believes that this financial product or service is substantially different from automobile financing activities. For example, auto title loans are generally provided by companies that do not compete with lenders that finance the acquisition of a vehicle. Loans provided by auto title lenders typically are not used for the activities identified in the criterion to measure market activity, such as the grant of credit to purchase an automobile or to refinance an existing credit obligation. Further, auto title loans are generally significantly shorter in term and smaller in size than loans used to purchase an automobile or to refinance an existing automobile loan. The Bureau thus believes that auto title loans might be better analyzed separately from the automobile financing market as part of a future larger-participant rulemaking.[70] However, the Bureau solicits feedback on whether it should define the market for automobile financing and annual originations to include other types of loans secured by automobiles and, if so, whether it is appropriate to use the same criterion and threshold for such loans as proposed here or whether an alternative criterion and threshold would be preferable. The Bureau also solicits comments on data sources that the Bureau might use in analyzing other automobile-secured loans like automobile title loans that are not used to purchase the vehicle.

Aggregating the annual originations of affiliated companies. Under the Dodd-Frank Act, the activities of affiliated companies are to be aggregated for purposes of computing activity levels for rules—like this Proposed Rule—to determine larger participants in particular markets for consumer products or services under section 1024(a)(1).[71] Therefore, the Proposed Rule would define the ''aggregate annual originations'' for each nonbank covered person as the sum of the number of annual originations of the covered entity and the number of annual originations of all its affiliated companies. For purposes of computing the covered person's aggregate annual originations, the annual originations of each affiliated company would first be calculated separately and then aggregated with the originations of the covered entity.

Paragraph (ii) of the proposed definition of ''aggregate annual originations'' would set forth the method of aggregating the annual originations of a nonbank covered person and its affiliated companies when affiliation has started or ended within the preceding calendar year. It would provide that the annual originations of a nonbank covered person must be aggregated with the annual originations of any person that was an affiliated company of the nonbank covered person at any time during the preceding calendar year. The annual originations of a nonbank covered person and its affiliated companies would be aggregated for the entire preceding calendar year, even if the affiliation did not exist for the entire calendar year. This provision would not apply, however, if the affiliated company is a dealer that is excluded by proposed § 1090.108(c), which is discussed below.

Automobile. Proposed § 1090.108(a) would define ''automobile'' to mean any self-propelled vehicle primarily used for personal, family, or household purposes for on-road transportation. The proposed definition would apply to both new and used vehicles. The proposed definition would not include motor homes, recreational vehicles (RVs), golf carts, and motor scooters.

The proposed definition of ''automobile'' was informed by the definition of ''motor vehicle'' in section 1029(f) of the Dodd-Frank Act,[72] but includes modifications to limit its application to vehicles primarily used for personal, family, or household purposes for on-road transportation. The definition of ''motor vehicle'' found in the Dodd-Frank Act encompasses a wide range of vehicles, and the Bureau believes that using such a broad definition in this larger-participant rulemaking would make the Proposed

[70] As noted above, this larger-participant rule is only one in a series of rulemakings.

[71] 12 U.S.C. 5514(a)(3)(B) (''For purposes of computing activity levels under [12 U.S.C. 5514(a)(1)] or rules issued thereunder, activities of affiliated companies (other than insured depository institutions or insured credit unions) shall be aggregated.'').

[72] Under section 1029(f)(1) of the Dodd-Frank Act, the term ''motor vehicle'' means: (A) Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road; (B) recreational boats and marine equipment; (C) motorcycles; (D) motor homes, recreational vehicle trailers, and slide-in campers as those terms are defined in section 571.3 and 575.103(d) of title 49, Code of Federal Regulations, or any successor thereto; and (E) other vehicles that are titled and sold through dealers. 12 U.S.C. 5519(f)(1).

Rule difficult to administer. Consistent with the definition of ''motor vehicles,'' the proposed definition of ''automobile'' would cover vehicles such as cars, sports utility vehicles, light-duty trucks, and motorcycles. However, because the proposed definition is limited to vehicles primarily used for personal, family, or household purposes, heavy-duty trucks, buses, or ambulances are excluded as they are designed for and primarily used for commercial purposes.

Certain types of motor vehicles, such as motor homes, recreational vehicles (RVs), golf carts and motor scooters, are in markets that differ from those of the vehicles captured in the proposed definition of ''automobile.'' Although the Bureau does not have sufficient data on these other market segments, the Bureau does not believe that financing for the types of motor vehicles that are excluded from its proposed definition of ''automobile'' is done on the same scale as financing of vehicles used by consumers as transportation to work or to carry out their errands and other daily activities. Thus, the Bureau believes that the vehicles excluded from the definition likely warrant different larger-participant criteria and thresholds if they were included in the market defined for this Proposed Rule. However, the Bureau seeks comment and additional market data related to these assumptions. The Bureau also seeks comment on its proposed definition of ''automobile,'' specifically whether the proposed definition should address other vehicles or types of vehicles, and whether motorcycles should be a separately defined term.[73]

Automobile financing. Proposed § 1090.108(a) would define the term ''automobile financing'' to mean providing the transactions enumerated under the definition of the term ''annual originations'' as defined in proposed § 1090.108(a). Thus, under the Proposed Rule, ''automobile financing'' would mean granting credit for the purpose of purchasing an automobile; refinancing existing credit obligations or previously refinanced credit obligations that had been made for the purchase of an automobile; purchasing or acquiring such credit obligations (including refinancings); providing automobile leases; and purchasing or acquiring automobile lease agreements. The Bureau believes this proposed definition reflects the number of consumer loans and leases made or facilitated (through purchases of the loans and leases) regarding one of the most important nonfinancial assets to American households.

Automobile lease. Proposed § 1090.108(a) would define the term ''automobile lease'' to mean a lease for the use of an automobile, as that term is defined in this Proposed Rule, that is a financial product or service under either section 1002(15)(A)(ii) of the Dodd-Frank Act or proposed § 1001.2(a). A lease for the use of an automobile is a financial product or service under section 1002(15)(A)(ii) if it: (1) Is the functional equivalent of a purchase finance arrangement; (2) is on a non-operating basis; and (3) has an initial term of at least 90 days.[74] As explained above, the Bureau believes that most automobile leases meet these requirements. The Bureau also believes that those automobile leases that are not the functional equivalent of purchase finance arrangements, and therefore do not fall under section 1002(15)(A)(ii), would nevertheless likely be covered by the proposed new category of ''financial product or service'' under proposed § 1001.2(a). Proposed § 1001.2(a) is guided by the requirements in 12 CFR 23.2(d)(1), which implement the product-related requirements for leases under CEBA. An automobile lease would be a financial product or service under proposed § 1001.2(a) as long as (1) the lease qualifies as a full-payout lease and a net lease, as required under 12 CFR 23.3(a); (2) the lease has an initial term of at least 90 days, as required under 12 CFR 23.11; and (3) the lease does not meet the requirements for a financial product or service under section 1002(15)(A)(ii).

Refinancing. The Bureau proposes to define the term ''refinancing'' for purposes of this rule by reference to § 1026.20(a) of Regulation Z.[75] Section 1026.20(a) defines ''refinancing'' for closed-end credit transactions, including those related to the purchase of automobiles. If a transaction is determined to be a ''refinancing'' under § 1026.20(a), a ''new transaction'' has occurred and the creditor must provide the consumer with disclosures, among other things. Under Regulation Z, a refinancing occurs only when an existing obligation is satisfied and replaced by the original creditor or a holder or servicer of the original obligation, and a new obligation is undertaken by the same consumer. It is noted that if a *new* creditor refinances an existing credit obligation, it is considered a new transaction rather than a refinancing for purposes of Regulation Z without reference to whether satisfaction and replacement occurs.[76] Under § 1026.20(a), whether satisfaction and replacement has occurred is determined based on the parties' contract and applicable state law. Section 1026.20(a) also provides certain exceptions to the requirement for satisfaction and replacement.

The definition of ''refinancing'' in proposed § 1090.108(a) mirrors the Regulation Z definition except that the nonbank covered person is not required to be the original creditor or a holder or servicer of the original obligation to fall under the definition.[77] Thus, as applied to this proposal, a nonbank covered person would be required to include in its aggregate annual originations any grant of credit for the purchase of an automobile that satisfies and replaces an existing credit obligation, even if the nonbank covered person is not the original creditor, holder or servicer of the existing credit obligation. The Bureau believes it is appropriate to include refinancing activity conducted by third parties as part of the automobile financing market.[78] As in Regulation Z, proposed § 1090.108(a) would require that to be a refinancing, both the existing and the new grant of credit must involve the same borrower.

As an alternative, the Bureau is considering whether it would be preferable to propose a new definition of ''refinancing'' for purposes of the Proposed Rule. Auto finance companies that grant credit secured by a vehicle are already subject to § 1026.20(a). The Bureau believes that using the Regulation Z definition would avoid adding regulatory complexity that could arise through the creation of a new definition for purposes of this larger-participant rulemaking, but invites comments on this approach and whether the Regulation Z definition of ''refinancing'' with the modification described above is appropriate for purposes of the Proposed Rule.

Finally, as discussed above, the Bureau does not have a reliable data source pertaining to refinancings in the automobile market. Although the Bureau is aware that refinancings occur, particularly when interest rates are declining, there is no standard reporting available that describes what percentage of the total market for automobile

[73] The Bureau notes that this larger-participant rule is only one in a series of rulemakings and the Bureau could address the financing of other vehicles or categories of vehicles not covered under this Proposed Rule in a separate rulemaking should it determine it appropriate to do so.

[74] 12 U.S.C. 5481(15)(A)(ii).

[75] 12 CFR 1026.20.

[76] 12 CFR 1026.20, comment 20(a)–5.

[77] *See id.*

[78] By contrast, under Regulation Z, such transactions are omitted from the definition of ''refinancing'' but are nevertheless subject to disclosure and other requirements as a new transaction. *Id.*

financing is comprised of refinancings and what part of the automobile refinancing market is provided by entities that would be subject to the Proposed Rule. Thus, to better understand this segment of the market, the Bureau seeks data on refinancing activity in the market and the market participants that engage in refinancing. The Bureau also seeks comment on its proposal to include refinancings in the proposed definition of ''annual originations'' and in the market definition of ''automobile financing.''

Section 1090.108(b) Test To Define Larger Participants

Criterion. The Bureau has broad discretion in choosing a criterion for assessing whether a nonbank covered person is a larger participant of a market. For any specific market, there might be several criteria, used alone or in combination, that could be viewed as reasonable alternatives. For the automobile financing market, the Bureau is considering a number of criteria, including aggregate annual originations, dollar volume of originations, and dollar volume of outstanding loans. The Bureau invites comment on these three possible criteria as well as suggestions for other criteria that commenters believe might be superior.

Among these options, the Bureau proposes to use aggregate annual originations as the criterion that establishes which entities are larger participants of the automobile financing market. A discussion of the definition of ''aggregate annual originations'' is set forth above. The Bureau expects that aggregate annual originations will be an appropriate criterion, because, among other things, it is a meaningful measure of a nonbank covered person's level of participation in the automobile financing market and of its impact on consumers. The annual number of originations by a particular nonbank entity reflects the number of loans and leases it makes or facilitates (through purchases of the loans and leases) regarding one of the most important nonfinancial assets to American households. Further, because the term ''aggregate annual originations'' would be defined, in part, in terms of how many loans or leases an entity granted or purchased, the aggregate annual originations criterion would generally correlate to the size of the entity's loan and lease portfolios.

The Bureau anticipates that nonbank covered persons could calculate aggregate annual originations without difficulty, should the occasion arise to do so. As a general matter, most market participants generally know the number of loans and leases they extend because they handle the servicing for these accounts. Further, they know the number of loans they make or purchase because they need to execute liens against the automobile titles. Also, nonbank covered persons in the automobile financing market will readily be able to ascertain aggregate annual originations because they are presumably expecting a payment for each loan and lease.

The Bureau has data on a significant portion of annual originations, as defined in this Proposed Rule, from Experian Automotive's AutoCount database. AutoCount is a vehicle database that collects monthly transaction data from State Departments of Motor Vehicles (DMVs). In 46 states, DMV title and registration information includes the finance source on record.[79] These finance sources are listed either individually or categorized into lender type. The Bureau proposes to use the AutoCount Lender Report as its data source for this rulemaking because it is based on title and registration information filed with State DMVs and, thus, is likely to be objective. It is also national in scope. The report covers almost the entire United States and includes transactions that in many ways approximate the Bureau's proposed definition of ''annual originations.'' The Bureau recognizes, however, that estimates of ''annual originations'' based on the AutoCount data may be either over- or under inclusive due to differences between what is included in the AutoCount data and in the Bureau's proposed definitions. For example, the term ''annual originations,'' as defined in the Proposed Rule, includes transactions not tracked in the AutoCount report. Specifically, the Proposed Rule defines ''annual originations'' to include the sum of a nonbank covered person's loans, leases, refinancings, and the purchase and acquisition of credit obligations (including refinancings) and leases. In contrast, the AutoCount data are less inclusive and track only loans and leases for which a title and registration is filed with the state DMV. Thus, unlike the Proposed Rule, the AutoCount report does not include refinancings and may not include all purchases and acquisitions of credit obligations and leases. Similar to the Proposed Rule, AutoCount excludes vehicles that are designed for and used primarily for commercial purposes. However, the exact scope of which commercial transactions are excluded in AutoCount may be different than in the Proposed Rule. The Bureau invites comments on this data source as well as suggestions for other data sources that commenters believe might augment the Bureau's understanding and analysis of the market.

Threshold. Under the Proposed Rule, a nonbank covered person would be a larger participant of the automobile financing market if the person has at least 10,000 aggregate annual originations. The Bureau estimates that the proposed threshold would bring within the Bureau's supervisory authority about 38 entities, roughly 7 percent of all nonbank covered persons in the automobile financing market.[80] Based on the number of covered transactions, the Bureau estimates that these 38 entities are responsible for approximately 91 percent of the activity in the nonbank automobile financing market.[81]

The Bureau anticipates that the proposed aggregate annual originations threshold of 10,000 would allow the Bureau to supervise market participants that represent a substantial portion of the automobile financing market and that have a significant impact on consumers. In 2013, the 38 entities that the Bureau estimates would be larger participants under the proposed threshold provided loans and leases to approximately 6.8 million consumers.[82] At the same time, this threshold would likely subject to the Bureau's supervisory authority only entities that can reasonably be considered larger participants of the market.

The Bureau is also considering a lower or higher threshold. For example, an aggregate annual originations threshold of 5,000 might allow the Bureau to supervise approximately 55 entities, representing nearly 93 percent of activity in this market.[83] While lowering the threshold would substantially increase the number of entities subject to supervision, the lower threshold would result in only a marginal increase in market coverage. The additional entities that would be included using this lower threshold are only a fraction of the size of the smallest entities that meet the proposed threshold and are mostly regional finance companies. In comparison, the Bureau estimates that an aggregate

[79] The AutoCount data cover transactions in every state, excluding Oklahoma, Wyoming, Rhode Island and Delaware.

[80] Experian Automotive's AutoCount as adjusted by the CFPB, *see supra* note 61.

[81] *Id.*

[82] *Id.* The Bureau assumes that an average consumer only enters into one auto loan or lease in a given year.

[83] *Id.*

annual originations threshold of 50,000 would allow the Bureau to supervise the 17 very largest participants in the market, representing approximately 86 percent of market activity.[84] However, at this higher threshold the Bureau would not be able to supervise as varied a mix of nonbank larger participants that have a substantial impact on the full spectrum of consumers in the market.

The Bureau seeks comment, including suggestions of alternatives on the proposed threshold for defining larger participants of the automobile financing market.

Section 1090.108(c) Exclusion

Proposed § 1090.108(c)(1) would provide that those motor vehicle dealers that are excluded from the Bureau's authority by section 1029 of the Dodd-Frank Act do not qualify as larger participants under this section.[85] Proposed § 1090.108(c)(2) would also exclude additional motor vehicle dealers that are not subject to the statutory exclusion—specifically, those motor vehicle dealers that are identified in section 1029(b)(2) of the Dodd-Frank Act and are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both. This would exclude from the proposed larger-participant rule certain dealers that extend retail credit or leases to consumers without routinely assigning them to unaffiliated third parties. Although section 1029(b)(2) provides the Bureau with rulemaking and other authority over such dealers, the Bureau has chosen to exclude them from the market defined in this Proposed Rule. These entities use a different business model, as described above, are typically much smaller in asset size and activity level than other entities that the Bureau proposes to include, and therefore form part of a separate and distinct market.[86] However, nonbank covered persons that meet the definition of ''motor vehicle dealer'' under section 1029(f)(2), but are not predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both would not be excluded from the proposed larger-participant rule.

[84] *Id.*

[85] 12 U.S.C. 5519.

[86] As the Bureau has explained, this larger-participant rulemaking is only one in a series of rulemakings, and the Bureau could address motor vehicle dealers identified in section 1029(b)(2) in a separate larger-participant rulemaking with a criterion and threshold that is better tailored to their business model and activity levels, should it determine that it is appropriate to do so.

V. Request for Comments

The Bureau invites comment on all aspects of this notice of proposed rulemaking and on the specific issues on which comment is solicited elsewhere herein, including on any appropriate modifications or exceptions to the Proposed Rule.

VI. Section 1022(b)(2)(A) of the Dodd-Frank Act

A. Overview

The Bureau is considering potential benefits, costs, and impacts of the Proposed Rule.[87] The Bureau requests comment on the preliminary analysis presented below as well as submissions of additional data that could inform the Bureau's analysis of the costs, benefits, and impacts of the Proposed Rule. In developing the Proposed Rule, the Bureau has consulted with or offered to consult with the Federal Trade Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration regarding, among other things, consistency with any prudential, market, or systemic objectives administered by such agencies.

The Proposed Rule would define a category of nonbanks that would be subject to the Bureau's nonbank supervision program pursuant to section 1024(a)(1)(B). The proposed category would include ''larger participants'' of a market for ''automobile financing'' described in the Proposed Rule. Participation in this market would be measured on the basis of aggregate annual originations. If a nonbank covered person, together with its affiliated companies, has aggregate annual originations (measured for the preceding calendar year) of at least 10,000, it would be a larger participant in the market for automobile financing. As prescribed by existing § 1090.102, any nonbank covered person that qualifies as a larger participant would remain a larger participant until two years after the first day of the tax year in which the person last met the larger-participant test.[88] The Proposed Rule would also include in the definition of ''financial product[s] or service[s]'' a new category of automobile leases, as defined by the Proposed Rule, under authority granted to the Bureau by section 1002(15)(A)(xi)(II) of the Dodd-Frank Act.[89]

[87] Specifically, 12 U.S.C. 5512(b)(2)(A) calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services, the impact on depository institutions and credit unions with $10 billion or less in total assets as described in 12 U.S.C. 5516, and the impact on consumers in rural areas. In addition, 12 U.S.C. 5512(b)(2)(B) directs the Bureau to consult, before and during the rulemaking, with appropriate prudential regulators or other Federal agencies, regarding consistency with objectives those agencies administer. The manner and extent to which the provisions of 12 U.S.C. 5512(b)(2) apply to a rulemaking of this kind that does not establish standards of conduct are unclear. Nevertheless, to inform this rulemaking more fully, the Bureau performed the analysis and consultations described in those provisions of the Dodd-Frank Act.

B. Potential Benefits and Costs to Consumers and Covered Persons

This analysis considers the benefits, costs, and impacts of the key provisions of the Proposed Rule against a baseline that includes the Bureau's existing rules defining larger participants in certain markets.[90] At present, there is no Federal program for supervision of nonbank covered persons in the automobile financing market with respect to Federal consumer financial law. The Proposed Rule extends the Bureau's supervisory authority over larger participants of the defined automobile financing market. This includes the authority to supervise for compliance with the Equal Credit Opportunity Act (ECOA), the Truth in Lending Act (TILA), and the Consumer

[88] 12 CFR 1090.102.

[89] The Proposed Rule also clarifies how to address aggregation of formerly-affiliated companies for purposes of assessing larger-participant status under the existing Consumer Reporting and Consumer Debt Collection Rules, by making changes to the definition of ''annual receipts'' in those rules. As explained above, the proposed changes to the affiliate aggregation provisions clarify the Bureau's methodology for affiliate aggregation. The proposed changes would provide marginal benefits for market participants in the consumer reporting and consumer debt collection markets by making those rules clearer and easier to understand. They may, however, result in an additional cost to market participants that are seeking to assess whether they are larger participants, but only if they would not have collected information relevant to thresholds from formerly affiliated companies for the entire preceding calendar year when the affiliation ended during the preceding calendar year. The Bureau does not know the extent to which participants seeking to self-assess currently collect information relevant to thresholds from formerly affiliated companies. However, if the proposed clarification is finalized, participants seeking to self-assess could arrange to obtain the necessary threshold information in advance of ending the affiliation, and such arrangements would tend to mitigate the costs of obtaining this information. Further, as noted above, participants in these markets are not required to engage in such self-assessments. Thus, both the benefits and costs of these amendments would not be significant.

[90] The Bureau has discretion in any rulemaking to choose an appropriate scope of analysis with respect to potential benefits and costs and an appropriate baseline. The Bureau, as a matter of discretion, has chosen to describe a broader range of potential effects to inform the rulemaking more fully.

Leasing Act, as well as other Federal consumer financial laws, to the extent applicable.

The Bureau notes at the outset that limited data are available with which to quantify the potential benefits, costs, and impacts of the Proposed Rule. As described above, the Bureau has utilized Experian AutoCount database for quantitative information on the number of market participants and their number and dollar volume of originations. However, the Bureau lacks detailed information about their rate of compliance with Federal consumer financial law and about the range of, and costs of, compliance mechanisms used by market participants.

In light of these data limitations, this analysis generally provides a qualitative discussion of the benefits, costs, and impacts of the Proposed Rule. General economic principles, together with the AutoCount data, provide insight into these benefits, costs, and impacts. Where possible, the Bureau has made quantitative estimates based on these principles and data as well as its experience of undertaking similar supervisory activities with respect to depository institutions and credit unions.

The discussion below describes four categories of potential benefits and costs. First, the Proposed Rule, if adopted, would authorize the Bureau to supervise certain nonbank entities in the automobile financing market. These larger participants in the market might respond to the possibility of supervision by changing their systems and conduct, and those changes might result in costs, benefits, or other impacts. Second, if the Bureau undertakes supervisory activity at specific larger participants, those companies would incur costs from responding to supervisory activity, and the results of the individual supervisory activities might also produce benefits and costs.[91] Third, entities might incur certain costs as a result of their efforts to assess whether they would qualify as larger participants under the Proposed Rule. Fourth, including certain automobile leases in the Dodd-Frank Act definition of ''financial product or service'' would subject those leases to the prohibition on unfair, deceptive, or abusive acts or practices (UDAAP) under section 1031 of the Dodd-Frank Act and to Bureau authority to prescribe certain rules applicable to a covered person or service provider under section 1031(b) of the Dodd-Frank Act. The proposed definition would also expand the Bureau's supervisory authority, as described below, and these changes might also produce benefits and costs, although the Bureau does not expect these effects to be significant.

In considering the costs and benefits of the Proposed Rule, it is important to note that various products or services are included in the proposed automobile financing market. Direct lending, where the consumer applies for credit directly to the financial institution, makes up a relatively small portion of the total auto loan and sales volume. Direct lending is currently dominated by traditional depository institutions and credit unions already regulated by the Bureau and other governmental agencies. Indirect lending, where a dealer—rather than the consumer—finds a lender willing to provide credit to the consumer, comprises a significant portion of the automobile financing market. In addition, some consumers refinance the credit obligation for their automobile after taking out the initial loan. Finally, leasing is the other primary way in which consumers can finance the use of a vehicle; under this arrangement a financial institution holds the title to the vehicle that the consumer leases under a payment plan that typically ends with an option to purchase the vehicle.[92]

1. Benefits and Costs of Responses to the Possibility of Supervision

The Proposed Rule would subject larger participants of the automobile financing market to the possibility of Bureau supervision. That the Bureau would be authorized to undertake supervisory activities with respect to a nonbank covered person who qualified as a larger participant would not necessarily mean the Bureau would in fact undertake such activities with respect to that covered entity in the near future. Rather, supervision of any particular larger participant as a result of this rulemaking would be probabilistic in nature. For example, the Bureau would examine certain larger participants on a periodic or occasional basis. The Bureau's decisions about supervision would be informed, as applicable, by the factors set forth in section 1024(b)(2), relating to the size and volume of individual participants, the risks their consumer financial products and services pose to consumers, the extent of State consumer protection oversight, and other factors that the Bureau may determine are relevant. Each entity that believed it qualified as a larger participant would know that it might be supervised and might gauge, given its circumstances, the likelihood that the Bureau would initiate an examination or other supervisory activity.

The prospect of potential supervisory activity could create an incentive for larger participants to allocate additional resources and attention to compliance with Federal consumer financial law, potentially leading to an increase in the level of compliance. These entities might anticipate that by doing so (and thereby decreasing risks to consumers) they could decrease the likelihood of their actually being subjected to supervision as the Bureau evaluated the factors outlined above. In addition, an actual examination would likely reveal any past or present noncompliance, which the Bureau could seek to correct through supervisory activity or, in some cases, enforcement actions. Larger participants might therefore judge that the prospect of supervision increased the potential consequences of noncompliance with Federal consumer financial law, and they might seek to decrease that risk by curing or mitigating any noncompliance. Larger participants might thus be able to catch and address compliance problems at an earlier point when the costs of correcting them would be lower.

The Bureau believes it is likely that many market participants would increase compliance in response to the Bureau's supervisory activities authorized by the Proposed Rule. However, because the Proposed Rule itself would not require any nonbank covered person in the automobile financing market to alter its conduct, any estimate of the amount of increased compliance would require both an estimate of current compliance levels and a prediction of market participants' behavior in response to a final rule. The data the Bureau currently has do not support a specific quantitative estimate or prediction. But, to the extent that nonbank entities allocate resources to increase their compliance in response to the Proposed Rule, that response would result in both benefits and costs to consumers and covered persons.[93]

[91] Pursuant to 12 U.S.C. 5514(e), the Bureau also has supervisory authority over service providers to nonbank covered persons encompassed by 12 U.S.C. 5514(a)(1), which includes larger participants. The Bureau does not have data on the number or characteristics of service providers to the larger participants of the automobile financing market. The discussion herein of potential costs, benefits, and impacts that may result from the Proposed Rule generally applies to service providers to larger participants.

[92] According to Experian Automotive, of all new and used auto financing transactions recorded in the first quarter of 2014, approximately 14 percent occurred through leasing arrangements, while the remainder used purchase financing. *See* Zabritski, *supra* note 25.

[93] Another approach to considering the benefits, costs, and impacts of the Proposed Rule would be

a. Benefits From Increased Compliance

Increased compliance with Federal consumer financial law by larger participants in the market for automobile financing would be beneficial to consumers who either finance the purchase of or lease automobiles, or refinance their credit obligation related to the purchase of their automobile. The number of individuals who could potentially be affected is significant. As noted above, data from the first quarter of 2014 show auto lenders holding more than 87.4 million outstanding automobile loans, totaling almost $900 billion.[94] The market is even larger when taking into account the automobile leasing market, which comprised an additional 14 percent of the automobile financing market in the first quarter of 2014.[95] Increasing the rate of compliance with Federal consumer financial law would benefit consumers and the consumer financial market by providing more of the protections mandated by law.

Several Federal consumer financial laws offer protections to consumers in regards to automobile financing as defined in the Proposed Rule, including, to the extent applicable, TILA and Regulation Z, the Fair Credit Reporting Act and Regulation V, the Consumer Leasing Act and Regulation M, ECOA and Regulation B, and the Gramm-Leach-Bliley Act and Regulation P.[96] More broadly, the Bureau would examine whether larger participants of the automobile financing market engage in UDAAPs.[97] Conduct that does not violate an express prohibition of another Federal consumer financial law may nonetheless constitute a UDAAP.[98] To the extent that any larger participant or service provider is currently engaged in any UDAAP in connection with any transaction for or the offering of a consumer financial product or service, the cessation of the unlawful act or practice would benefit consumers. As the Bureau may review a larger participant's conduct in relation to any consumer financial product or service during an examination, larger participants might improve policies and procedures globally in response to possible supervision in order to avoid engaging in UDAAPs.

The possibility of supervision also may help make incentives to comply with Federal consumer financial law more consistent between the likely larger participants and depository institutions and credit unions, which are already subject to Federal supervision with respect to Federal consumer financial law. Introducing the possibility of Federal supervision could encourage entities that would likely qualify as larger participants to devote additional resources to compliance. It could also help ensure that the benefits of Federal oversight reach consumers who do not have ready access to automobile financing through depository institutions and credit unions.

b. Costs of Increased Compliance

The Bureau recognizes that increasing compliance involves costs. These costs may be fixed or ongoing. Nonbank entities in the automobile financing market might need to hire or train additional personnel to effectuate any changes in their practices that would be necessary to produce the increased compliance. They might need to invest in changes to their systems to carry out their revised procedures. In addition, they might need to develop or enhance compliance management systems, to ensure awareness of any gaps in compliance. Such changes would also require investment and might entail increased operating costs.

Economic theory predicts that fixed costs will be absorbed by providers, here the entities that may qualify as larger participants. However, consumers may be adversely affected by increases in these costs to the extent these cost increases cause current providers of automobile financing to decrease volume, deter providers from increasing volume, or deter entry by new providers in the future.[99] This could result in consumers having more restricted choices than they would otherwise. In certain situations, a decrease in the number of market participants could better enable those remaining providers to exercise market power, resulting in higher prices for consumers or decreased product or service quality, or both.

An entity that incurs ongoing costs in support of increasing compliance might try to recoup these costs by attempting to pass those costs directly through to consumers; for example, in the case of the indirect channel, this could occur through lowering fees or other forms of compensation paid to dealers and other entities. Whether and to what extent either change would occur depends on the relative elasticities of supply and demand in the automobile financing market. These elasticities can vary across products or services that would be covered by the Proposed Rule and may be influenced by the presence of substitute products or services as well as the availability of information, which would influence the perceived availability of substitute products or services. For example, larger participants of the automobile financing market may be in competition with depository institutions or credit unions (or affiliates thereof) that are already subject to supervision by the Bureau and/or Federal prudential regulators with respect to Federal consumer financial law. To the extent the Proposed Rule would result in an increase in the costs faced by larger participants, that increase would be a competitive benefit to banks and credit unions with sufficient liquidity to expand their financing operations. Competition from banks and credit unions might reduce the ability of larger participants to pass through cost increases to consumers, dealers, or other entities as they may instead seek alternate sources of financing. Moreover, consumers might respond to such a cost increase by reducing the amounts they are willing to pay in other aspects of the automobile purchase transaction, while dealers could respond to decreased levels of financing revenues shared with them by larger participants by either attempting to increase revenues derived from other areas of the automobile purchase transaction, such as the stated price of the vehicle or costs of accessories, or bearing the loss of revenue.

In considering any potential price effect of the Proposed Rule, it is important to take into account the fact

to focus almost entirely on the supervision-related costs for larger participants and omit a broader consideration of the benefits and costs of increased compliance. As noted above, the Bureau has, as a matter of discretion, chosen to describe a broader range of potential effects to inform the rulemaking more fully.

[94] *Supra* note *54.*

[95] *See* Zabritski, *supra* note 25, at 20.

[96] The Bureau recognizes that the nature of a larger participant's responsibility for compliance with these laws may vary depending on the activity the larger participant engages in. For example, under TILA, a larger participant that purchases a credit obligation for the purchase of an automobile is likely an assignee, not a ''creditor'' under TILA, and as such is generally liable only for a violation of TILA that is ''apparent on the face of the disclosure statement.'' 15 U.S.C. 1641(a).

[97] 12 U.S.C. 5531.

[98] The CFPB Supervision and Examination Manual provides further guidance on how the UDAAP prohibition applies to supervised entities. CFPB, *CFPB Supervision and Examination Manual—Version 2.0* (Oct. 2012), *available at http://www.consumerfinance.gov/guidance/supervision/manual.*

[99] Alexei Alexandrov & Xiaoling Ang, *Identifying a Suitable Control Group Based on Microeconomic Theory: The Case of Escrows in the Subprime Market* (July 3, 2014) (finding consumers not adversely affected by policy changes that implement a fixed cost), *available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2462128.*

that nonbank covered persons below the larger participant threshold would not be subject to supervision as a result of this rule. The costs of these nonbank covered persons would therefore be unaffected by the definition of larger participants in the Proposed Rule and so their pricing should also not be affected. To the extent that nonbank larger participants raise their prices in response to this rule, nonbank entities that are not larger participants, along with banks and credit unions that already compete in the market while bearing the cost of supervision, could potentially offer more attractive transaction terms relative to larger participants and thus deter larger participants from increasing prices. While a shift in transactions from larger participants toward nonbank entities that are not larger participants would mitigate some of the benefits to consumers of supervision of larger participants, the prospect of this shift might also reduce the likelihood that larger participants would choose to increase their prices in response to the Proposed Rule.

2. Benefits and Costs of Individual Supervisory Activities

In addition to the responses of market participants anticipating supervision, the possible consequences of the Proposed Rule would include the responses to and effects of individual examinations or other supervisory activities that the Bureau might conduct in the automobile financing market.

a. Benefits of Supervisory Activities

Supervisory activity could provide several types of benefits. For example, as a result of supervisory activity, the Bureau and an entity might uncover deficiencies in the entity's policies and procedures. The Bureau's examination manual calls for the Bureau generally to prepare a report of each examination, to assess the strength of the entity's compliance mechanisms, and to assess the risks the entity poses to consumers, among other things. The Bureau would share examination findings with the examined entity because one purpose of supervision is to inform the entity of problems detected by examiners. Thus, for example, an examination might find evidence of widespread noncompliance with Federal consumer financial law, or it might identify specific areas where an entity has inadvertently failed to comply. These examples are only illustrative of the kinds of information an examination might uncover.

Detecting and informing entities about such problems should be beneficial to consumers. When the Bureau notifies an entity about risks associated with an aspect of its activities, the entity is expected to adjust its practices to reduce those risks. That response may result in increased compliance with Federal consumer financial law, with benefits like those described above. Or it may avert a violation that would have occurred had Bureau supervision not detected the risk promptly. The Bureau may also inform entities about risks posed to consumers that fall short of violating the law. Action to reduce those risks would also be a benefit to consumers.

Given the obligations nonbank covered persons in the automobile financing market have under Federal consumer financial law and the existence of efforts to enforce such law, the results of supervision also may benefit entities under supervision by detecting compliance problems early. When an entity's noncompliance results in litigation or an enforcement action, the entity must face both the costs of defending its actions and the penalties for noncompliance, including potential liability for damages to private plaintiffs. The entity must also adjust its systems to ensure future compliance. Changing practices that have been in place for long periods of time can be expected to be relatively difficult because the practices may be severe enough to represent a serious failing of an entity's systems. Supervision may detect flaws at a point when correcting them would be relatively inexpensive. Catching problems early can, in some situations, forestall costly litigation. To the extent early correction limits the amount of consumer harm caused by a violation, it can help limit the cost of redress. In short, supervision might benefit larger participants by, in the aggregate, reducing the need for other more expensive activities to achieve compliance.[100]

[100] Further potential benefits to consumers, covered persons, or both might arise from the Bureau's gathering of information during supervisory activities. The goals of supervision include informing the Bureau about activities of market participants and assessing risks to consumers and to markets for consumer financial products and services. The Bureau may use this information to improve regulation of consumer financial products and services and to improve enforcement of Federal consumer financial law, in order to better serve its mission of ensuring consumers' access to fair, transparent, and competitive markets for such products and services. Benefits of this type would depend on what the Bureau learns during supervision and how it uses that knowledge. For example, because the Bureau would examine a number of covered persons in the automobile financing market, the Bureau would build an understanding of how effective compliance systems and processes function in that market.

b. Costs of Supervisory Activities

The potential costs of actual supervisory activities would arise in two categories. The first would involve any costs to larger participants of increasing compliance in response to the Bureau's findings during supervisory activity and to supervisory actions. These costs would be similar in nature to the possible compliance costs, described above, that larger participants in general might incur in anticipation of possible supervisory actions. This analysis will not repeat that discussion. The second category would be the cost of supporting supervisory activity.

Supervisory activity may involve requests for information or records, on-site or off-site examinations, or some combination of these activities. For example, in an on-site examination, Bureau examiners generally contact the entity for an initial conference with management. That initial contact is often accompanied by a request for information or records. Based on the discussion with management and an initial review of the information received, examiners determine the scope of the on-site exam. While on-site, examiners spend some time in further conversation with management about the entity's policies, procedures, and processes. The examiners also review documents, records, and accounts to assess the entity's compliance and evaluate the entity's compliance management system. As with the Bureau's other examinations, examinations of nonbank larger participants of the automobile financing market could involve issuing confidential examination reports and compliance ratings. The Bureau's examination manual describes the supervision process and indicates what materials and information an entity could expect examiners to request and review, both before they arrive and during their time on-site.

The primary cost an entity would face in connection with an examination would be the cost of employees' time to collect and provide the necessary information. If the Proposed Rule is adopted, the frequency and duration of examinations of any particular entity would depend on a number of factors, including the size of the entity, the compliance or other risks identified, whether the entity has been examined previously, and the demands on the Bureau's supervisory resources imposed by other entities and markets. Nevertheless, some rough estimates may be useful to provide a sense of the magnitude of potential staff costs that entities might incur.

The cost of supporting supervisory activity may be calibrated using prior Bureau experience in supervision. The Bureau considers its auto financing examinations at depository institutions and credit unions as a reasonable proxy for the duration and labor intensity of potential nonbank larger participant examinations. This belief arises from the similar role these institutions play in the market for automobile financing, where they frequently coexist as direct competitors to one another.

The average duration of the on-site portion of Bureau bank auto financing examinations is approximately 9 weeks.[101] Assuming that each exam requires 2 weeks of preparation time by a larger participant's staff prior to the exam as well as on-site assistance by staff throughout the duration of the exam, the Bureau assumes that the typical examination in this nonbank market would require 11 weeks of staff time. The Bureau has not suggested that counsel or any particular staffing level is required during an examination. However, for purposes of this analysis, the Bureau assumes, conservatively, that an entity might dedicate the equivalent of one full-time compliance officer and one-tenth of a full-time attorney to the exam. The average hourly wage of a compliance officer in a nonbank entity that operates in activities related to installment lending is $33.97, and the average hourly wage of a lawyer in the same industry is $83.88.[102] Assuming that wages account for 67.5 percent of total compensation, the total labor cost of an examination would be about $27,611.[103] The Bureau estimates that the cost for an entity with 10,000 aggregate annual originations per year, with an average amount financed of $21,750 per loan origination,[104] would be approximately 0.013 percent of total revenue from originations for that year. This is a conservative estimate in several respects because it reflects revenue only from this line of business and uses an average amount financed in combination with the minimum number of transactions that a larger participant would provide.

The Bureau declines to predict, at this point, precisely how many examinations in the automobile financing market it would undertake in a given year. If the Proposed Rule is adopted, the Bureau would be able to undertake supervisory activity in the identified market; however, neither the Dodd-Frank Act nor the Proposed Rule specifies a particular level or frequency of examinations. Given the Bureau's finite supervisory resources, and the range of industries over which it has supervisory responsibility for consumer financial protection, when and how often a given larger participant would be supervised is uncertain. The frequency of examinations would depend on a number of factors, including the Bureau's understanding of the conduct of market participants and the specific risks they pose to consumers; the responses of larger participants to prior examinations; and the demands that other markets make on the Bureau's supervisory resources. These factors can be expected to change over time, and the Bureau's understanding of these factors may change as it gathers more information about the market through its supervision and by other means.

3. Costs of Assessing Larger-Participant Status

The larger-participant rule does not require nonbank entities to assess whether they are larger participants. However, the Bureau acknowledges that in some cases they might decide to incur costs in assessing whether they qualify as larger participants and potentially disputing their status.

Larger-participant status depends on a nonbank's aggregate annual originations, as defined in the Proposed Rule. An estimate of this number should be readily extractible from company records, as market participants likely evaluate the components of aggregate annual originations as part of their regular business practices. In addition, information on originations can be derived from title records that market participants maintain and publicly record.

To the extent that some nonbank covered persons in the automobile financing market do not already know whether their aggregate annual originations exceed the threshold, such entities might, in response to the Proposed Rule, develop new systems to count their aggregate annual originations in accordance with the definition in the Proposed Rule. The data the Bureau currently has do not support a detailed estimate of how many nonbank entities would engage in such development or how much they might spend. Regardless, nonbank entities would be unlikely to spend significantly more on specialized systems to count aggregate annual originations than it would cost them to be supervised by the Bureau as larger participants. It bears emphasizing that even if expenditures on an accounting system successfully proved that a nonbank covered person in the automobile financing market was not a larger participant, it would not necessarily follow that this entity could not be supervised. The Bureau can supervise a nonbank entity whose conduct the Bureau determines, pursuant to section 1024(a)(1)(C), poses risks to consumers. Thus, a nonbank entity choosing to spend significant amounts on an accounting system directed toward the larger-participant test could not be sure it would not be subject to Bureau supervision notwithstanding those expenses. The Bureau therefore believes it is unlikely that any but a very few nonbank entities would undertake such expenditures.

4. Benefits and Costs of Adding Certain Automobile Leases to the Definition of ''Financial Product or Service''

Finally, the Bureau is proposing to define the term ''financial product or service'' to include automobile leases that (1) meet the requirements of section 108 of CEBA, as implemented by 12 CFR part 23, and are thus, permissible for banks to offer or provide; and (2) are not currently defined as a financial

[101] This estimate was derived using confidential supervisory Bureau data on the duration of on-site auto financing examinations at depository institutions and credit unions. For purposes of this calculation, the Bureau counted its auto financing examinations for which the on-site portion had been completed, while excluding the shortest and longest examinations to minimize the influence of outliers. Additionally, the Bureau counted only the on-site portion of an examination, which included time during the on-site period of the examination that examiners spent off-site for holiday or other travel considerations. However, the Bureau did not count time spent scoping an examination before the on-site portion of the examination or summarizing findings or preparing reports of examination afterwards.

[102] Bureau of Labor Statistics (BLS), *Occupational Employment Statistics, available at http://data.bls.gov/oes/.* (BLS data for ''Nondepository Credit Intermediation'' (North American Industry Classification System (NAICS) code 522200)). Dividing the hourly wage of a full-time compliance officer by 67.5 percent yields a total mean hourly cost (including total costs, such as salary, benefits, and taxes) rounded to the nearest dollar of $50 per hour.

[103] BLS, *Employer Costs for Employee Compensation Database,* Series ID CMU2025220000000D, *available at http://data.bls.gov/timeseries/CMU2025220000000D?data_tool=XGtable* (providing wage and salary percent of total compensation in the credit intermediation and related activities private industry for the second quarter of 2013). All figures assume 40 hours of work per week.

[104] The estimated average amount financed uses 2013 origination data from AutoCount for entities with 360 or greater loans and leases on an annual basis. The dollar value listed is based solely on loans, as the Bureau was unable to obtain data on the average amount financed in lease transactions. That said, the Bureau believes it is unlikely that the estimated revenue from leasing transactions, including both the stream of payments over the course of the lease as well as the option value of purchase or resale price of the vehicle at the end of the lease, would differ in a way that materially impacts the relationship between the cost of supervision and revenues.

product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act. As explained below, the Bureau believes that the benefits, costs, and impacts to consumers and covered persons of the proposed definition would likely be small. First, the proposed definition would not extensively alter the substantive obligations of covered persons. Second, the proposed definition would not substantially expand the market participants brought under supervision as a result of the Proposed Rule, or for entities already subject to supervision, the scope of supervisory examinations. The Bureau lacks data about the range of, and costs of, compliance mechanisms used by banks or nonbank entities in the automobile financing market. In light of these data limitations, the Bureau's analysis generally provides a qualitative discussion of the benefits, costs, and impacts of the proposed definition.

a. Benefits of the Proposed Definition

Benefits of the proposed definition would stem from enhanced consumer protections relating to automobile leases that would fall under the definition. As financial products or services under the Dodd-Frank Act, such leases would become subject to the UDAAP prohibition under section 1031 of the Dodd-Frank Act. These leases are already subject to a similar prohibition against unfair or deceptive acts or practices (UDAP) in or affecting commerce under section 5 of the Federal Trade Commission Act (FTC Act).[105] The prohibitions set forth in section 5 of the FTC Act and section 1031 of the Dodd-Frank Act, however, are not precisely co-extensive. Most notably, section 5 of the FTC Act does not include a prohibition on abusive acts or practices similar to that under section 1031 of the Dodd-Frank Act. Accordingly, consumers would benefit from the expanded scope of consumer protection under section 1031 of the Dodd-Frank Act in connection with transactions involving these leases.

The proposed definition also has the potential to expand supervisory activities in two distinct ways. First, the proposed definition, as incorporated into the larger participant rule proposal, could bring certain nonbank entities under Bureau supervision by expanding the activities counted in determining whether participants of the automobile financing market qualify as larger participants and are thus subject to supervision under the Proposed Rule. To the extent that nonbank entities in the automobile financing market would be brought under supervision as a result of the proposed definition, both consumers and covered persons would benefit. The nature of these benefits, including from both the possibility of supervision and actual individual supervisory activities, are discussed above.

Second, the proposed definition could affect the scope of supervision for other nonbank entities and certain banks and credit unions.[106] For nonbank entities in the automobile financing market that would be subject to supervision as a larger participant even absent the proposed definition, the proposed definition would not expand the leasing activities of such entities subject to supervision. However, the proposed definition would expand the scope of supervision for leasing covered by the proposed definition to include compliance with section 1031 of the Dodd-Frank Act.

With respect to banks and credit unions, the Bureau has supervisory authority over large banks with total assets of more than $10 billion (and their affiliates) for compliance with Federal consumer financial laws, and the prudential regulators exercise primary supervisory authority over other banks with total assets of $10 billion or less for compliance with Federal consumer financial laws. As noted above, although the proposed definition would not expand the leasing activities of banks subject to supervision, for leasing covered under the proposed definition, it would expand the scope of that supervision to include compliance with section 1031 of the Dodd-Frank Act. Again, the benefits to consumers of that expanded supervision authority would be similar to the general benefits of supervision discussed above.

Although the Bureau has identified the above potential consumer benefits from the expanded supervision authority that could result from the proposed definition, the Bureau believes such benefits would be limited in extent. Most significantly, as discussed above, the Bureau believes that most automobile leases currently qualify as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act. Thus, the Bureau believes that few, if any, nonbank participants in the automobile financing market will be subject to the Bureau's supervision under the Proposed Rule as a result of the proposed definition. Further, for bank and nonbank entities that would be subject to supervision even absent the proposed definition, the Bureau believes that the proposed definition would expand only the scope of supervision of the leasing activities of such entities. Notably, even absent the proposed definition, all leasing activities of such entities would be subject to supervision by the Bureau or the prudential regulators for compliance with the ''enumerated consumer laws'' as defined in section 1002(12) of the Dodd-Frank Act, including the Consumer Leasing Act.[107] And under the existing regulatory framework, the prudential regulators are authorized to supervise banks for compliance with section 5 of the FTC Act. Thus, for entities that would be subject to supervision even absent the proposed definition, the expanded supervision resulting from the proposed definition would be focused on the entity's compliance with section 1031 of the Dodd-Frank Act in connection with the activities covered by the proposed definition.

Finally, under section 1031(b) of the Dodd-Frank Act, the Bureau has authority to prescribe rules applicable to a covered person or service provider identifying as unlawful unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. Thus, if the proposed definition is finalized, the Bureau could promulgate such rules in connection with transactions for the leases that would fall under the proposed definition. The Bureau would consider the benefits, costs, and impacts of any such rulemaking as part of its analysis under section 1022 for that rulemaking. The Bureau notes that any such rulemaking would likely aim to provide consumers and covered persons with additional clarity in regard to identifying unfair, deceptive or abusive acts or practices. It is not possible, however, to identify

[105] 15 U.S.C. 45. This prohibition is enforced by the Federal Trade Commission with respect to nonbanks under section 5 and by the prudential regulators with respect to banks under section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818.

[106] With respect to nonbanks, the Bureau currently supervises mortgage companies, payday lenders, and private student lenders, as well as larger participants of the consumer reporting, consumer debt collection, and student loan servicing markets, and will soon have authority to supervise larger participants of the international money transfer market. The Bureau is not aware of any significant automobile leasing activity by these entities. Thus, the Bureau believes that the proposed definition in itself would have at most a marginal impact on the scope of examinations for these entities.

[107] With respect to the enumerated consumer laws, the scope of the Bureau's authority is defined by the scope of those laws, not by the activities listed under section 1002(15)(A) of the Dodd-Frank Act.

with any greater specificity here the potential benefits to consumers or covered persons from the proposed definition as a result of an unspecified future rulemaking.[108]

b. Costs of the Proposed Definition

The proposed definition would impose compliance costs on covered persons by subjecting leasing activities that fall under the proposed definition to the UDAAP prohibitions in section 1031 of the Dodd-Frank Act. Those entities would incur some cost of compliance because, as laid out above, the prohibitions under section 1031 of the Dodd-Frank Act and section 5 of the FTC Act are not co-extensive: In particular, section 5 of the FTC Act does not include a prohibition on abusive acts or practices similar to that under section 1031 of the Dodd-Frank Act. However, given the fact that, as interpreted by the Bureau, section 1002(15)(A)(ii) covers most automobile leases and the substantial overlap of the prohibited conduct under section 1031 of the Dodd-Frank Act and section 5 of the FTC Act, in the Bureau's judgment, the compliance costs to covered persons of this new prohibition would be limited in extent.

Regarding supervision, the proposed definition, as incorporated into the larger participant rule proposal, could also bring certain nonbank entities under Bureau supervision and would affect the scope of supervision for other nonbank entities, banks, and credit unions. With respect to nonbanks, the proposed definition would, as discussed above, expand the activities counted in determining whether participants of the automobile financing market qualify as larger participants and are thus subject to supervision under the Proposed Rule. To the extent that larger participants in the automobile financing market are brought under supervision as a result of the proposed definition, such entities would incur costs. The nature of these costs, including from the possibility of supervision as well as from actual individual supervisory activities, are discussed above. For participants of the automobile financing market that would be subject to supervision under the proposed larger-participant rule even absent the proposed definition, the proposed definition would impose costs by expanding the leasing activities of such entities subject to supervision for compliance with section 1031 of the Dodd-Frank Act. With respect to banks and credit unions, by expanding the leasing activities subject to the section 1031 UDAAP prohibition, as discussed above, the proposed definition would correspondingly expand the activities subject to supervision by either the Bureau or the prudential regulators, as applicable, for compliance with that prohibition.

For both banks and nonbanks, the Bureau believes that the increased costs of supervision identified above would be small. As discussed above, the Bureau believes that most auto leases currently qualify as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act. Thus, the Bureau believes that few, if any, nonbank participants in the automobile financing market will be brought under Bureau supervision under the Proposed Rule as a result of the proposed definition. Similarly, for banks and nonbank entities that would be subject to supervision even absent the proposed definition, the Bureau believes that the proposed definition would only subject the leasing activities of such entities to slightly expanded supervision. Notably, even absent the proposed definition, all leasing activities of such entities would be subject to supervision by the Bureau or the prudential regulators for compliance with the enumerated consumer laws, including the Consumer Leasing Act.[109] And under the existing regulatory framework, the prudential regulators are authorized to supervise banks for compliance with section 5 of the FTC Act. Thus, for entities that would be subject to supervision even absent the Proposed Rule, the scope of expanded supervision for the limited activities that would fall under the proposed definition would be further limited to compliance with section 1031 of the Dodd-Frank Act. The Bureau believes that the additional cost to entities already subject to supervision of being supervised for compliance with section 1031 of the Dodd-Frank Act would be minimal.

Finally, under section 1031(b) of the Dodd-Frank Act, the Bureau has authority to prescribe rules applicable to a covered person or service provider identifying as unlawful unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. Thus, if the proposed definition is finalized, the Bureau could promulgate such rules in connection with transactions for the leases that would fall under the proposed definition. Such a rule may impose costs on covered persons or service providers. It is not possible to identify with any greater specificity here the potential costs to covered persons or service providers of any such hypothetical future rulemaking. The Bureau notes, however, that it would consider the benefits, costs, and impacts of any such rulemaking as part of its analysis under section 1022 for that rulemaking.[110]

5. Consideration of Alternatives

The Bureau is considering different thresholds for larger-participant status

[108] The proposed definition would also benefit consumers by expanding the scope of certain other Bureau authorities under title X of the Dodd-Frank Act. Perhaps most significantly, the proposed definition would expand the Bureau's rulemaking authority under section 1032 of the Dodd-Frank Act, which authorizes the Bureau to prescribe rules to ensure that the features of any consumer financial product or service are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service. In addition, the proposed definition would expand the scope of the Bureau's authority under section 1022(c) of the Dodd-Frank Act to ''monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services,'' and the scope of the Bureau's authority under section 1033 of the Dodd-Frank Act to prescribe rules for covered persons with respect to consumer rights to access information concerning consumer financial products or services that the consumer received from such person. As with respect to section 1031(b) of the Dodd-Frank Act, it is not possible for the Bureau to identify with specificity here the benefits to consumers that might result from the Bureau's potential future exercise of these authorities. The Bureau, however, notes that it would consider the benefits, costs, and impacts of any rulemakings under sections 1032 or 1033 of the Dodd-Frank Act as part of the section 1022 analysis for such rulemakings.

[109] With respect to the enumerated consumer laws, the scope of the Bureau's authority is defined by the scope of those laws, not by the activities listed under section 1002(15)(A) of the Dodd-Frank Act.

[110] The proposed definition would also impose costs on covered persons by expanding the scope of certain other Bureau authorities under title X of the Dodd-Frank Act. Specifically, the proposed definition would expand the Bureau's rulemaking authority under section 1032 of the Dodd-Frank Act, which authorizes the Bureau to prescribe rules to ensure that the features of any consumer financial product or service are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service. In addition, the proposed definition would expand the scope of the Bureau's authority under section 1022(c) of the Dodd-Frank Act to ''monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services,'' and the scope of the Bureau's authority under section 1033 of the Dodd-Frank Act, to prescribe rules for covered persons with respect to consumer rights to access information concerning consumer financial products or services that the consumer received from such person. As with respect to section 1031(b) of the Dodd-Frank Act, it is not possible for the Bureau to identify with specificity here the costs to covered persons that may result from the Bureau's potential future exercise of these authorities. The Bureau, however, notes that it would consider the benefits, costs, and impacts of any rulemakings under sections 1032 or 1033 of the Dodd-Frank Act as part of the section 1022 analysis for such rulemakings.

in the market for automobile financing. One alternative the Bureau is considering is a larger threshold of, for example, 50,000 aggregate annual originations. Under such an alternative, the benefits of supervision to both consumers and covered persons would likely be substantially reduced because some firms impacting a large portion of consumers in important market segments, such as captive, subprime, and BHPH lending, would be omitted. On the other hand, the overall potential costs across all nonbank covered persons would of course be reduced if fewer firms were defined as larger participants and thus fewer were subject to the Bureau's supervision authority on that basis. Similarly, the Bureau is also considering lower thresholds, such as 5,000 aggregate annual originations, but believes this would only marginally increase the proportion of market activity that the Bureau could supervise while potentially exposing a greater number of nonbank covered persons to the costs listed above. However, the total direct costs for actual supervisory activity might not change substantially because the Bureau conducts exams on a risk basis and would not necessarily examine more or fewer entities if the rule's coverage were broader or narrower.

The Bureau is also considering various other criteria for assessing larger-participant status, including dollar volume of originations and total unpaid principal balances. Calculating either of these metrics might be more involved than calculating the number of originations for a given nonbank entity. If so, then a given entity might face greater costs for evaluating or disputing whether it qualified as a larger participant should the occasion to do so arise. Additionally, as some nonbank entities might, for example, specialize in sectors featuring higher average loan amounts or different prepayment and default rates than others, using aggregate annual originations more directly captures the number of consumers impacted by the Proposed Rule. For each criterion, the Bureau expects that it could choose a suitable threshold for which the set of larger participants, among those entities participating in the market today, would be similar to those expected to qualify under the Proposed Rule. Consequently, the costs, benefits, and impacts of this Proposed Rule should not depend on which criterion the Bureau uses.

C. Potential Specific Impacts of the Proposed Rule

1. Depository Institutions and Credit Unions With $10 Billion or Less in Total Assets, As Described in Section 1026 of the Dodd-Frank Act

No depository institutions or credit unions of any size would become larger participants in the market for automobile leases under the Proposed Rule. Further, as explained above, the proposed change in the definition of financial product or service would not in itself have any significant effect on depository institutions and credit unions with $10 billion or less in total assets. Nevertheless, the Proposed Rule might, as discussed above, have some impact on depository institutions or credit unions that provide financing for automobile transactions. The Proposed Rule might therefore alter market dynamics in a market in which some depository institutions and credit unions with less than $10 billion in assets may be active. For example, if nonbanks' price of credit for loan acquisitions or leases were to increase, or similarly were the compensation for selling those same products to decrease due to increased costs related to supervision, then depository institutions or credit unions of any size might benefit by the relative change in competitors' costs.

2. Impact of the Provisions on Consumer Access to Credit and on Consumers in Rural Areas

Because the rule applies uniformly to automobile financing transactions of both rural and non-rural consumers, the rule should not have a unique impact on rural consumers. The Bureau is not aware of any evidence suggesting that rural consumers have been disproportionately harmed by nonbank entities' failure to comply with Federal consumer financial law. The Bureau would welcome any comments that may provide information related to how automobile financing transactions affect rural consumers.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,[111] requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations.[112] The RFA defines a ''small business'' as a business that meets the size standard developed by the Small Business Administration (SBA) pursuant to the Small Business Act.[113]

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) of any proposed rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.[114] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small entity representatives prior to proposing a rule for which an IRFA is required.[115]

The undersigned certifies that the Proposed Rule, if adopted, would not have a significant economic impact on a substantial number of small entities and that an IRFA is therefore not required.

The Proposed Rule would define a class of nonbank covered persons as larger participants of the automobile financing market and thereby would authorize the Bureau to undertake supervisory activities with respect to those nonbank covered persons. The Proposed Rule would also define the term ''financial product[s] or service[s]'' to include automobile leases that (1) meet the requirements of section 108 of CEBA, as implemented by 12 CFR part 23, and are thus permissible for banks to offer or provide; and (2) are not currently defined as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act. The Proposed Rule would not affect a substantial number of small businesses.

Regarding insured depositories and credit unions, these entities are small businesses only if their assets are below $550 million. The proposed definition of larger participants of the automobile financing market applies only to nonbank entities, so it would have no impact on depository institutions or

[111] The RFA, Public Law 96–354, 94 Stat. 1164 (1980) (codified as amended at 5 U.S.C. 601–12).

[112] The term '''small organization' means any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless an agency establishes [an alternative definition after notice and comment].'' 5 U.S.C. 601(4). The term '''small governmental jurisdiction' means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand, unless an agency establishes [an alternative definition after notice and comment].'' *Id.* at 601(5). The Bureau is not currently aware of any small governmental units or small not-for-profit organizations to which the Proposed Rule would apply.

[113] 5 U.S.C. 601(3). The Bureau may establish an alternative definition after consultation with SBA and an opportunity for public comment. *Id.*

[114] 5 U.S.C. 605(b).

[115] 5 U.S.C. 609.

credit unions of any size. The proposed definition of the term financial product or service to include certain automobile leases would have little impact on compliance and supervision costs for insured depositories and credit unions. The leasing activities covered under the proposed definition would become subject to the UDAAP prohibition under section 1031 of the Dodd-Frank Act. Although the two are not co-extensive, as discussed above, a similar prohibition on UDAP in or affecting commerce under section 5 of the FTC Act already applies to these activities. Similarly, small banks are already subject to supervision for compliance with section 5 of the FTC Act, as well as with the enumerated consumer laws. In addition, most small banks have a very low share of leases relative to loans, and most of this leasing activity already qualifies as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act. Accordingly, the Bureau estimates that very few to no small banks would experience a significant impact due to the proposed change to the definition of a financial product or service.

Regarding nonbank entities, the Proposed Rule adopts a threshold for larger-participant status of at least 10,000 aggregate annual originations.[116] Under the size standard for the most relevant SBA classification, *i.e.,* NAICS code 522220, an entity engaged in automobile financing is a small business if its annual receipts are below $38.5 million.[117] The Bureau used AutoCount data for 2013 combined with public financial statements, securitization filings, and additional market research to estimate annual receipts for each of the potential larger participants.[118] Based on this review, it appears that few, if any, of the approximately 38 potential larger participants identified by the Bureau's analysis meet the small business threshold classification.[119] The Bureau therefore estimates that no or very few small businesses would be classified as larger participants of the automobile financing market under the Proposed Rule.[120]

Finally, the proposed definition of the term financial product or service to include certain automobile leases would have little impact on small nonbank entities engaged in automobile leasing. As mentioned above, the vast majority of automobile leases likely already qualify as a financial product or service under section 1002(15)(A)(ii) of the Dodd-Frank Act, and so the change in definition is unlikely to affect the larger-participant status of any small business. With respect to costs related to compliance, if the proposed definition is finalized, small nonbanks would have to comply with the UDAAP prohibition under section 1031 of the Dodd-Frank Act when providing automobile leases covered under the proposed definition. However, as with small banks, small nonbanks that provide automobile leases must already comply with similar UDAP prohibitions under section 5 of the FTC Act as well as the applicable enumerated consumer laws, such as the Consumer Leasing Act. Additionally, as explained above, there are likely to be few, if any, small nonbank businesses in the automobile financing market that would be subject to supervision irrespective of the proposed definition. To the extent that any small nonbanks are larger participants under the Proposed Rule, the Bureau believes that the proposed definition would expand the scope of leasing activities of such entities subject to supervision for compliance with section 1031. The economic impact of this expansion in scope would not be significant. Notably, even absent the proposed definition, all leasing activities of such entities would be subject to supervision by the Bureau for compliance with the enumerated consumer laws, including the Consumer Leasing Act.[121]

Considering the limited public information available for several of the smallest potential larger participants, the Bureau requests comment on the impact of the Proposed Rule on small nonbank entities and solicits data that may be relevant to this analysis. The Bureau also solicits comments on whether NAICS code 522220 or any other NAICS code is more appropriate for this market.

Additionally, if a larger participant's annual receipts fell below the $38.5 million SBA size standard, the Proposed Rule would not result in a ''significant impact'' on the entity. The Proposed Rule would not itself impose any business conduct obligations beyond those described above regarding the automobile leases defined under the Proposed Rule as financial products or services. Furthermore, the Bureau's supervisory activity would have very little economic impact on a supervised entity. When and how often the Bureau would in fact engage in supervisory activity, such as an examination, with respect to a larger participant (and, if so, the extent of such activity) would depend on a number of considerations, including the Bureau's allocation of resources and the application of the statutory factors set forth in section 1024(b)(2) of the Dodd-Frank Act. Given the Bureau's finite supervisory resources, and the range of industries over which it has supervisory responsibility for consumer financial protection, when and how often a given a larger participant would be supervised is uncertain. Moreover, if supervisory activity occurred, the costs that would result from such activity are expected to

[116] As noted above, if a nonbank covered person meets the larger-participant test, it would remain a larger participant until two years from the first day of the tax year in which it last met the larger-participant test.

[117] 13 CFR 121.201 (NAICS code 522220) (as amended by 79 FR 33647, 33655 (June 12, 2014)). The Bureau believes that larger participants in the proposed nonbank automobile financing market are likely to be classified under NAICS code 522220, sales financing. NAICS lists ''automobile financing'' and ''automobile finance leasing companies'' as index entries corresponding to this code. *See* U.S. Census Bureau, North American Industry Classification System, *2012 NAICS Definition 522220 Sales Financing, available at http://www.census.gov/cgi-bin/sssd/naics/naicsrch.*

[118] To generate these estimates, the Bureau first calculated an estimate of the average stream of interest income the 38 potential larger participants would receive over a 12-month period for all loans originated in 2013, as well as the income each entity would receive during the same period for loans made in previous years if the number of originations were identical to 2013 levels. This initial calculation excludes leases that also generate income. It also assumes no prepayment, which would increase receipts; no defaults, which would decrease receipts; and no other income generated from any other sources. The Bureau then analyzed public financial statements to verify any potential outliers. Using this methodology, the Bureau found six potential larger participants with receipts from loans that fall below the $38.5 million size standard in 2013; however, three of these entities hold a substantial number of leases and therefore likely have over $38.5 million in combined receipts from loans and leases, assuming lease terms similar in payment size to loans. Further market research indicates the remaining three entities likely generate additional revenue from other sources, suggesting that their annual receipts also exceed the relevant size standard.

[119] The Bureau's analysis concluding that few, if any, potential larger participants meet the relevant size standard is described in *supra* note 118. The Bureau also believes that it is unlikely that any small entities would be rendered larger participants of the consumer reporting or consumer debt collection markets by the proposed technical amendments to § 1090.104(a) and § 1090.105(a), since very few entities in those markets are likely to have annual receipts that are so close to the larger-participant threshold that inclusion of additional receipts from a formerly-affiliated company would affect their larger-participant status.

[120] According to the 2007 Economic Census, more than 2,000 small firms are encompassed under the most applicable NAICS code (522220). U.S. Census Bureau, American FactFinder Database, Estab and Firm Size: Summary Statistics by Revenue Size of Establishments for the United States: 2007, *available at http://factfinder2.census.gov/bkmk/table/1.0/en/ECN/2007_US/52SSSZ4//naics~522220.* Thus, even if a few small firms were classified as larger participants, they would constitute less than one percent of the small firms in the industry under that NAICS code.

[121] As noted above, with respect to the enumerated consumer laws, the scope of the Bureau's authority is defined by the scope of those laws, not by the activities listed under section 1002(15)(A) of the Dodd-Frank Act.

be minimal in relation to the overall activities of a larger participant.[122] Hence, the Proposed Rule would not have a significant economic impact on a substantial number of small entities because the Proposed Rule would not impose any significant business conduct obligations on the defined class of larger participants and the cost of supervisory activities would be nominal in relation to the revenue of a larger participant whose annual revenue fell below the $38.5 million SBA size standard.[123]

Finally, section 1024(e) of the Dodd-Frank Act authorizes the Bureau to supervise service providers to nonbank covered persons encompassed by section 1024(a)(1), which includes larger participants. Because the Proposed Rule does not specifically address service providers, effects on service providers need not be discussed for purposes of this RFA analysis. Even were such effects relevant, the Bureau believes that it would be very unlikely that any supervisory activities with respect to the service providers to the approximately 38 potential larger participants of the proposed market for automobile financing would result in a significant economic impact on a substantial number of small entities.[124]

Accordingly, the undersigned certifies that the Proposed Rule would not have a significant economic impact on a substantial number of small entities.

VIII. Paperwork Reduction Act

The Bureau has determined that this Proposed Rule would not impose any new recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would constitute collections of information requiring approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq*.

List of Subjects in 12 CFR Part 1000 and 12 CFR Part 1090

Consumer protection, Credit.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau proposes to add 12 CFR part 1001 and proposes to amend 12 CFR part 1090, subpart B, to read as follows:

PART 1001—FINANCIAL PRODUCTS OR SERVICES

Sec.
1001.1 Authority and purpose.
1001.2 Definitions.

■ 1. The authority citation for part 1001 is to read:

Authority: 12 U.S.C. 5481(15)(A)(xi); and 12 U.S.C. 5512(b)(1).

■ 2. Add part 1001 to Chapter X in Title 12 of the Code of Federal Regulations to read as follows:

PART 1001—FINANCIAL PRODUCTS OR SERVICES

§ 1001.1 Authority and purpose.

Under 12 U.S.C. 5481(15)(A)(xi), the Bureau is authorized to define certain financial products or services for purposes of title X of the Dodd-Frank Act, Public Law 111–203, 124 Stat. 1376 (2010) (Title X) in addition to those defined in 12 U.S.C. 5481(15)(A)(i)–(x). The purpose of this part is to implement that authority.

§ 1001.2 Definitions.

Except as otherwise provided in Title X, in addition to the definitions set forth in 12 U.S.C. 5481(15)(A)(i)–(x), the term ''financial product or service'' means, for purposes of Title X:

(a) Extending or brokering leases of an automobile, as defined by 12 CFR 1090.108(a), where the lease:

(1) Qualifies as a full-payout lease and a net lease, as provided by 12 CFR 23.3(a), and has an initial term of not less than 90 days, as provided by 12 CFR 23.11; and

(2) Is not a financial product or service under 12 U.S.C. 5481(15)(A)(ii).

PART 1090—DEFINING LARGER PARTICIPANTS OF CERTAIN CONSUMER FINANCIAL PRODUCT AND SERVICE MARKETS

■ 3. The authority citation for part 1090 continues to read as follows:

Authority: 12 U.S.C. 5514(a)(1)(B); 12 U.S.C. 5514(a)(2); 12 U.S.C. 5514(b)(7)(A); and 12 U.S.C. 5512(b)(1).

■ 4. Section 1090.101 is amended by revising the definition of ''*Nonbank covered person''* to read as follows:

§ 1090.101 Definitions.

* * * * *

Nonbank covered person means, except for persons described in 12 U.S.C. 5515(a) and 5516(a):

(1) Any person that engages in offering or providing a consumer financial product or service; and

(2) Any affiliate of a person that engages in offering or providing a consumer financial product or service if such affiliate acts as a service provider to such person.

* * * * *

■ 5. Section 1090.104 is amended by revising paragraph (a)(iii)(D) of the definition ''annual receipts'' to read as follows:

§ 1090.104 Consumer reporting market.

(a) * * *

(iii) * * *

(D) The annual receipts of a formerly affiliated company are not included if the affiliation ceased before the applicable period of measurement as set forth in paragraph (ii) of this definition. The annual receipts of a nonbank covered person and its formerly affiliated company are aggregated for the entire period of measurement if the affiliation ceased during the applicable period of measurement as set forth in paragraph (ii) of this definition.

* * * * *

■ 6. Section 1090.105 is amended by revising paragraph (a)(iii)(D) of the definition ''annual receipts'' to read as follows:

§ 1090.105 Consumer debt collection market.

(a) * * *

(iii) * * *

(D) The annual receipts of a formerly affiliated company are not included if the affiliation ceased before the applicable period of measurement as set forth in paragraph (ii) of this definition. The annual receipts of a nonbank

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[122] As noted in part VI.B.2.b above, the Bureau estimates that the cost of participation in an examination would be approximately 0.013 percent of the annual revenue generated from originations for an entity at the threshold of 10,000 aggregate annual originations.

[123] Because the Proposed Rule aggregates the activities of affiliated companies in part by adding together annual originations, two companies that are small businesses might, together, have aggregate annual originations over 10,000. The Bureau anticipates no more than a very few such cases, if any, in the automobile financing market.

[124] As noted above, according to the 2007 Economic Census, more than 2,000 small firms are encompassed under NAICS code 522220, and the number of those firms that are service providers for the 38 potential larger participants will be only a small fraction of that number. Other service providers may be classified under NAICS code 522320 for financial transactions processing, reserve, and clearing house activities, which also includes more than 2,000 small firms. U.S. Census Bureau, American FactFinder Database, Estab and Firm Size: Summary Statistics by Revenue Size of Establishments for the United States: 2007, *available at http://factfinder2.census.gov/bkmk/table/1.0/en/ECN/2007_US/52SSSZ4//naics~522320.* Still other service providers are likely to be considered in other NAICS codes corresponding to the service provider's primary business activities. As noted above with respect to larger participants themselves, the frequency and duration of examinations that would be conducted at any particular service provider would depend on a variety of factors. However, it is implausible that in any given year the Bureau would conduct examinations of a substantial number of the more than 4,000 small firms in NAICS code 522220 and 522320, or the small firm service providers that happen to be in any other NAICS code. Moreover, the impact of supervisory activities, including examinations, at such small firm service providers can be expected to be less, given the Bureau's exercise of its discretion in supervision, than at the larger participants themselves.

covered person and its formerly affiliated company are aggregated for the entire period of measurement if the affiliation ceased during the applicable period of measurement as set forth in paragraph (ii) of this definition.

* * * * *

■ 7. Add § 1090.108 to subpart B to read as follows:

§ 1090.108 Automobile financing market.

(a) *Market-related definitions.* As used in this section:

Aggregate annual originations means the sum of the number of annual originations of a nonbank covered person and the number of annual originations of each of the nonbank covered person's affiliated companies, calculated as follows:

(i) *Annual Originations.*

(A) Annual originations means the sum of the following transactions for the preceding calendar year:

(1) Credit granted for the purpose of purchasing an automobile;

(2) Automobile leases;

(3) Refinancings of obligations described in (1) above, and any subsequent refinancings thereof; and

(4) Purchases or acquisitions of obligations described in (1) or (3) above or of automobile lease agreements.

(B) The term annual originations does not include investments in asset-backed securities.

(ii) *Aggregating the annual originations of affiliated companies.* The annual originations of a nonbank covered person must be aggregated with the annual originations of any person (other than an entity described in paragraph (c)) that was an affiliated company of the nonbank covered person at any time during the preceding calendar year. The annual originations of a nonbank covered person and its affiliated companies are aggregated for the entire preceding calendar year, even if the affiliation did not exist for the entire calendar year.

Automobile means any self-propelled vehicle primarily used for personal, family, or household purposes for on-road transportation. The term does not include motor homes, recreational vehicles (RVs), golf carts, and motor scooters.

Automobile financing means providing the transactions identified under the term ''annual originations'' as defined in this section.

Automobile lease means a lease that is for the use of an automobile, as defined in this section, and that meets the requirements of 12 U.S.C. 5481(15)(A)(ii) or 12 CFR 1001.2(a).

Refinancing has the same meaning as in 12 CFR 1026.20(a), except that the nonbank covered person need not be the original creditor or a holder or servicer of the original obligation.

(b) *Test to define larger participants.* Except as provided in paragraph (c), a nonbank covered person that engages in automobile financing is a larger participant of the automobile financing market if the person has at least 10,000 aggregate annual originations.

(c) *Exclusion for dealers.* The following entities do not qualify as larger participants under this section:

(1) persons excluded from the authority of the Bureau by 12 U.S.C. 5519; and

(2) persons who meet the definition in 12 U.S.C. 5519(f)(2); are identified in 12 U.S.C. 5519(b)(2); and are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

Dated: September 16, 2014.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2014–23115 Filed 10–7–14; 8:45 am]

BILLING CODE 4810–AM–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 931 and 933

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1277

RIN 2590–AA71

Federal Home Loan Bank Capital Stock and Capital Plans

AGENCY: Federal Housing Finance Board, Federal Housing Finance Agency.

ACTION: Proposed rule.

SUMMARY: The proposed rule would transfer existing parts 931 and 933 of the Federal Housing Finance Board (Finance Board) regulations, which address requirements for Federal Home Loan Bank (Bank) capital stock and capital plans, to new Part 1277 of the Federal Housing Finance Agency (FHFA) regulations. The proposed rule would not make any substantive changes to these requirements, but would delete certain provisions that applied only to the one-time conversion of Bank stock to the new capital structure required by the Gramm-Leach-Bliley Act (GLB Act). It would also make certain clarifying changes so that the rules would more precisely reflect long-standing practices and requirements with regard to transactions in Bank stock. Most significantly, the proposed rule would add appropriate references to ''former members'' to clarify when former Bank members can be required to maintain investment in Bank capital stock after withdrawal from the Bank.

DATES: Comments must be received on or before December 8, 2014.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590–AA71 by any of the following methods:

- *Agency Web site: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comments to the *Federal eRulemaking Portal,* please also send it by email to FHFA at *RegComments@FHFA.gov* to ensure timely receipt by the agency. Please include ''RIN 2590–AA71'' in the subject line of the message.
- *Hand Delivery/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA71, Federal Housing Finance Agency, Constitution Center, (OGC) Eighth Floor, 400 Seventh Street SW., Washington, DC 20024. The package should be delivered to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA71, Federal Housing Finance Agency, Constitution Center, (OGC) Eighth Floor, 400 Seventh Street SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Julie Paller, Senior Financial Analyst, *Julie.Paller@FHFA.gov,* 202–649–3201 (this is not a toll-free number), Division of Federal Home Loan Bank Regulation; or Thomas E. Joseph, Associate General Counsel, *Thomas.Joseph@FHFA.gov,* 202–649–3076 (this is not a toll-free number), Office of General Counsel (OGC), Federal Housing Finance Agency, Constitution Center, 400 Seventh Street SW., Washington, DC 20024. The telephone number for the Telecommunications Device for the Hearing Impaired is 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. Comments

Section 553 of the Administrative Procedure Act generally requires an

agency to publish a proposed rule in the **Federal Register** and provide the public an opportunity to comment on it.[1] Such notice and public comment, however, may be dispensed with if they are unnecessary.[2] In this case, FHFA believes that notice and comment would be unnecessary because the proposed rule would transfer existing regulation without substantive change, deleting provisions that clearly have no continuing applicability. Nonetheless, FHFA desires the benefit of public comment and has therefore decided to publish this proposed rule with a 60-day comment period and invites comments on all aspects of the proposal. After considering the comments, FHFA will develop a final regulation.

Copies of all comments received by the deadline will be posted without change on the FHFA Web site at *http://www.fhfa.gov,* and will include any personal information you provide, such as your name, address, email address and telephone number. Copies of all comments timely received will be available for public inspection and copying on government-business days between the hours of 10 a.m. and 3 p.m. at the Federal Housing Finance Agency, Constitution Center, 400 7th Street SW., Washington, DC 20024. To make an appointment to inspect comments please call the Office of General Counsel at (202) 649–3804.

B. Creation of the Federal Housing Finance Agency

Effective July 30, 2008, the Housing and Economic Recovery Act of 2008 (HERA) [3] created FHFA as a new independent agency of the Federal Government, and transferred to FHFA the supervisory and oversight responsibilities of the Office of Federal Housing Enterprise Oversight (OFHEO) over the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises), the oversight responsibilities of the Finance Board over the Banks and the Office of Finance (OF) (which acts as the Banks' fiscal agent) and certain functions of the Department of Housing and Urban Development.[4] Under the legislation, the Enterprises, the Banks, and the OF continue to operate under regulations promulgated by OFHEO and the Finance Board until such regulations are superseded by regulations issued by FHFA.[5] While FHFA has amended and/or re-adopted and transferred most of the former Finance Board regulations, certain Finance Board regulations, including those which address Bank capital, have not yet been transferred by FHFA, although they continue to apply to the Banks.

C. Bank Capital Stock and Capital Plans

The twelve Banks are instrumentalities of the United States organized under the Federal Home Loan Bank Act (Bank Act).[6] The Banks are cooperatives; only members of a Bank may purchase the capital stock of a Bank, and only members or certain eligible housing associates (such as state housing finance agencies) may obtain access to secured loans, known as advances, or other products provided by a Bank.[7] Each Bank is managed by its own board of directors and serves the public interest by enhancing the availability of residential mortgage and community lending credit through its member institutions.[8]

In 1999, the GLB Act [9] amended the Bank Act to replace the capital structure of the Bank Systems. Under the GLB Act, the Banks became subject to risk-based and leverage capital requirements similar to those applicable to depository institutions and other housing GSEs. The GLB Act also directed the Finance Board to adopt regulations prescribing uniform capital standards applicable to each Bank. It also required the Banks to replace their existing capital stock with new classes of capital stock that would have different terms from the stock then-held by Bank System members. Specifically, the GLB Act authorized the Banks to issue new Class A stock, which the GLB Act defined as redeemable six months after filing of a notice by a member, and Class B stock, defined as redeemable five years after filing of a notice by a member. The GLB Act allowed Banks to issue Class A and Class B stock in any combination and to establish terms and preferences for each class or subclass of stock issued, consistent with Finance Board regulations and the Bank Act.[10]

As part of the process for converting the ''old'' capital stock to the new GLB Act Class A and Class B stock, the GLB Act required each Bank to adopt and maintain a capital plan that established the rights, terms and preferences of each class or subclass of capital stock that it would issue.[11] The GLB Act also required that each Bank's capital plan establish the minimum investment in capital stock required for its members to maintain membership and to conduct business with the Bank. Such minimum investment requirements needed to be sufficient for the Bank to meet its new minimum regulatory capital requirements. The GLB Act provided each Bank's board of directors the discretion to develop and implement a capital plan that it determined was best suited for the conditions and operations of the Bank and the interests of the Bank's members.[12] It also required Finance Board approval of each Bank's capital plan prior to it taking effect.

Under the Finance Board regulations, each Bank had discretion as to when it would convert to the new capital structure. The Finance Board regulations also addressed in detail the process for the one-time conversion to the new capital structure, including requirements for disclosure to be given to members prior to the conversion. Since the Finance Board originally adopted these regulations in 2001, all Banks have converted to the GLB Act capital structure. The original Finance Board regulations have not yet been amended, however, to remove provisions that applied only to the initial conversion process.[13]

D. Considerations of Differences Between the Banks and the Enterprises

When promulgating regulations relating to the Banks, section 1313(f) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) requires the Director of FHFA (Director) to consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability.[14] This requirement does not apply to regulations of the Finance Board that the Director reissues. The changes proposed in this rulemaking are clarifying and conforming in nature and apply exclusively to the Banks. Apart from those changes, the substance of the

[1] 5 U.S.C. 553(b).

[2] *Id.* at 553(b)(B).

[3] Pub. Law 110–289, 122 Stat. 2654.

[4] *See* 12 U.S.C. 4511.

[5] *See* 12 U.S.C. 4511, note.

[6] *See* 12 U.S.C. 1423 and 1432(a). The twelve Banks are located in: Boston, New York, Pittsburgh, Atlanta, Cincinnati, Indianapolis, Chicago, Des Moines, Dallas, Topeka, San Francisco, and Seattle.

[7] *See* 12 U.S.C. 1426(a)(4), 1430(a), and 1430b.

[8] *See* 12 U.S.C. 1427.

[9] Pub. Law 106–102, 113 Stat. 1338 (Nov. 12, 1999).

[10] *See* 12 U.S.C. 1426, and 12 CFR parts 931 and 933.

[11] *Id.*

[12] *See* 12 U.S.C. 1426(b)(1).

[13] *See* Final Rule: Capital Requirements for Federal Home Loan Banks, 66 FR 8262 (Jan. 30, 2001); and Final Rule: Capital Requirements for Federal Home Loan Banks, 66 FR 54097 (Oct. 26, 2001) (amending capital requirements).

[14] *See* 12 U.S.C. 4513 (*as amended by* section 1201 Pub. L. 110–289, 122 Stat. 2782–83).

proposed rule is the same as that of the existing Finance Board regulations. Accordingly, the proposed rule does not trigger this statutory requirement. Nonetheless, FHFA, in preparing this proposed rule, considered the differences between the Banks and the Enterprises as they relate to the above factors. FHFA requests comments from the public about whether these differences should result in any revisions to the proposed rule.

II. Analysis of the Proposed Rule

The Proposed Rule

The proposed rule would transfer the Finance Board Bank capital stock regulations from 12 CFR part 931 and the Bank capital plan regulations from 12 CFR part 933 to subparts C and D of new part 1277 of FHFA regulations, respectively. Relevant definitions for parts 931 and 933 would be transferred to subpart A of new part 1277.[15] As part of this transfer, FHFA also proposes to make certain non-substantive, clarifying and conforming changes to these provisions and to remove requirements which applied only to the Banks' initial conversion to the GLB Act capital structure.

Definitions. FHFA proposes to replace definitions for ''regulatory risk-based capital requirement'' and ''regulatory total capital requirement'' with a new single definition for ''regulatory capital requirements.'' The proposed rule would define this new term as the minimum amounts of permanent and total capital that a Bank is required to maintain under section 6(a) of the Bank Act (12 U.S.C. 1426(a)) and any related regulations, as such requirements may be modified by the Director, or any similar requirement established for a Bank by regulation, order, written agreement or other action. FHFA would replace various references to ''minimum capital requirement'' or ''capital requirement'' with a reference to ''regulatory capital requirements'' in the text of the transferred regulations.

FHFA also proposes to define the term ''former member'' as an institution whose membership in a Bank has been terminated, but which continues to hold stock in the Bank as required by the Bank's capital plan, and includes any successor to such institution that continues to hold the Bank's stock that had been issued to the acquired institution. As discussed more fully below, FHFA proposes to add various references to ''former member'' in the regulatory text to clarify that under the Bank Act and existing regulations, such institutions can be required to hold Bank stock in certain situations after termination of their Bank membership.

Capital Stock Provisions. FHFA proposes to transfer current 12 CFR part 931 to new subpart C of part 1277. Most of these provisions will be transferred without change, beyond necessary conforming changes. FHFA, however, proposes to delete current § 931.9 which addresses various transition requirements related to the Banks' conversion to the GLB Act capital structure. Given that all Banks have successfully completed this process, § 931.9 has no future applicability and can be removed.

As already noted, FHFA also proposes to clarify in various provisions that former members can be required to hold Bank stock, or otherwise engage in stock transactions, after withdrawal. For example, an institution is not required upon withdrawal to pay off all outstanding advances or other activity, but instead, a Bank can allow such institution to liquidate such indebtedness in an orderly manner. *See* 12 U.S.C. 1426(d)(3). Under current rules, such institution must retain sufficient stock to fulfill any stock purchase requirement established by the Bank's capital plan related to the outstanding activity. *See* 12 CFR § 1263.29(b). Some, but not all, Banks' capital plans also may require former members to buy additional Bank stock if a Bank increases the relevant activity stock purchase requirement during the orderly liquidation period.[16]

In other situations, a Bank may not be required to purchase a former member's stock upon withdrawal because the relevant redemption periods have not been completed on such date.[17] A Bank also may be prohibited by regulation or FHFA order from redeeming a former member's stock upon its withdrawal, so that the institution must continue to hold the stock beyond the date that membership terminates.[18]

To account for such situations, FHFA proposes to add relevant references to former members in a number of provisions, including proposed §§ 1277.21, 1277.22, 1277.25, 1277.26, and 1277.28(d)(4). Because FHFA generally has continued the Finance Board's approach and interpreted references to ''member'' in these regulations to include a former member, when appropriate, FHFA views these changes as clarifying in nature.[19]

FHFA also proposes to add clarifying language to § 1277.23. The new language provides that any provision in a Bank's capital plan related to stockholder rights in a liquidation, merger or consolidation of the Bank cannot limit FHFA's authority under the Bank Act or the Safety and Soundness Act to issue a regulation or order or to take any other action that may affect or otherwise alter the rights or privileges of stock holders in these situations. FHFA believes that the proposed language is consistent to wording that already has been incorporated into each Bank's approved capital plan and therefore will not alter the scope of current approved capital plan provisions that address the Bank's liquidation, merger or consolidation.

Capital Plan Requirements. FHFA proposes to transfer relevant provisions in current part 933 to subpart D of new part 1277. As part of this process, it proposes to remove those provisions that relate only to the Banks' initial conversion to the GLB Act capital structure, given that the provisions have no continuing applicability. The provisions FHFA proposes to delete include, provisions in current § 933.1 that relate only to the initial submission of capital plans by the Banks for approval, and §§ 933.2(d), (e) and (h), 933.3, 933.4, and 933.5. Other provisions in part 933 will be carried over to subpart D of part 1277 with necessary conforming changes.

FHFA also proposes not to reissue duplicative provisions related to the calculation and application of a member's, or former member's, minimum investment requirements. These requirements are now contained in both § 931.3 of the rules, which sets forth requirements for the minimum stock investment, and § 933.2(a), which sets forth the requirements for a Bank's capital plan related to the minimum

[15] As part of a separate and future rulemaking, FHFA intends to amend and transfer the existing Bank capital regulations from part 932 of the Finance Board regulations to subpart B of new part 1277.

[16] FHFA does not intend any of its proposed changes in this rulemaking to imply that a Bank must require former members to buy stock as a result of an increase in a relevant stock purchase requirement while activity remains outstanding. Instead, FHFA seeks to clarify that such a requirement is possible as long as a Bank specifies such a requirement in its approved capital plan.

[17] A Bank is only required to redeem a member's, or former member's, stock upon expiration of the relevant redemption period, and then only if the stock is not needed to meet any applicable stock purchase requirement or Bank regulatory capital requirement. *See* 12 CFR 931.7 (proposed § 1277.26).

[18] For example, a Bank cannot redeem any stock if it would fail to meet any regulatory capital requirement after the redemption. *See* 12 U.S.C. 1426(f) and 12 CFR 931.7(c) (proposed § 1277.26(c)).

[19] In this respect, both the Finance Board and FHFA have approved Bank capital plans that apply stock transaction or stock holding provisions specifically to former members, even though current, relevant regulations refer only to members.

investment. Instead, the proposed rule would provide that a Bank's capital plan should specify the manner for calculating the minimum investment and require a member, and if applicable a former member, to purchase and maintain such investment in accordance with proposed § 1277.22. The change would incorporate by reference the requirements governing the calculation and maintenance of the minimum investment set forth in proposed § 1277.22 and, thus, would not alter the current capital plan requirements in any substantive manner.

FHFA also proposes to add to subpart D new § 1277.29 to address amendments to approved Bank capital plans. The current part 933 rules do not specifically address the process for submitting capital plan amendments for FHFA approval, although the Bank Act allows Banks to amend their capital plans with such approval.[20] FHFA proposes to incorporate in this new section requirements that reflect the process that long has been applied to the submission and approval of Bank capital plan amendments, including applicable Finance Board guidance, first provided to the Banks in 2003, on information that a Bank should submit with any approval request. FHFA also proposes to carry over in proposed § 1277.29(c), current language from § 933.1(c) that would allow the Director to approve an amendment to a capital plan subject to specific conditions.

III. Paperwork Reduction Act

The information collection, entitled ''Capital Requirements for the Federal Home Loan Banks,'' contained in the current 12 CFR parts 931 and 933 of the regulations that would be transferred to 12 CFR part 1277 by this proposed rule, has been assigned control number 2590–0002 by the Office of Management and Budget (OMB). The proposed rule if adopted as a final rule would not substantively or materially modify the current, approved information collection.

IV. Regulatory Flexibility Act

The proposed rule applies only to the Banks, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, FHFA certifies that this proposed rule, if adopted as a final rule, would not have significant economic impact on a substantial number of small entities.

[20] *See* 12 U.S.C. 1426(b)(2).

List of Subjects

12 CFR Parts 931 and 933

Capital, Credit, Federal home loan banks, Investments, Reporting and recordkeeping requirements.

12 CFR Part 1277

Capital, Credit, Federal home loan banks, Investments, Reporting and recordkeeping requirements.

Accordingly, for reasons stated in the Preamble and under the authority of 12 U.S.C. 1426, 1436, 1440, 1443, 1446, 4511, 4513, 4526, FHFA proposes to amend subchapter E of chapter IX and subchapter D of chapter XII of title 12 of the Code of Federal Regulations as follows:

CHAPTER IX—FEDERAL HOUSING FINANCE BOARD

Subchapter E—Federal Home Loan Bank Risk Management and Capital Standards

PART 931—[REMOVED]

■ 1. Remove part 931.

PART 933—[REMOVED]

■ 2. Remove part 933.

CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY

Subchapter D—Federal Home Loan Banks

■ 3. Add part 1277 to subchapter D to read as follows:

PART 1277—FEDERAL HOME LOAN BANK CAPITAL REQUIREMENTS, CAPITAL STOCK AND CAPITAL PLANS

Subpart A—Definitions

Sec.

1277.1 Definitions.

Subpart B—[Reserved]

Subpart C—Bank Capital Stock

1277.20 Classes of capital stock.
1277.21 Issuance of capital stock.
1277.22 Minimum investment in capital stock.
1277.23 Dividends.
1277.24 Liquidation, merger, or consolidation.
1277.25 Transfer of capital stock.
1277.26 Redemption and repurchase of capital stock.
1277.27 Other restrictions on the repurchase or redemption of Bank stock.

Subpart D—Bank Capital Plans

1277.28 Bank capital plans.
1277.29 Amendments to a Bank's capital plan.

Authority: 12 U.S.C. 1426, 1436(a), 1440, 1443, 1446, 4511, 4513, 4514, 4526, 4612.

Subpart A—Definitions

§ 1277.1 Definitions.

As used in this part:

Class A stock means capital stock issued by a Bank, including subclasses, that has the characteristics specified by § 1277.20(a) of this part.

Class B stock means capital stock issued by a Bank, including subclasses, that has the characteristics specified by § 1277.20(b) of this part.

Former member means an institution for which the membership in a Bank has been terminated but which continues to hold stock in the Bank as required by the Bank's capital plan, and includes any successor to such institution that continues to hold the stock in the Bank that had been issued to the acquired institution.

General allowance for losses means an allowance established by the Bank in accordance with GAAP for losses, but which does not include any amounts held against specific assets of the Bank.

Minimum investment means the minimum amount of stock that an institution is required to own in order to be a member of a Bank and in order to obtain advances and to engage in other business activities with the Bank in accordance with § 1277.22 of this part.

Permanent capital means the retained earnings of a Bank, determined in accordance with GAAP, plus the amount paid-in for the Bank's Class B stock.

Redeem or Redemption means the acquisition by a Bank of its outstanding Class A or Class B stock at par value following the expiration of the six-month or five-year statutory redemption period, respectively, for the stock.

Regulatory capital requirements means the minimum amounts of permanent and total capital that a Bank is required to maintain under section 6(a) of the Bank Act (12 U.S.C. 1426(a)) and any related regulations, as such requirements may be modified by the Director, or any similar requirement established for a Bank by regulation, order, written agreement or other action.

Repurchase means the acquisition by a Bank of excess stock prior to the expiration of the six-month or five-year statutory redemption period for the stock.

Total capital of a Bank means the sum of permanent capital, the amounts paid-in for Class A stock, the amount of any general allowance for losses, and the amount of other instruments identified in a Bank's capital plan that the Director has determined to be available to absorb losses incurred by such Bank.

Subpart B—[Reserved]

Subpart C—Bank Capital Stock

§ 1277.20 Classes of capital stock.

The authorized capital stock of a Bank shall consist of the following instruments:

(a) Class A stock, which shall:

(1) Have a par value as determined by the board of directors of the Bank and stated in the Bank's capital plan;

(2) Be issued, redeemed, and repurchased only at its stated par value; and

(3) Be redeemable in cash only on six-months written notice to the Bank.

(b) Class B stock, which shall:

(1) Have a par value as determined by the board of directors of the Bank and stated in the Bank's capital plan;

(2) Be issued, redeemed, and repurchased only at its stated par value;

(3) Be redeemable in cash only on five-years written notice to the Bank; and

(4) Confer an ownership interest in the retained earnings, surplus, undivided profits, and equity reserves of the Bank; and

(c) Any one or more subclasses of Class A or Class B stock, each of which may have different rights, terms, conditions, or preferences as may be authorized in the Bank's capital plan, provided, however, that each subclass of stock shall have all of the characteristics of its respective class, as specified in paragraph (a) or (b) of this section.

§ 1277.21 Issuance of capital stock.

A Bank may issue either one or both classes of its capital stock (including subclasses), as authorized by § 1277.20, and shall not issue any other class of capital stock. A Bank shall issue its stock only to its members, or to former members to the extent those institutions are required to maintain a minimum stock investment for existing activities under the capital plan, and only in book-entry form. The Bank shall act as its own transfer agent. All capital stock shall be issued in accordance with the Bank's capital plan.

§ 1277.22 Minimum investment in capital stock.

(a) A Bank shall require each member to maintain a minimum investment in the capital stock of the Bank, both as a condition to becoming and remaining a member of the Bank and as a condition to transacting business with the Bank or obtaining advances and other services from the Bank. The amount of the required minimum investment shall be determined in accordance with the Bank's capital plan and shall be sufficient to ensure that the Bank remains in compliance with its regulatory capital requirements. A Bank shall require each member to maintain its minimum investment for as long as the institution remains a member of the Bank and shall require each member and former member to maintain its minimum investment for as long as the institution engages in any activity with the Bank for which the capital plan requires the institution to maintain capital stock.

(b) A Bank may establish the minimum investment as a percentage of the total assets of an institution, as a percentage of the advances outstanding to that institution, as a percentage of any other business activity conducted with the institution, on any other basis that is approved by the Director, or any combination thereof.

(c) A Bank may require that the minimum investment requirement be satisfied through the purchase of either Class A or Class B stock, or through the purchase of one or more combinations of Class A and Class B stock that have been authorized by the board of directors of the Bank in its capital plan. A Bank, in its discretion, may establish a lower minimum investment to the extent the requirement is met through investment in Class B stock than if the requirement is met through investment in Class A stock, provided that such reduced investment provides sufficient capital for the Bank to remain in compliance with its regulatory capital requirements.

(d) Each member, or if applicable, former member, of a Bank shall at all times maintain an investment in the capital stock of the Bank in an amount that is sufficient to satisfy the minimum investment required under the Bank's capital plan.

§ 1277.23 Dividends.

(a) *In general.* A Bank may pay dividends on Class A or Class B stock, including any subclasses of such stock, only out of previously retained earnings or current net earnings, and shall declare and pay dividends only as provided by its capital plan. The capital plan may establish different dividend rates or preferences for each class or subclass of stock, which may include a dividend that tracks the economic performance of certain Bank assets, such as Acquired Member Assets. A member, including a member that has provided the Bank with a notice of intent to withdraw from membership, or a former member shall be entitled to receive any dividends that a Bank declares on its capital stock while such institution owns the stock.

(b) *Limitation on payment of dividends.* In no event shall a Bank declare or pay any dividend on its capital stock if after doing so the Bank would fail to meet any of its regulatory capital requirements, nor shall a Bank that is not in compliance with any of its regulatory capital requirements declare or pay any dividend on its capital stock.

§ 1277.24 Liquidation, merger, or consolidation.

The respective rights of the Class A and Class B stockholders, in the event that the Bank is liquidated, or is merged or otherwise consolidated with another Bank, shall be determined in accordance with the capital plan of the Bank, provided, however, that nothing in the capital plan shall be construed to limit any rights or authority granted FHFA under the Bank Act or the Safety and Soundness Act to issue any regulation or order or to take any other action that may affect or otherwise alter the rights or privileges of stock holders in a liquidation, merger or consolidation of a Bank.

§ 1277.25 Transfer of capital stock.

A Bank in its capital plan may allow a member or former member to transfer any excess stock to a member of that Bank or to an institution that has been approved for membership in that Bank and that has satisfied all conditions for becoming a member, other than the purchase of the minimum amount of Bank stock that it is required to hold as a condition of membership. Any such stock transfers shall be at par value and shall be effective upon being recorded on the appropriate books and records of the Bank. The Bank may, in its capital plan, require that the transfer be approved by the Bank before such transfer can occur.

§ 1277.26 Redemption and repurchase of capital stock.

(a) *Redemption.* (1) A member or former member may have its stock in a Bank redeemed by providing written notice to the Bank in accordance with this section. A member or former member shall provide six-months written notice for Class A stock and five-years written notice for Class B stock. The notice shall indicate the number of shares of Bank stock that are to be redeemed. No more than one notice of redemption may be outstanding at one time for the same shares of Bank stock. At the expiration of the applicable notice period, the Bank shall pay to the member or other institution holding the stock the stated par value of that stock in cash.

(2) A member may cancel a notice of redemption by so informing the Bank in writing, and the Bank may impose a fee (to be specified in its capital plan) with respect to any cancellation of a pending notice of redemption. A request by a member (whose membership has not been terminated) to redeem specific shares of stock shall automatically be cancelled if the Bank is prevented from redeeming the member's stock by paragraph (c) of this section within five business days from the end of the expiration of the applicable redemption notice period because the member would fail to maintain its minimum investment in the stock of the Bank after such redemption. The automatic cancellation of a member's redemption request shall have the same effect as if the member had cancelled its notice to redeem stock prior to the end of the redemption notice period, and a Bank may impose a fee (to be specified in its capital plan) for automatic cancellation of a redemption request.

(3) A Bank shall not be obligated to redeem its capital stock other than in accordance with this paragraph.

(b) *Repurchase.* A Bank, in its discretion and without regard to the applicable redemption periods, may repurchase excess stock in accordance with the capital plan of that Bank. A Bank undertaking such a stock repurchase at its own initiative shall provide reasonable notice prior to repurchasing any excess stock, with the period of such notice to be specified in the Bank's capital plan, and shall pay the stated par value of that stock in cash. A member's submission of a notice of intent to withdraw from membership, or its termination of membership in any other manner, shall not, in and of itself, cause any Bank stock to be deemed excess stock for purposes of this section.

(c) *Limitation.* In no event may a Bank redeem or repurchase any stock if, following the redemption or repurchase, the Bank would fail to meet its regulatory capital requirements, or if the member or former member would fail to maintain its minimum investment in the stock of the Bank, as required by § 1277.22 of this part.

§ 1277.27 Other restrictions on the repurchase or redemption of Bank stock.

(a) *Capital impairment.* A Bank may not redeem or repurchase any capital stock without the prior written approval of the Director if the Director or the board of directors of the Bank has determined that the Bank has incurred or is likely to incur losses that result in or are likely to result in charges against the capital of the Bank. This prohibition shall apply even if a Bank is currently in compliance with its regulatory capital requirements, and shall remain in effect for however long the Bank continues to incur such charges or until the Director determines that such charges are not expected to continue.

(b) *Bank discretion to suspend redemption.* A Bank, upon the approval of its board of directors, or of a subcommittee thereof, may suspend redemption of stock if the Bank reasonably believes that continued redemption of stock would cause the Bank to fail to meet its regulatory capital requirements, would prevent the Bank from maintaining adequate capital against a potential risk that may not be adequately reflected in its regulatory capital requirements, or would otherwise prevent the Bank from operating in a safe and sound manner. A Bank shall notify the Director in writing within two business days of the date of the decision to suspend the redemption of stock, providing the reasons for the suspension and the Bank's strategies and time frames for addressing the conditions that led to the suspension. The Director may require the Bank to re-institute the redemption of stock. A Bank shall not repurchase any stock without the written permission of the Director during any period in which the Bank has suspended redemption of stock under this paragraph.

Subpart D—Bank Capital Plans

§ 1277.28 Bank capital plans.

Each Bank shall have in place a capital plan approved by the Bank's board of directors and the Director. The capital plan shall include, at a minimum, provisions addressing the following matters:

(a) *Minimum investment.* (1) The capital plan shall require each member, and if applicable each former member, to purchase and maintain a minimum investment in the capital stock of the Bank and prescribe the manner for calculating the minimum investment, in accordance with § 1277.22 of this part.

(2) The capital plan shall specify the amount and class (or classes) of Bank stock that an institution is required to own in order to become and remain a member of the Bank, and to obtain advances from, or to engage in other business transactions with, the Bank. If a Bank requires that the minimum investment be satisfied through the purchase of one or more combinations of Class A and Class B stock, the authorized combinations of stock shall be specified in the capital plan, which shall afford the option of satisfying the minimum investment through the purchase of any such combination of stock.

(3) The capital plan shall require the board of directors of the Bank to monitor and, as necessary, to adjust, the minimum investment to ensure that outstanding stock remains sufficient for the Bank to comply with its regulatory capital requirements. The plan shall require each member or, where required by the plan, former member, to comply promptly with any adjusted minimum investment established by the board of directors of the Bank, but may allow a reasonable time to do so and may allow a reduction in outstanding business with the Bank as an alternative to purchasing additional stock.

(b) *Classes of capital stock.* The capital plan shall specify the class or classes of stock (including subclasses, if any) that the Bank will issue, and shall establish the par value, rights, terms, and preferences associated with each class (or subclass) of stock. A Bank may establish preferences relating to, but not limited to, the dividend, voting, or liquidation rights for each class or subclass of Bank stock. Any voting preferences established by the Bank pursuant to § 1261.6 of this chapter shall expressly state the voting rights of each class of stock with regard to the election of Bank directors. The capital plan shall provide that the owners of the Class B stock own the retained earnings, surplus, undivided profits, and equity reserves of the Bank, but shall have no right to receive any portion of those items, except through declaration of a dividend or capital distribution approved by the board of directors or through the liquidation of the Bank.

(c) *Dividends.* The capital plan shall establish the manner in which the Bank will pay dividends, if any, on each class or subclass of stock, and shall provide that the Bank may not declare or pay any dividends if it is not in compliance with any regulatory capital requirement or if after paying the dividend it would not be in compliance with any regulatory capital requirement.

(d) *Stock transactions.* The capital plan shall establish the criteria for the issuance, redemption, repurchase, transfer, and retirement of stock issued by the Bank. The capital plan also:

(1) Shall provide that the Bank may not issue stock other than in accordance with § 1277.21 of this part;

(2) Shall provide that the stock of the Bank may be issued only to and held only by the members of that Bank, and by former members to the extent necessary to meet requirements set forth in a capital plan;

(3) Shall specify whether the stock of the Bank may be transferred, as allowed

under § 1277.25 of this part, and, if such transfer is allowed, shall specify the procedures to effect such transfer, and provide that the transfer shall be undertaken only in accordance with § 1277.25;

(4) Shall specify that the stock of the Bank may be traded only among the Bank and its members, and former members;

(5) May provide for a minimum investment based on investment in Class B stock that is lower than a minimum investment based on investment in Class A stock, provided that the level of investment is sufficient for the Bank to comply with its regulatory capital requirements;

(6) Shall specify the fee, if any, to be imposed upon cancellation of a request to redeem Bank stock or upon cancellation of a request to withdraw from membership; and

(7) Shall specify the period of notice that the Bank will provide before the Bank, on its own initiative, determines to repurchase any excess Bank stock.

(e) *Termination of membership.* The capital plan shall address the manner in which the Bank will provide for the disposition of its capital stock that is held by institutions that terminate their membership, and the manner in which the Bank will liquidate claims against such institutions, including claims resulting from prepayment of advances prior to their stated maturity.

§ 1277.29 Amendments to a Bank's capital plan.

(a) *In general.* A Bank's board of directors shall approve any amendments to the Bank's capital plan and submit such amendment to the Director for approval. No such amendment may take effect until it has been approved by the Director.

(b) *Submission of amendments for approval.* Any request for approval of capital plan amendments should be submitted to the Deputy Director for the Division of Federal Home Loan Bank Regulation and should include the following:

(1) The name of the Bank making the request and the name, title, and contact information of the official filing the request;

(2) The name, title and contact information of the staff member(s) whom FHFA may contact for additional information;

(3) A certification by an executive officer of the Bank with knowledge of the facts that the representations made in the request are accurate and complete. The following form of certification may be used: ''I hereby certify that the statements contained in the submission are true and complete to the best of my knowledge. [Name and Title]'';

(4) A written, narrative description of the proposed amendments to the Bank's capital plan and a discussion of the Bank's reasons for the proposed changes;

(5) The amended capital plan as approved by the Bank's board of directors;

(6) A version of the Bank's capital plan showing all proposed changes to its previously approved capital plan;

(7) Resolutions of the Bank's board of directors:

(i) Approving the proposed capital plan amendments; and

(ii) Authorizing the filing of the application for approval of the amendments and concurring in substance with the supporting documentation provided;

(8) An opinion of counsel demonstrating that the proposed amendments comply with the Bank Act, FHFA regulations and any other applicable law or regulation. If the amendments would be identical in substance to provisions approved for other Banks' capital plans, a Bank's legal analysis may reference the other capital plans that contain the provisions in question;

(9) An analysis of the effect of the proposed amendments, if any, on the Bank's capital levels and the Bank's ability to meet its regulatory capital requirements;

(10) *Pro forma* financial statements from the end of the quarter immediately prior to the date of submission of the request for approval through at least the end of the next two years, showing the impact of the proposed changes, if any, on capital levels; and

(11) A discussion of and an explanation for changes to the Bank's strategic plan, if any, which may be related to the capital plan amendments.

(c) *FHFA consideration of the amendment.* The Director may approve any amendment to a Bank's capital plan as submitted or may condition approval on the Bank's compliance with certain stated conditions.

Dated: September 30, 2104.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

[FR Doc. 2014–23799 Filed 10–7–14; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0442; Directorate Identifier 2007–SW–24–AD]

RIN 2120–AA64

Airworthiness Directives; Various Sikorsky-Manufactured Transport and Restricted Category Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain Sikorsky Aircraft Corporation (Sikorsky) Model S–61A, D, E, L, N, NM (serial number 61454), R, and V; Croman Corporation Model SH–3H, Carson Helicopters, Inc., Model S–61L; Glacier Helicopters, Inc. Model CH–3E; Robinson Air Crane, Inc. Model CH–3E, CH–3C, HH–3C, and HH–3E; and Siller Helicopters Model CH–3E and SH–3A helicopters. This SNPRM is prompted by comments received in response to a previous SNPRM and a reevaluation of the relevant data. This SNPRM retains the proposed actions in the previous SNPRM, provides an increased estimated cost of the main rotor shaft (MRS) replacement, and clarifies some of the language in the Required Actions section of the AD. The proposed actions are intended to prevent MRS structural failure, loss of power to the main rotor, and subsequent loss of control of the helicopter.

DATES: We must receive comments on this SNPRM by December 8, 2014.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the 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 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 (phone: 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 AD, contact Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT, telephone (203) 383–4866, email address *tsslibrary@sikorsky.com,* or at *http://www.sikorsky.com.* You may review a copy of the referenced service information at the FAA, Office of the Regional Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Jeffrey Lee, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7161, fax (781) 238–7170, email *jeffrey.lee@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 April 10, 2008, we issued a notice of proposed rulemaking (NPRM) (73 FR 21556, April 22, 2008) proposing to amend 14 CFR part 39 to add an AD for Sikorsky Aircraft Corporation Model S–61A, D, E, L, N, NM, R, and V; Croman Corporation Model SH–3H, Carson Helicopters, Inc. Model S–61L; Glacier Helicopters, Inc. Model CH–3E; Robinson Air Crane, Inc. Model CH–3E, CH–3C, HH–3C and HH–3E; and Siller Helicopters Model CH–3E and SH–3A helicopters. The NPRM proposed superseding AD 98–26–02 (63 FR 69177, December 16, 1998), which only applies to the affected Sikorsky model helicopters. The NPRM proposed retaining some of the requirements of AD 98–26–02 but also proposed determining a new retirement life for each MRS, removing from service any MRS with oversized dowel pin bores, and expanding the applicability to include the restricted category models that were inadvertently omitted from AD 98–26–02. The NPRM was prompted by the manufacturer's reevaluation of the retirement life for the MRS based on torque, ground-air-ground cycle, and fatigue testing. Those proposals were intended to prevent MRS structural failure, loss of power to the main rotor, and subsequent loss of control of the helicopter.

On April 16, 2013, we issued an SNPRM (78 FR 24363, April 25, 2013) that proposed to revise the NPRM based on our review of the data and the comments received. The SNPRM proposed retaining the proposals in the NPRM and extending the hours time-in-service (TIS) required for identifying the MRS as a repetitive external lift (REL) MRS to coincide with the nondestructive inspection (NDI) to prevent repeated disassembly of the shaft. Also, the action proposed to extend the time required to replace the MRS and revise calculations for establishing the retirement life.

Actions Since Previous SNPRM Was Issued

Since we issued the previous SNPRM (78 FR 24364, April 25, 2013), we have determined a need to revise the proposed requirements again based on our review of the data and the comments received. In addition to retaining the proposals in the previous SNPRM, this SNPRM changes the ''Costs of Compliance'' to reflect an increased cost to replace an MRS. Also, paragraph (f)(1)(ii) of the previous SNPRM provided that where there is no record of the hours TIS on an MRS, you may substitute the ''helicopter's hours TIS.'' To clarify some of the wording for complying with the AD, this SNPRM proposes that you may substitute the ''helicopter's hours TIS or the helicopter's transmission hours TIS if both the shaft and transmission were installed new at the same time.''

Because the proposed changes increase the economic burden on operators, we are reopening the comment period to allow the public to comment.

Comments

We gave the public the opportunity to comment on the previous SNPRM (78 FR 24366, April 25, 2013). The following presents the comments received from two commenters and the FAA's response to those comments.

Request

One commenter requested that we increase the life limits of modified REL shafts from 30,000 cycles to no less than 100,000 cycles because the proposed limit of 30,000 REL lift cycles is unreasonable and contrary to the manufacturer's current fatigue evaluation practices. The commenter stated the limit of 30,000 REL cycles ignores the crack-free service history for the modified MRS as well as several variables in operation. The commenter also stated the proposed requirements would impose an unacceptable punitive cost because the actual cost to replace an MRS is much higher than the cost identified in the SNPRM (78 FR 24366, April 25, 2013).

We disagree. The commenter's proposed limit of 100,000 REL lift cycles is based on the working SN curve from fatigue testing that showed test specimen failure at 200,000 individual fatigue cycles. The data assumes that only the 103% torque event creates shaft damage and that one REL lift cycle is the same as one fatigue cycle. This assumption is not correct. One REL lift cycle includes many damaging fatigue cycles associated with a logging flight spectrum not accounted for by the commenter. The 30,000 REL lift cycle life limit is based upon the working SN curve from the fatigue tests and the fatigue damage determined by the logging flight loading spectrum. It is not only based on using the working SN curve cycle limit at the torque level chosen by the commenter. However, we agree with the commenter that the SNPRM does not reflect an accurate cost to replace an MRS. We have revised the ''Costs of Compliance'' section to reflect the current cost of the MRS.

The commenter also requested that the AD measure the shaft life limit by transmission TIS instead of the helicopter's TIS where no records exist for the main rotor shaft. The commenter states that the transmission TIS is a

better measure because most helicopters have more than 13,000 hours TIS.

We partially agree. The requested change of language would only be accurate where both the shaft and transmission were installed new at the same time. This language would not be accurate where the transmission had been replaced earlier than the shaft and thus had a lower life than the shaft. Therefore, we have revised paragraph (f)(1)(ii) to include both ''helicopter's hours TIS'' and ''the helicopter's transmission hours TIS if both the shaft and transmission were installed new at the same time'' as options where no records exist for the main rotor shaft.

The second commenter disagreed with determining pilot initial qualification by hours alone and suggested other methods. This comment appears to have been posted in error in this docket as it is not relevant to the SNPRM (78 FR 24366, April 25, 2013).

FAA's Determination

We are proposing this SNPRM because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other helicopters of these same type designs. Certain changes described above expand the scope of the previous SNPRM (78 FR 24363, April 25, 2013) by increasing the economic burden. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Related Service Information

Sikorsky has issued Customer Service Notice (CSN) No. 6135–10A and Sikorsky Service Bulletin (SB) No. 61B35–53A, both dated April 19, 2004. The CSN and the SB apply to Model S–61L, N, and NM (serial number (S/N) 61454), and R series transport category helicopters; and S–61A, D, E, and V series restricted category helicopters. The CSN specifies replacing the planetary assembly and MRS assembly attaching hardware with high strength hardware. The CSN also specifies reworking the dowel retainer to increase hole chamfer and related countersink diameters. The SB specifies replacing the existing planetary matching plates with new steel matching plates during overhaul at the operator's discretion.

Also, Sikorsky has issued ASB No. 61B35–69, dated April 19, 2004 (ASB 61B35–69), which supersedes ASB 61B35–68B. ASB 61B35–69 provides updated procedures for determining REL and Non-REL status, assigns new REL and Non-REL MRS retirement lives, and provides a method for marking the REL MRS.

Proposed AD Requirements

This proposed AD would retain some of the requirements from AD 98–26–02 (63 FR 69177, December 16, 1998):

- Recording the number of external lift cycles (lift cycles) performed and the hours TIS.
- Determining whether the MRS is REL or Non-REL.
- Marking the REL MRS at the time of the NDI.
- Conducting an NDI for shafts used in REL operations and replacing it if there is a crack.

The proposed AD would also require the following:

- When recording the number of hours TIS, using either the helicopter's hours TIS or the helicopter's transmission hours TIS if both the shaft and transmission were installed new at the same time where there is no record of the hours TIS on an individual MRS.
- Calculating a 250-hour TIS moving average of lift cycles to determine whether the MRS is an REL MRS.
- Determining a new retirement life for each MRS based on hours TIS and lift cycles.
- Removing from service any MRS with oversized dowel pin bores.
- Extending the retirement life of modified REL MRS from 2,200 hours TIS to 5,000 hours TIS but also implementing lift-cycle retirement lives.
- Allowing the use of Revision A service information to modify the REL MRS for life limit determination.

Costs of Compliance

We estimate that this proposed AD would affect 60 helicopters of U.S. registry. We estimate that operators may incur the following costs in order to comply with this proposed AD: It would take about 2.2 work hours to NDI an REL MRS at $85 per work hour plus a $50 consumable cost, for a total cost of $237 per helicopter and $14,220 for the U.S. fleet. It would take 2.2 work hours at $85 per work hour to replace an MRS, and parts would cost $81,216, for a total cost of $81,403 per helicopter.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, 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. Amend § 39.13 by removing Amendment 39–10943 (63 FR 69177, December 16, 1998), and adding the following new airworthiness directive (AD):

Sikorsky Aircraft Corporation; Croman Corporation; Carson Helicopters, Inc.;

Glacier Helicopters, Inc.; Robinson Air Crane, Inc.; and Siller Helicopters: Docket No. FAA–2008–0442; Directorate Identifier 2007–SW–24–AD.

(a) Applicability

This AD applies to Model S–61A, D, E, L, N, NM (serial number (S/N) 61454), R, V, CH–3C, CH–3E, HH–3C, HH–3E, SH–3A, and SH–3H helicopters with main rotor shaft (MRS), part number (P/N) S6135–20640–001, S6135–20640–002, or S6137–23040–001, installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as MRS structural failure, loss of power to the main rotor, and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD supersedes AD 98–26–02 (63 FR 69177, December 16, 1998), Amendment 39–10943, Docket No. 96–SW–29–AD.

(d) Comments Due Date

We must receive comments by December 8, 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 10 hours time-in-service (TIS):

(i) Create a component history card or equivalent record for each MRS.

(ii) If there is no record of the hours TIS on an individual MRS, substitute the helicopter's hours TIS or the helicopter's transmission hours TIS if both the shaft and transmission were installed new at the same time.

(iii) If the record of external lift cycles (lift cycles) on an individual MRS is incomplete, add the known number of lift cycles to a number calculated by multiplying the number of hours TIS of the individual MRS by the average lift cycles calculated according to the instructions in Section I of Appendix I of this AD or by a factor of 13.6, whichever is higher. An external lift cycle is defined as a flight cycle in which an external load is picked up, the helicopter is repositioned (through flight or hover), and the helicopter hovers and releases the load and departs or lands and departs.

(iv) At the end of each day's operations, record the number of lift cycles performed and the hours TIS.

(2) Within 250 hours TIS, determine whether the MRS is a repetitive external lift (REL) or non-REL MRS.

(i) Calculate the first moving average of lift cycles by following the instructions in Section I of Appendix I of this AD.

(A) If the calculation results in 6 or more lift cycles per hour TIS, the MRS is an REL–MRS.

(B) If the calculation results in less than 6 lift cycles per hour TIS, the MRS is a Non-REL MRS.

(ii) If the MRS is a Non-REL MRS based on the calculation performed in accordance with paragraph (f)(2)(i), thereafter at intervals of 50 hour TIS, recalculate the average lift cycles per hour TIS by following the instructions in Section II of Appendix 1 of this AD.

(iii) Once an MRS is determined to be an REL MRS, you no longer need to perform the 250-hour TIS moving average calculation, but you must continue to count and record the lift cycles and number of hours TIS.

(iv) If an MRS is determined to be an REL MRS, it remains an REL MRS for the rest of its service life and is subject to the retirement times for an REL MRS.

(3) Within 1,100 hours TIS:

(i) Conduct a Non-Destructive Inspection for a crack on each MRS. If there is a crack in an MRS, before further flight, replace it with an airworthy MRS.

(ii) If an MRS is determined to be an REL MRS, identify it as an REL MRS by etching ''REL'' on the outside diameter of the MRS near the part S/N by following the Accomplishment Instructions, paragraph 3.C., of Sikorsky Alert Service Bulletin (ASB) 61B35–69, dated April 19, 2004.

(4) Replace each MRS with an airworthy MRS on or before reaching the revised retirement life as follows:

(i) For an REL MRS that is not modified by following Sikorsky Customer Service Notice (CSN) 6135–10, dated March 18, 1987, and ASB No. 61B35–53, dated December 2, 1981 (unmodified REL MRS), the retirement life is 30,000 lift cycles or 1,500 hours TIS, whichever occurs first.

(ii) For an REL MRS that is modified by following Sikorsky CSN 6135–10, dated March 18, 1987, and Sikorsky ASB No. 61B35–53 dated December 2, 1981, or CSN 6135–10A, Revision A, and ASB 61B35–53A, Revision A, both dated April 19, 2004 (modified REL MRS), the retirement life is 30,000 lift cycles or 5,000 hours TIS, whichever occurs first.

(iii) For a non-REL MRS, the retirement life is 13,000 hours TIS.

(5) Establish or revise the retirement lives of the MRS as indicated in paragraphs (f)(4)(i) through (f)(4)(iii) of this AD by recording the new or revised retirement life on the MRS component history card or equivalent record.

(6) Within 50 hours TIS, remove from service any MRS with oversized (0.8860'' or greater diameter) dowel pin bores.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Boston Aircraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to Jeffrey Lee, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7161, fax (781) 238–7170, email *jeffrey.lee@faa.gov.*

(2) For operations conducted under 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) Sikorsky Aircraft Corporation issued an All Operators Letter (AOL) CCS–61–AOL–04–0005, dated May 18, 2004, with an example and additional information about tracking cycles and the moving average procedure. This AOL is not incorporated by reference but contains additional information about the subject of this AD.

(2) The Overhaul and Repair Instruction (ORI) Number 6135–281, Part B, Step 5, and ORI 6137–041, Section III, Oversize Dowel Pin Bore Repair and identified on the flange as TS–281 or TS–041–3, which is not incorporated by reference, contains additional information about the subject of this AD.

(3) For more information about the AOL or the ORI, contact Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT, telephone (203) 383–4866, email address *tsslibrary@sikorsky.com,* or at *http://www.sikorsky.com.* You may review a copy of the referenced service information at the FAA, Office of the Regional Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Appendix I

Section I: The first moving average of lift cycles per hour TIS

The first moving average calculation is performed on the MRS assembly when the external lift component history card record reflects that the MRS assembly has reached its first 250 hours TIS. To perform the calculation, divide the total number of lift cycles performed during the first 250 hours TIS by 250. The result will be the first moving average calculation of lift cycles per hour TIS.

Section II: Subsequent moving average of lift cycles per hour TIS

Subsequent moving average calculations are performed on the MRS assembly at intervals of 50 hour TIS after the first moving average calculation. Subtract the total number of lift cycles performed during the first 50-hour TIS interval used in the previous moving average calculation from the total number of lift cycles performed on the MRS assembly during the previous 300 hours TIS. Divide this result by 250. The result will be the next or subsequent moving average calculation of lift cycles per hour TIS.

Section III: Sample calculation for subsequent 50 hour TIS intervals

Assume the total number of lift cycles for the first 50 hour TIS interval used in the previous moving average calculation = 450 lift cycles and the total number of lift cycles for the previous 300 hours TIS = 2700 lift cycles. The subsequent moving average of lift cycles per hour TIS = (2700 − 450) divided by 250 = 9 lift cycles per hour TIS.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6320, Main Rotor Gearbox.

Issued in Fort Worth, Texas, on September 19, 2014.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2014–23585 Filed 10–7–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0537; Airspace Docket No. 13–AGL–38]

Proposed Establishment of Class E Airspace; Edgeley, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at Edgeley, ND. Controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Edgeley Municipal Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

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

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2014–0537/Airspace Docket No. 13–AGL–38, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Raul Garza, Jr., Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7654.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2014–0537/Airspace Docket No. 13–AGL–38.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Edgeley Municipal Airport, Edgeley, ND, to accommodate new standard instrument approach procedures. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9Y, dated August 6, 2014 and effective September 15, 2014, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish controlled airspace at Edgeley Municipal Airport, Edgeley, ND.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Y, Airspace Designations and Reporting Points, dated August 6, 2014 and effective September 15, 2014, is amended as follows:

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

* * * * *

AGL ND E5 Edgeley, ND [New]

Edgeley Municipal Airport, ND
(Lat. 46°20′59″ N., long. 098°44′06″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Edgeley Municipal Airport.

Issued in Fort Worth, TX, on September 29, 2014.

Robert W. Beck,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–24037 Filed 10–7–14; 8:45 am]

BILLING CODE 4901–14–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 169

[Docket ID: BIA–2014–0001; DR.5B711.IA000814]

RIN 1076–AF20

Rights-of-Way on Indian Land

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; Reopening of comment period.

SUMMARY: This notice announces that the Department will accept comments on the proposed rule governing rights-of-way on Indian land until November 3, 2014.

DATES: Comments on this rule must be received by November 3, 2014.

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

• *Federal rulemaking portal: http://www.regulations.gov.* The rule is listed under the agency name ''Bureau of Indian Affairs.'' The rule has been assigned Docket ID: BIA–2014–0001.

• *Email: consultation@bia.gov.* Include the number 1076–AF20 in the subject line.

• *Mail* or *hand delivery:* Ms. Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1849 C Street NW., MS 3642, Washington, DC 20240. Include the number 1076–AF20 on the envelope.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION:

On June 17, 2014, we published a proposed rule to comprehensively update and streamline the process for obtaining BIA grants of rights-of-way on Indian land. *See* 79 FR 34455. On August 18, 20145, we published an extension of the comment period, establishing a new comment deadline of October 2, 2014. We have received several requests for an additional extension of the comment period. On October 1, 2014, we released a press release notifying the public that we are extending the comment period again to allow additional time for tribal and public comment. While our intention was to extend the comment period before it closed, circumstances prevented this. For this reason, we will accept all comments received between June 17, 2014, and November 3, 2014, including any comment received between October 2, 2014, and October 8, 2014.

Please note that none of the following will be considered or included in the docket for this rulemaking: Comments received after November 3, 2014; comments sent to an address other than those listed above; or anonymous comments.

The proposed rule, frequently asked questions, and other information are online at: *http://www.bia.gov/WhoWeAre/AS-IA/ORM/RightsofWay/index.htm.*

Dated: October 2, 2014.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2014–24023 Filed 10–7–14; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 86

[Docket ID: DOD–2013–OS–0009]

RIN 0790–AJ19

Background Checks on Individuals in DoD Child Care Services Programs

Correction

In proposed rule document 2014–23061 beginning on page 59168 in the issue of Wednesday, October 1, 2014, make the following correction:

§ 86.6 [Corrected]

In § 86.6, on page 59172, in the third column, between the twelfth and thirteenth lines, insert the following text:

(ii) Individuals with a prior DoD affiliation must also complete an IRC, which includes an installation law enforcement check, drug and alcohol records check, and a check of the Family Advocacy Program (FAP) records for a minimum of 2 years before the date of the application.

(3) *Criminal History Background Checks for FCC Providers and Contractors.*

(i) In accordance with 42 U.S.C. 13041, complete a CNACI, which includes an FBI criminal history background check conducted through the Criminal Justice Information Services Division of the FBI and SCHR checks through State repositories of all States that a provider or contractor or prospective provider or contractor lists as current and former residences in an employment application. Results of an advanced FBI fingerprint check must be provided before completion of the full CNACI. Results for contractors may be used to determine employment under LOSS.

(ii) Individuals with a prior DoD affiliation must also complete an IRC, including an installation law enforcement check, drug and alcohol records check, and a check of the FAP records for a minimum of 2 years before the date of the application.

(4) *Criminal History Background Checks for Others.*

(i) In accordance with 42 U.S.C. 13041, only an FBI advanced fingerprint check is required for criminal history background checks for specified volunteers and persons 18 years of age or older residing in an FCC, foster, or respite care home.

(ii) Individuals with a prior DoD affiliation must also complete an IRC to include: an installation law enforcement

check, drug and alcohol records check, and a check of the FAP records for a minimum of 2 years before the date of the application.

(5) *Timely Completion.* To ensure timely completion, the DoD Components will establish procedures to initiate or request criminal history background check results, follow up to ensure checks have been completed, and address situations where there is a delay in receiving results. In no event will an individual subject to this part be presumed to have a favorable background check merely because there has been a delay in receiving the results of the requisite background check. If no response from the state(s) is received within 60 days, determinations based upon the CNACI report may be made.

(c) Criteria for Disqualification Based on Results on Criminal History Background Checks. The ultimate decision to determine how to use information obtained from the criminal history background checks in selection for positions involving the care, treatment, supervision, or education of children must incorporate a common sense decision based upon all known facts. Adverse information is evaluated by the DoD Component who is qualified at the appropriate level of command in interpreting criminal history background checks. All information of record both favorable and unfavorable will be assessed in terms of its relevance, recentness, and seriousness. Likewise, positive mitigating factors should be considered. Final suitability decisions shall be made by that commander or designee. Criteria that will result in disqualification of an applicant require careful screening of the data. A disqualifying event may be the basis for a nonselection, withdrawal of a tentative offer of employment, ineligibility for facility access, removal from a contract, a suitability action under 5 CFR part 731, a probationary termination, an adverse action, or other appropriate action.

(1) *Criteria for Automatic Disqualification.* No person, regardless of circumstances, will be approved to provide child care services pursuant to this part if the background check discloses:

(i) That the individual has been convicted in either a civilian or military court (to include any general, special or summary court-martial conviction) or received non-judicial punishment (under Article 15 or chapter 47 of Title 10, U.S.C., also known and referred to in this instruction as ''the Uniform Code of Military Justice (UCMJ)'' (Reference (j) for any of the following:

(A) A sexual offense.

(B) Any criminal offense involving a child victim.

(C) A felony drug offense.

(ii) That the individual has been held to be negligent in a civil adjudication or administrative proceeding concerning the death or serious injury to a child or dependent person entrusted to the individual's care.

(d) *Suitability and Fitness Determinations for Individuals Involved With the Provision of Child Care Services.* Suitability and fitness determinations for individuals subject to this part will be made in accordance with Volume 731, Volume 1231, and Subchapter 1403 of DoD Instruction 1400.25, part 1201 of 5 U.S.C., as appropriate. The following may be the basis for nonselection, withdrawal of a tentative offer of employment, ineligibility for facility access, removal from a contract, a suitability action under Reference (d), a probationary termination, an adverse action, or other appropriate action.

(1) *Criteria for Presumptive Disqualification.* Officials charged with making determinations pursuant to this part must include in the record a written justification for any favorable determination made where background check findings include any of the following presumptively disqualifying information:

(i) A FAP record indicating that the individual met criteria for child abuse or neglect or civil adjudication that the individual committed child abuse or neglect.

(ii) Evidence of an act or acts by the individual that tend to indicate poor judgment, unreliability, or untrustworthiness in providing child care services.

[FR Doc. C1–2014–23061 Filed 10–7–14; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R04–RCRA–2012–0179; FRL–9917–52–Region–4]

Florida: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Florida has applied to the Environmental Protection Agency (EPA) for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). These changes correspond to certain Federal rules promulgated between July 1, 2007 and June 30, 2009, and July 1, 2010 and June 30, 2011 (also known as RCRA Clusters XVIII, XIX and XXI). With this proposed rule, EPA is proposing to grant final authorization to Florida for these changes. Along with this proposed rule, EPA is publishing an immediate final rule in the ''Rules and Regulations'' section of today's **Federal Register** pursuant to which EPA is authorizing these changes. EPA did not issue a proposed rule before today because EPA believes this action is not controversial and does not expect comments that oppose it. EPA has explained the reasons for this authorization in the immediate final rule. Unless EPA receives written comments that oppose this authorization during the comment period, the immediate final rule in today's **Federal Register** will become effective on the date it establishes, and EPA will not take further action on this proposal. If EPA receives comments that oppose this action, EPA will withdraw the immediate final rule and it will not take effect. EPA will then respond to public comments in a later final rule based on this proposed rule. You may not have another opportunity to comment on these State program changes. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by November 7, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–RCRA–2012–0179, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: shipley.anita@epa.gov*
- *Fax:* (404) 562–9964 (prior to faxing, please notify the EPA contact listed below)
- *Mail:* Send written comments to Anita K. Shipley, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
- *Hand Delivery or Courier:* Deliver your comments to Anita K. Shipley, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special

arrangements should be made for deliveries of boxed information.

Please see the immediate final rule in the ''Rules and Regulations'' section of today's **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Anita K. Shipley, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303; telephone number: (404) 562–8466; fax number: (404) 562–9964; email address: *shipley.anita@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of today's **Federal Register**.

Dated: August 27, 2014.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2014–24007 Filed 10–7–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 14–156; RM–11725; DA 14–1359]

Radio Broadcasting Services; Silverton, Texas

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a Petition for Rule Making filed by Chris Samples Broadcasting, Inc, licensee of Station KXDJ(FM), Channel 252C2, Spearman, Texas, proposing to substitute Channel 221A for vacant Channel 252A at Silverton, Texas. A staff engineering analysis indicates that Channel 221A can be allotted to Silverton, Texas consistent with the minimum distance separation requirements of the Commission's Rules with a site restriction located 7.8 kilometers (4.9 miles) east of Silverton. The reference coordinates are 34–28–15 NL and 101–13–09 WL. The purpose of the channel substitution is to accommodate the ''hybrid'' application requesting to upgrade the facilities of Station KXDJ(FM) from Channel 252C2 to Channel 252C1 at Spearman, Texas, File No. BPH–20140519AHY.

DATES: Comments must be filed on or before November 10, 2014, and reply comments on or before November 25, 2014.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Dan J. Alpert, Esq., The Law Office of Dan J. Alpert, 2120 N. 21st Rd., Arlington, VA 22201.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MB Docket No. 14–156, adopted September 18, 2014, and released September 19, 2014. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or via email *www.BCPIWEB.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 252A at Silverton, Texas, and by adding Channel 221A at Silverton, Texas.

[FR Doc. 2014–24033 Filed 10–7–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 140710571–4571–01]

RIN 0648–BE36

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Restrictions on the Use of Fish Aggregating Devices in Purse Seine Fisheries for 2015

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations under authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act) to establish restrictions on the use of fish aggregating devices (FADs) by U.S. purse seine vessels in the western and central Pacific Ocean. The restrictions would include a prohibition on the use of FADs during January and February and July through September of 2015, and a limit of 3,061 purse seine sets that may be made on FADs in 2015. This action is necessary for the United States to implement provisions of a conservation and management measure (CMM) adopted by the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC) and to satisfy the obligations of the United States under the Convention on the Conservation and Management of Highly Migratory Fish

Stocks in the Western and Central Pacific Ocean (Convention), to which it is a Contracting Party.

DATES: Comments must be submitted in writing by October 28, 2014.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2014–0115, and the regulatory impact review (RIR) prepared for this proposed rule, by either of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0115,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Michael D. Tosatto, Regional Administrator, NMFS, Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, might not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name and address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

An initial regulatory flexibility analysis (IRFA) prepared under authority of the Regulatory Flexibility Act is included in the Classification section of the **SUPPLEMENTARY INFORMATION** section of this proposed rule.

Copies of the RIR, and the Supplemental Environmental Assessment (SEA) prepared for National Environmental Policy Act (NEPA) purposes, are available at *www.regulations.gov* or may be obtained from Michael D. Tosatto, Regional Administrator, NMFS PIRO (see address above).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Michael D. Tosatto, Regional Administrator, NMFS PIRO (see address above) and by email to *OIRA_Submission@omb.eop.gov* or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Tom Graham, NMFS PIRO, 808–725–5032.

SUPPLEMENTARY INFORMATION:

Background on the Convention

A map showing the boundaries of the area of application of the Convention (Convention Area), which comprises the majority of the western and central Pacific Ocean (WCPO), can be found on the WCPFC Web site at: *www.wcpfc.int/doc/convention-area-map.* The Convention focuses on the conservation and management of highly migratory species (HMS) and the management of fisheries for HMS. The objective of the Convention is to ensure, through effective management, the long-term conservation and sustainable use of HMS in the WCPO. To accomplish this objective, the Convention established the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC). The WCPFC includes Members, Cooperating Non-members, and Participating Territories (collectively, CCMs). The United States is a Member. American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI) are Participating Territories.

As a Contracting Party to the Convention and a Member of the WCPFC, the United States is obligated to implement the decisions of the WCPFC. The WCPFC Implementation Act (16 U.S.C. 6901 *et seq.*), authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Department in which the United States Coast Guard is operating (currently the Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of the United States under the Convention, including the decisions of the WCPFC. The WCPFC Implementation Act further provides that the Secretary of Commerce shall ensure consistency, to the extent practicable, of fishery management programs administered under the WCPFC Implementation Act and the Magnuson-Stevens Fishery Conservation and Management Act (MSA; 16 U.S.C. 1801 *et seq.*), as well as other specific laws (see 16 U.S.C. 6905(b)). The Secretary of Commerce has delegated the authority to promulgate regulations under the WCPFC Implementation Act to NMFS.

WCPFC Decision on Tropical Tunas

At its Tenth Regular Session, in December 2013, the WCPFC adopted CMM 2013–01, ''Conservation and Management Measure for Bigeye, Yellowfin and Skipjack Tuna in the Western and Central Pacific Ocean.'' CMM 2013–01 is the most recent in a series of CMMs for the management of tropical tuna stocks under the purview of the WCPFC. It is a successor to CMM 2012–01, adopted in December 2012. These and other CMMs are available at: *www.wcpfc.int/conservation-and-management-measures.*

CMM 2013–01's stated general objective is to ensure that the stocks of bigeye tuna (*Thunnus obesus*), yellowfin tuna (*Thunnus albacares*), and skipjack tuna (*Katsuwonus pelamis*) in the WCPO are, at a minimum, maintained at levels capable of producing their maximum sustainable yield as qualified by relevant environmental and economic factors. The CMM includes specific objectives for each of the three stocks: For each, the fishing mortality rate is to be reduced to or maintained at levels no greater than the fishing mortality rate associated with maximum sustainable yield.

CMM 2013–01 went into effect February 4, 2014, and is generally applicable for the 2014–2017 period. Some of its provisions apply to specific periods within the 2014–2017 timeframe, and some of its provisions are contingent on whether the WCPFC makes certain decisions in the future. The CMM includes provisions for purse seine vessels, longline vessels, and other types of vessels that fish for HMS. The CMM's provisions for purse seine vessels include limits on the allowable number and fishing capacity of vessels, limits on the allowable level of fishing effort, restrictions on the use of FADs, requirements to retain all bigeye tuna, yellowfin tuna, and skipjack tuna except in specific circumstances, and requirements to carry vessel observers. This proposed rule would implement the FAD restrictions for purse seine vessels, and only for 2015. The other provisions of the CMM, and the FAD restrictions for years subsequent to 2015, would be implemented in other rulemakings.

Proposed Action

CMM 2013–01 requires CCMs to prohibit their purse seine vessels from setting on FADs in EEZs and on the high seas in the Convention Area between the latitudes of 20° North and 20° South from July 1 through September 30 of each year. For 2014, the CMM further requires CCMs to either prohibit setting on FADs in October or limit the total number of FAD sets in the calendar year by the CCM's purse seine fleet to

specified levels. For the United States, the specified level is 2,522 FAD sets. NMFS has already issued FAD-related regulations for 2014 (final rule published May 23, 2013, at 78 FR 30773) that implement the option of prohibiting FAD sets in October, so there is no need for further action for 2014. Again, this proposed rule would establish restrictions on the use of FADs in 2015 only.

For 2015 through 2017, CMM 2013–01 maintains the prohibition on setting FADs during the months of July–September, so this proposed rule would prohibit the use of FADs in the Convention Area—between the latitudes of 20° North and 20° South from July 1 through September 30, 2015. In addition, CCMs are required to either: (1) Prohibit their purse seine vessels from setting on FADs in January and February in combination with limiting the number of FAD sets by their purse seine vessels to specified levels (for U.S. purse seine vessels, the specified level is 3,061 FAD sets per year); or (2) limit the number of FAD sets by their purse seine vessels to specified levels (for U.S. purse seine vessels, the specified level is 2,202 per year). In other words, for each calendar year, the United States has the option of a five-month FAD closure in combination with a 3,061 FAD set limit, or a three-month FAD closure in combination with a 2,202 FAD set limit. This proposed rule would implement the former option for 2015—that is, a prohibition on FAD-setting in January and February and July through September of 2015, in combination with a limit of 3,061 FAD sets for 2015. However, for the reason described below, these requirements, if adopted in a final rule, would be made contingent on NMFS issuing a subsequent notice in the **Federal Register**, announcing that the WCPFC has affirmed its decision with respect to restrictions on the use of FADs for 2015.

Paragraph 15 of CMM 2013–01 states that the FAD-related requirements starting in 2015 (apart from the July–September FAD closure) shall only take effect when the Commission has adopted, at its Eleventh Regular Session, ''. . . arrangements to ensure that this CMM, consistent with the Convention Article 30 2(c), does not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto SIDS [small island developing States].'' Thus, upon completion of the Eleventh Regular Session of the WCPFC, which is scheduled to occur in December 2014, NMFS would determine whether this criterion has been met, and if it finds that it has, NMFS would issue a **Federal Register** notice announcing that these elements of this proposed rule are in effect. Again, the prohibitions on the use of FADs from July through September of 2015 would not be contingent on NMFS issuing a subsequent **Federal Register** notice.

NMFS proposes to implement the first of the two FAD-related options in CMM 2013–01 because it believes it is the more cost-effective of the two options, taking into account the objectives of the CMM, the expected economic impacts on U.S. fishing operations and the nation as a whole, and expected environmental and other effects. The expected environmental and economic effects of both options are described in the SEA, RIR, and IRFA prepared for this proposed action.

Under this proposed rule, the definition of a FAD for the purpose of the FAD restrictions would remain as it is in existing regulations (50 CFR 300.211): It means ''any artificial or natural floating object, whether anchored or not and whether situated at the water surface or not, that is capable of aggregating fish, as well as any object used for that purpose that is situated on board a vessel or otherwise out of the water. The definition of FAD does not include a vessel.'' Although the definition of a FAD does not include a vessel, some of the proposed prohibitions apply to setting on fish that have aggregated in association with a vessel, as described further below.

If NMFS determines that the proposed limit of 3,061 FAD sets is expected to be reached by a specific future date in 2015, NMFS would issue a notice in the **Federal Register** announcing that the use of FADs in the Convention Area between the latitudes of 20° North and 20° South will be prohibited starting on that specific future date and ending at the end of December 31, 2015. NMFS would issue the notice at least seven calendar days before the effective date of the FAD closure to provide fishermen advance notice of the closure.

The specific activities that would be prohibited in the Convention Area between the latitudes of 20° North and 20° South during the proposed FAD closure periods (i.e., January and February and July through September, as well as any period after which the FAD set limit has been reached, through December 31, 2015) would remain as they are in existing regulations (50 CFR 300.223(b)): It would be prohibited to:

(1) Set a purse seine around a FAD or within one nautical mile of a FAD;

(2) Set a purse seine in a manner intended to capture fish that have aggregated in association with a FAD or a vessel, such as by setting the purse seine in an area from which a FAD or a vessel has been moved or removed within the previous eight hours, or setting the purse seine in an area in which a FAD has been inspected or handled within the previous eight hours, or setting the purse seine in an area into which fish were drawn by a vessel from the vicinity of a FAD or a vessel;

(3) Deploy a FAD into the water;

(4) Repair, clean, maintain, or otherwise service a FAD, including any electronic equipment used in association with a FAD, in the water or on a vessel while at sea, except that a FAD may be inspected and handled as needed to identify the FAD, identify and release incidentally captured animals, un-foul fishing gear, or prevent damage to property or risk to human safety, and a FAD may be removed from the water and if removed may be cleaned, provided that it is not returned to the water; and

(5) From a purse seine vessel or any associated skiffs, other watercraft or equipment, do any of the following, except in emergencies as needed to prevent human injury or the loss of human life, the loss of the purse seine vessel, skiffs, watercraft or aircraft, or environmental damage: Submerge lights under water; suspend or hang lights over the side of the purse seine vessel, skiff, watercraft or equipment; or direct or use lights in a manner other than as needed to illuminate the deck of the purse seine vessel or associated skiffs, watercraft or equipment, to comply with navigational requirements, and to ensure the health and safety of the crew.

For the purpose of estimating and projecting FAD sets with respect to the proposed limit of 3,061 FAD sets, NMFS would count FAD sets using the best information available. Under existing requirements, vessel owners and operators must maintain in their catch report forms (logbooks known as Regional Purse Seine Logsheets, or RPLs) information about the type of each set that is made, including whether it was made on a FAD. However, NMFS does not receive that logbook information until after the vessel returns to port, and it takes additional time for NMFS to review the information and make it available for analysis. Consequently, it would be difficult for NMFS to estimate and project FAD sets with respect to the proposed limit in a timely and reliable manner. For that reason, this proposed rule would establish an additional reporting requirement for U.S. purse seine vessel owners and operators. Within 24 hours of the end of each day while the vessel is at sea in the Convention Area, the

owner or operator would have to report to NMFS how many sets were made on FADs during that day. The NMFS Pacific Islands Regional Administrator would determine the manner and format of these reports, and instruct vessel owners and operators accordingly. In doing so, NMFS would take advantage of, and allow for the use of, the most cost-efficient technologies available on the affected purse seine vessels, such as email or other electronic reporting means.

Classification

The Administrator, Pacific Islands Region, NMFS, has determined that this proposed rule is consistent with the WCPFC Implementation Act and other applicable laws, subject to further consideration after public comment.

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the RFA. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** section of the preamble and in other sections of this **SUPPLEMENTARY INFORMATION** section of the preamble. The analysis follows:

Estimated Number of Small Entities Affected

Small entities include ''small businesses,'' ''small organizations,'' and ''small governmental jurisdictions.'' The Small Business Administration (SBA) has established size standards for all major industry sectors in the United States, including commercial finfish harvesters (NAICS code 114111). A business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $20.5 million for all its affiliated operations worldwide.

This proposed rule would apply to owners and operators of U.S. purse seine vessels used for fishing in the Convention Area. The number of affected vessels is the number licensed under the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (South Pacific Tuna Treaty, or SPTT). The current number of licensed vessels is 40, which is the maximum number of licenses available under the SPTT (excluding joint-venture licenses, of which there are five available under the SPTT, none of which have ever been applied for or issued).

Based on (limited) available financial information about the affected fishing vessels and the SBA's small entity size standards for commercial finfish harvesters, and using individual vessels as proxies for individual businesses, NMFS believes that all the affected fish harvesting businesses are small entities. As indicated above, there are currently 40 purse seine vessels in the affected purse seine fishery. Neither gross receipts nor ex-vessel price information specific to the 40 vessels are available to NMFS, so average annual receipts for each of the 40 vessels during the last 3 years for which reasonably complete data are available (2010–2012) were estimated as follows: The vessel's reported retained catches of each of skipjack tuna, yellowfin tuna, and bigeye tuna in each year was multiplied by an indicative Asia-Pacific regional cannery price for that species and year (developed by the Pacific Islands Forum Fisheries Agency and available at *https://www.ffa.int/node/425#attachments*). The products were summed across species for each year, and the sums were averaged across the 3 years. The estimated average annual receipts for each of the 40 vessels were less than $20.5 million.

Recordkeeping, Reporting, and Other Compliance Requirements

The proposed rule would establish restrictions on the use of FADs and an additional reporting requirement, as described earlier in the **SUPPLEMENTARY INFORMATION** section of the preamble. Fulfillment of these requirements is not expected to require any professional skills that the affected vessel owners and operators do not already possess. The costs of complying with the proposed requirements are described below to the extent possible:

1. FAD Restrictions

The proposed prohibitions on setting on FADs and on fish aggregating in association with fishing vessels (collectively called ''FAD prohibitions'' or ''FAD restrictions;'' note that the data on FAD sets presented here do not include sets made on fish aggregating in association with fishing vessels, but the number of the latter type of sets is small) in January–February and July–September of 2015, and for the remainder of 2015 if and after the limit of 3,061 FAD sets is reached, would substantially constrain the manner in which purse seine fishing could be conducted during those periods; vessels would be able to set only on free, or ''unassociated,'' schools.

The likelihood of reaching the 3,061 FAD set limit depends on the amount of fishing effort that will be available to the fleet in 2015. This will largely depend on outcome of the ongoing renegotiation of the South Pacific Tuna Treaty, which cannot be predicted. As an indicative example, if the fleet makes 51 percent of its sets on FADs during periods when FAD sets are allowed, as it did in 2010–2011, and if fishing effort is evenly distributed through the year, then the FAD set limit would be reached if the total number of sets made in 2015 were to exceed 10,300. Assuming that approximately one set can be made per fishing day, on average (the ratio in 2010–2011 was approximately 0.93 sets per fishing day), that level is slightly greater than the total number of sets available to the fleet in 2014. Thus, the likelihood of the 3,061 FAD set limit being reached appears to be moderate if the total fishing effort available in 2015 is similar to the total fishing effort available in 2014.

The costs associated with the FAD restrictions cannot be quantitatively estimated, but the fleet's historical use of FADs can help give a qualitative indication of the costs. In the years 1997–2010, the proportion of sets made on FADs in the U.S. purse seine fishery ranged from less than 30 percent in some years to more than 90 percent in others. Thus, the importance of FAD sets in terms of profits appears to be quite variable over time, and is probably a function of many factors, including fuel prices (unassociated sets involve more searching time and thus tend to bring higher fuel costs than FAD sets) and market conditions (e.g., FAD fishing, which tends to result in greater catches of lower-value skipjack tuna and smaller yellowfin tuna and bigeye tuna than unassociated sets, might be more attractive and profitable when canneries are not rejecting small fish). Thus, the costs of complying with the FAD restrictions would depend on a variety of factors.

In 2010–2011, the last 2 years for which complete data are available and for which there was 100 percent observer coverage, the U.S. WCPO purse seine fleet made about 38 percent of its sets on FADs. During the months when setting on FADs was allowed, the percentage was about 51 percent. The fact that the fleet has made such a substantial portion of its sets on FADs indicates that prohibiting the use of

FADs for five months each year (and possibly longer if the 3,061 FAD set limit is reached) could bring substantial costs and/or revenue losses.

To help mitigate these impacts, vessel operators might choose to schedule their routine vessel and equipment maintenance during the FAD prohibition periods. Similarly, the competitive FAD set limit could give vessel operators an incentive to fish relatively hard early in the year when FAD sets are allowed in order to take best advantage of the collective limit before it is reached. Such a ''race-to-fish'' effect could cause vessel operators to forego vessel maintenance in favor of fishing or to fish in weather or ocean conditions that they otherwise would not. This could bring costs in terms of the health and safety of the crew as well as the economic performance of the vessel. It also is conceivable that some vessels might choose not to fish at all during the prohibition periods rather than fish without the use of FADs. Observations of the fleet's behavior in 2009–2012 do not suggest that any of these responses occurred to an appreciable degree. The proportion of the fleet that fished during the two- and three-month FAD prohibition periods of 2009–2012 did not appreciably differ from the proportion that fished during the same months in the years 1997–2008, when no FAD prohibition periods were in place. However, the five-month FAD closure and 3,061 FAD set limit proposed in this rule would be more severe than the two- and three-month closures of 2009–2012, so it is difficult to predict how vessel owners and operators would respond.

2. Daily FAD Reporting Requirement

This proposed additional reporting requirement is part of a proposed collection of information subject to approval by the Office of Management and Budget (OMB) under the PRA. Within 24 hours of the end of each day while a purse seine vessel is at sea in the Convention Area, the owner or operator would have to report to NMFS how many sets were made on FADs during that day. The report would be submitted to NMFS via email or other electronic means. The communication costs for the additional reporting requirement are expected to be approximately $1 per report. Each report would require approximately 10 person-minutes to complete and submit. Assuming labor costs of about $26 per person-hour, and, based on the fleet's fishing patterns in 2010–2011, approximately 255 days at sea per vessel per year, the total annual communication costs for a vessel would be about $255, and the total annual labor costs would be about $1,105, for a total annual cost of about $1,360.

There would be no disproportionate economic impacts between small and large entities operating vessels as a result of this proposed rule. Furthermore, there would be no disproportionate economic impacts based on vessel size, gear, or homeport.

Duplicating, Overlapping, and Conflicting Federal Regulations

NMFS has not identified any Federal regulations that duplicate, overlap with, or conflict with the proposed regulations, with the exception of a Federal regulation that duplicates to some extent the proposed daily FAD reporting requirement. Existing regulations at 50 CFR 300.34 require that a record of catch, effort and other information must be maintained on board vessels licensed under the SPTA, on catch report forms known as Regional Purse Seine Logsheets, or RPLs. The RPLs must be submitted to NMFS within two days of a vessel reaching port. The RPLs include the information that would be required to be reported under this proposed rule; that is, how many FAD sets were made on a given day. As explained earlier in the preamble, the timing of the RPL requirement is such that it would not provide NMFS with the information it needs to estimate and project FAD sets with respect to the proposed limit in a timely and reliable manner. For that reason, NMFS is proposing a reporting requirement that is duplicative in terms of the substance—but not the timing—of one element of the existing RPL reporting requirement.

Alternatives to the Proposed Rule

NMFS considered two alternatives to the proposed FAD restrictions, and one alternative to the proposed daily reporting requirement.

The first alternative for the FAD restrictions would establish a three-month FAD closure period (instead of five months) and a FAD set limit of 2,202 (instead of 3,061) for 2015. The months of the FAD closure period would be July through September. This alternative is based on the second of the two options available to the United States under CMM 2013–01, as described above in the **SUPPLEMENTARY INFORMATION** section of this preamble. The [compliance burden] associated with this alternative would depend, like that of the proposed action, on the amount of fishing effort that will be available to the fleet in 2015. That, in turn, depends to a large extent on the outcomes of ongoing negotiations under the SPTT, which cannot be predicted with any certainty. If the amount of available fishing effort is relatively high, this alternative would likely bring greater economic impacts than the proposed action, and the reverse would be the case for relatively low levels of total available fishing effort. For example, if the fleet makes 51 percent of its sets on FADs during periods when FAD sets are allowed, as it did in 2010–2011, and if fishing effort is evenly distributed through the year, the ''breakeven'' point between this alternative and the proposed action would be 7,402 total sets. This is substantially less than the amount of fishing effort that is expected to be available to the fleet in 2014. Again, the amount of fishing effort available to the fleet in 2015 cannot be predicted with any certainty, but NMFS tentatively anticipates that the amount will not be substantially less than the amount available in 2014. If that turns out to be the case, this alternative would likely bring greater costs to affected entities than the proposed action, and for that reason it is not preferred.

The second alternative for the FAD restrictions would be the same as the proposed restrictions except that it would not be prohibited to set on fish that have aggregated in association with a vessel, provided that the vessel is not used in a manner to aggregate fish (versus a FAD, which by definition does not include a vessel). This would be less restrictive and thus presumably less costly to affected purse seine fishing businesses than the proposed requirements. The number of such sets made historically has been relatively small, averaging about four per year for the entire fleet from 1997 through 2010, according to data recorded by vessel operators in logbooks (examination by NMFS of observer data from selected years indicates a somewhat higher number than the number reported by vessel operators, so vessel logbook data might underestimate the actual number, but the number is still small in comparison to FAD sets). Therefore, the degree of relief in compliance costs of allowing such sets for four months each year would be expected to be relatively small. NMFS believes that this alternative would not serve CMM 2013–01's objective of reducing the fishing mortality rates of bigeye tuna and young tunas through seasonal prohibitions on the use of FADs as well as would the proposed rule. For that reason, this alternative is not preferred.

The alternative for the daily FAD reporting requirement would be the same as the proposed requirement except that it would apply only

whenever a vessel is on a fishing trip in the Convention Area, rather than whenever a vessel is at sea (whether it be fishing or transiting) in the Convention Area. This alternative would relieve vessel owners and operators of the reporting requirement when the vessel is transiting without fishing, which would presumably result in lesser compliance costs. However, NMFS does not have information that allows it to readily discern on a near real-time basis whether a given vessel, when at sea, is on a fishing trip or not. Thus, NMFS would have a lesser ability to estimate and project FAD sets in a timely and reliable manner than it would under the proposed rule, and for that reason, this alternative is not preferred.

The alternative of taking no action at all is not preferred because it would fail to accomplish the objective of the WCPFC Implementation Act or satisfy the international obligations of the United States as a Contracting Party to the Convention.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden for the daily report of how many FAD sets were made is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to Michael D. Tosatto, Regional Administrator, NMFS PIRO (see **ADDRESSES**), and by email to *OIRA_Submission@omb.eop.gov* or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: October 2, 2014.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

■ 1. The authority citation for 50 CFR part 300, subpart O, continues to read as follows:

Authority: 16 U.S.C. 6901 *et seq.*

■ 2. In § 300.218, paragraph (g) is added to read as follows:

§ 300.218 Reporting and recordkeeping requirements.

* * * * *

(g) *Daily FAD reports.* The owner or operator of any fishing vessel of the United States equipped with purse seine gear must, within 24 hours of the end of each day that the vessel is at sea in the Convention Area, report to NMFS, in the format and manner directed by the Pacific Islands Regional Administrator, how many purse seine sets were made on FADs during that day.

■ 3. In § 300.222, paragraph (rr) is added to read as follows:

§ 300.222 Prohibitions.

* * * * *

(rr) Fail to submit, or ensure submission of, a daily FAD report as required in § 300.218(g).

■ 4. In § 300.223, paragraph (b) is revised to read as follows:

§ 300.223 Purse seine fishing restrictions.

* * * * *

(b) *Use of fish aggregating devices.* (1) During the periods specified in paragraph (b)(2) of this section, owners, operators, and crew of fishing vessels of the United States shall not do any of the activities described below in the Convention Area in the area between 20° N. latitude and 20° S. latitude:

(i) Set a purse seine around a FAD or within one nautical mile of a FAD.

(ii) Set a purse seine in a manner intended to capture fish that have aggregated in association with a FAD or a vessel, such as by setting the purse seine in an area from which a FAD or a vessel has been moved or removed within the previous eight hours, or setting the purse seine in an area in which a FAD has been inspected or handled within the previous eight hours, or setting the purse seine in an area into which fish were drawn by a vessel from the vicinity of a FAD or a vessel.

(iii) Deploy a FAD into the water.

(iv) Repair, clean, maintain, or otherwise service a FAD, including any electronic equipment used in association with a FAD, in the water or on a vessel while at sea, except that:

(A) A FAD may be inspected and handled as needed to identify the FAD, identify and release incidentally captured animals, un-foul fishing gear, or prevent damage to property or risk to human safety; and

(B) A FAD may be removed from the water and if removed may be cleaned, provided that it is not returned to the water.

(v) From a purse seine vessel or any associated skiffs, other watercraft or equipment, do any of the following, except in emergencies as needed to prevent human injury or the loss of human life, the loss of the purse seine vessel, skiffs, watercraft or aircraft, or environmental damage:

(A) Submerge lights under water;

(B) Suspend or hang lights over the side of the purse seine vessel, skiff, watercraft or equipment, or;

(C) Direct or use lights in a manner other than as needed to illuminate the deck of the purse seine vessel or associated skiffs, watercraft or equipment, to comply with navigational requirements, and to ensure the health and safety of the crew.

(2) The requirements of paragraph (b)(1) of this section shall apply:

(i) From July 1 through September 30, 2015; and

(ii) During each the periods described below, but only after NMFS has issued a notice in the **Federal Register** announcing that the requirements of paragraph (b)(1) of this section are effective during the following periods:

(A) From January 1 through February 28, 2015; and

(B) During any period specified in a **Federal Register** notice issued by NMFS announcing that NMFS has determined that U.S. purse seine vessels have collectively made, or are projected to make, 3,061 FAD sets in the Convention Area in the area between 20° N. latitude and 20° S. latitude in 2015. The **Federal Register** notice will be published at least seven days in advance of the start of the period announced in the notice. NMFS will estimate and project the

number of FAD sets using vessel logbooks, and/or other information sources that it deems most appropriate and reliable for the purposes of this section.

* * * * *

[FR Doc. 2014–23950 Filed 10–7–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648–XD287

Fisheries of the Exclusive Economic Zone Off Alaska; Skates Management in the Bering Sea and Aleutian Islands Management Area; Habitat Areas of Particular Concern

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

ACTION: Notification of availability of fishery management plan amendment; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 104 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). If approved, Amendment 104 to the FMP would designate six areas of skate egg concentration as Habitat Areas of Particular Concern (HAPC). Designating the six areas of skate egg concentration as HAPC in the Bering Sea and Aleutian Islands Management Area (BSAI) would highlight the importance of this essential fish habitat for conservation. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

DATES: Written comments on Amendment 104 to the FMP must be received on or before 5 p.m., Alaska local time, on December 8, 2014.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2014–0059, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0059,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All Personal Identifying Information (for example, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of Amendment 104 to the FMP and the Environmental Assessment (EA) prepared for this action are available from the Alaska Region NMFS Web site at *http://www.alaskafisheries.noaa.gov/regs/summary.htm.*

FOR FURTHER INFORMATION CONTACT: John V. Olson, 907–271–1508.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit proposed amendments to a fishery management plan to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act also requires that, upon receiving an FMP amendment, NMFS immediately publish in the **Federal Register** a notice that the amendment is available for public review and comment. This notice announces that proposed Amendment 104 to the FMP is available for public review and comment. This proposed amendment does not include regulatory language.

Amendment 104 to the FMP was unanimously adopted by the Council in February 2013. If approved by the Secretary, Amendment 104 to the FMP would amend: (1) Section 4.2.3.2 of the FMP to add six areas of skate egg concentration as HAPC; (2) section 3.5.2.4.2 of the FMP to note that fishing would not be prohibited within the HAPC; and (3) Appendix B of the FMP to include coordinates and maps that designate the HAPC.

Background

HAPC are geographic sites that fall within the distribution of EFH for federally managed species. HAPC are areas of special importance that may require additional protection from the adverse effects of fishing. Regulations implementing EFH provisions provide a means for the Council to identify HAPC in FMPs (50 CFR 600.815(a)(8)). The designation of HAPC does not require the implementation of regulations to limit fishing within HAPC unless such measures are determined to be necessary. Regulations implementing EFH provisions require that a Council and NMFS act to prevent, mitigate, or minimize any adverse effects from fishing, to the extent practicable, if there is evidence that a fishing activity adversely affects EFH in a manner that is more than minimal and not temporary in nature (50 CFR 600.815(a)(2)(ii)). Because HAPC is a type of EFH, these regulatory provisions also apply to HAPC.

In 2007, the Council defined criteria to designate a specific type of EFH as HAPC. The Council determined that HAPC must be specific geographic sites that are rare (defined as uncommon habitat that occurs in discrete areas), and must meet at least one of three other considerations: Provide an important ecological function; be sensitive to human-induced degradation; or be stressed by development activities. These criteria are described in Section 4.2.3 of the FMP and are consistent with regulations that define the factors a Council should consider in designating HAPC (50 CFR 600.815(a)(8)). Based on these criteria, the Council defined a specific habitat type, areas of skate egg concentration, more commonly known as ''skate nurseries'', as an appropriate habitat type for possible designation as HAPC.

In 2010, the Council received a proposal from NMFS's Alaska Fisheries Science Center to designate several areas of skate egg concentration as HAPC in the BSAI. Skates are long-lived, slow to mature, and produce relatively few young (like other elasmobranch fish such as sharks). During each reproductive season, a reproducing skate deposits several egg cases. Depending on the species, a single egg case can hold from one to four individual skate embryos, and development can take up to 3 years. At sites where skate eggs are deposited, several year classes and species of skates can be present. Because the egg cases are deposited on the sea floor in soft substrates in small distinct sites, they may be vulnerable to impacts from

fishing activities that disturb the sea floor (e.g., non-pelagic trawl gear).

In 2011 and 2012, the Council reviewed geographic areas where skate egg concentrations occur for possible designation as HAPC. The Council also considered possible management measures that would limit fishing activities within these proposed HAPC. Sections 2.2, 2.4, and 2.5 of the EA describe the process the Council uses to designate HAPC, the proposed skate HAPC, and the methods used to defined the geographic boundaries of the skate HAPC considered by the Council (see **ADDRESSES**).

In February 2013, the Council unanimously adopted Amendment 104 to the FMP (Alternative 2 in the EA). Amendment 104 to the FMP would designate as HAPC six areas where relatively high concentrations of skate eggs occur in the eastern Bering Sea for several skate species (family *Rajidae*). The Council and NMFS determined that these areas of skate egg concentration met the definition of HAPC because they are rare and provide an important ecological function.

The six areas of skate egg concentration proposed as HAPC are rare, encompassing approximately 82 square nautical miles of habitat, or less than 0.1 percent of the total area of the BSAI. These proposed HAPC are discrete areas near the shelf/slope break with unique abiotic features (e.g., substrate composition) that serve as important spawning and embryonic development areas for skate species. At each of these six proposed HAPC, scientists repeatedly observed a relatively high occurrence of skate egg cases during stock assessment surveys and from fishery observer samples collected from vessels deploying fishing gear that contacted the sea floor (e.g., non-pelagic trawl gear). Section 3.4 of the EA provides additional detail on skate biology and the rarity of areas of skate egg concentrations. Section 3.4 of the EA describes the important ecological functions skates perform primarily as predators for a wide range of fish species, but also as prey for a variety of marine mammal and fish species.

Section 3.5.4 of the EA indicates areas of skate egg concentrations that may also be sensitive to human-induced degradation through the impact of fishing gear. However, the best available scientific information does not indicate that human-induced degradation (e.g., adverse effects from fishing) is occurring. Because human-induced degradation from fishing or other activities is not observed currently, the Council did not consider this HAPC designation criterion as having been met.

Amendment 104 would amend the FMP to designate six areas of skate egg concentration as HAPC without any additional associated regulatory measures. The Council considered an alternative (Alternative 3) that would limit fishing within the proposed HAPC before adopting Amendment 104. Section 2.3 of the EA summarizes the factors the Council considered in making its recommendation to adopt Amendment 104 to the FMP. The Council determined that Amendment 104 to the FMP would designate all six areas of skate egg concentrations that meet the Council's HAPC criteria. The Council also determined that designating these HAPC would provide additional focus for the review and consultation on proposed activities (e.g, drilling, laying cables, seismic exploration, as well as fishing activities) that occur within these HAPC and could potentially affect these important areas of skate habitat.

The Council did not recommend regulations to limit fishing in the proposed HAPC because there is no evidence of adverse effects from fishing on skate populations within these HAPC that would need to be addressed through regulation. Section 3.5 of the EA provides additional information supporting this recommendation. Section 3.5 of the EA explains that the type of fishing gear used in the proposed HAPC is expected to have a minimal and temporary impact on skate habitat. Section 3.5 of the EA explains that fishing effort is limited or does not occur in four of the six HAPC, continued commercial fishing at the current rate and intensity would not be expected to alter the capacity of EFH within these HAPC to support healthy populations of skates over the long term, and no new information exists that indicates that fishing activities are adversely affecting skate egg deposition within these HAPC.

The Council also recommended that NMFS monitor the HAPC sites for changes in skate egg density and other potential effects of fishing, and incorporate the research and monitoring of skate species into the Council's annual research priority list. These recommendations can be considered and adopted by NMFS without amending the FMP or implementing regulations. These Council's recommendations are noted here to notify the public and to describe how NMFS intends to address the Council's recommendations.

NMFS intends to monitor the proposed HAPC sites by analyzing data collected through existing data sources such as from stock assessment surveys and fishery observers. This monitoring would inform the Council and NMFS when there are major changes in fishing effort in the HAPC and if there are any potential impacts to skate habitat within these HAPC. The results from this monitoring could be reported in the annual Ecosystem Stock Assessment and Fishery Evaluation report and as part of the EFH 5-Year review process. If through this monitoring NMFS and the Council learn that skate recruitment or overall biomass of a species has changed due to fishing impacts within the HAPC, the Council could initiate further action to restrict fishing activities within the HAPC. Incorporating the research and monitoring of skate species into the Council's annual research priority list would provide additional research focus on these HAPC. The Council noted that this research could help improve the understanding of skate populations, the importance of areas of skate egg concentration, and skate ecology and habitat. Section 3.3.2 of the EA provides additional information on how NMFS intends to address the Council's monitoring and research recommendations.

Public comments are being solicited on proposed Amendment 104 to the FMP through the end of the comment period stated (see **DATES**). Public comments on the proposed amendment must be received by the end of the comment period on Amendment 104 to the FMP in order to be considered in the approval/disapproval decision on the amendment. All comments received by the end of the comment period on Amendment 104 to the FMP will be considered in the approval/disapproval decision on the amendment. To be considered, comments must be received, not just postmarked or otherwise transmitted, by close of business on the last day of the comment period.

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

Dated: October 3, 2014.

Samuel D. Rauch III,

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

[FR Doc. 2014–23996 Filed 10–7–14; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 79, No. 195
Wednesday, October 8, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–DA–14–0068]

Notice of Request for Extension and Revision of a Currently Approved Information Collection for the Dairy Product Mandatory Reporting Program

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 (AMS) intention to request an extension and revision of a currently approved information collection under the Dairy Product Mandatory Reporting Program. The information collected supports the marketing of dairy products and is used to verify compliance with Federal milk marketing regulations.

DATES: Comments on this notice must be received by December 8, 2014, to be considered.

Additional Information: Contact Roger Cryan, Director, Economics Division, USDA/AMS/Dairy Program, STOP 0229—Room 2753, 1400 Independence Avenue SW., Washington, DC 20250–0229; phone: (202) 720–7091; or email: *roger.cryan@ams.usda.gov.*

Comments: Interested persons are invited to submit written comments via the Internet at *http://www.regulations.gov* or to Roger Cryan, Director, Economics Division, USDA/AMS/Dairy Program, STOP 0229—Room 2753, 1400 Independence Avenue SW., Washington, DC 20250–0229; *roger.cryan@ams.usda.gov.* Comments should reference the docket number and the date and page number of this issue of the **Federal Register**, as well as OMB No. 0581–0274 and the Dairy Product Mandatory Reporting Program. Comments will be made available for public inspection in the above office during regular business hours or can be viewed at *http://www.regulations.gov.* All comments received will be posted without change, including any personal information provided.

SUPPLEMENTARY INFORMATION:

Title: Dairy Products Mandatory Sales Reporting.

OMB Number: 0581–0274.

Expiration Date of Approval: March 31, 2015.

Type of Request: Extension and revision of a currently approved collection.

Abstract: Under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*), as amended, persons engaged in manufacturing dairy products are required to provide to the Department of Agriculture (USDA) certain information, including the price, quantity, and moisture content, where applicable, of dairy products sold by the manufacturer. Manufacturers and other persons storing dairy products must also report to USDA information on the quantity of dairy products stored. This information is used by USDA to help administer Federal programs and is used by the dairy industry in planning, pricing, and projecting supplies of milk and milk products.

Under the Dairy Product Mandatory Reporting Program (7 CFR part 1170), various manufacturer reports are filed electronically on a weekly basis. USDA publishes composites of the information obtained to help industry members make informed marketing decisions regarding dairy products. The information is also used to establish minimum prices for Class III and Class IV milk under Federal milk marketing orders. Additional paper forms are filed by manufacturers on an annual basis to validate participation in the mandatory reporting program. USDA uses the information collected to verify compliance with applicable regulations.

Only authorized representatives of USDA, including AMS Dairy Program's regional and headquarters staff, have access to information provided on the forms.

Requesting public comments on the information collection and forms described below is part of the process to obtain approval through the Office of Management and Budget (OMB). Forms needing OMB approval are contained in OMB No. 0581–0274 and include forms for reporting cheddar cheese price, volume, and moisture content (DY–202 and DY–203); butter price and volume (DY–201); nonfat dry milk price and volume (DY–205); and dry whey price and volume (DY–204). Annual validation information is reported on Forms DA–230 and DA–230–S. Manufacturers and others who are required to file reports under this program must also maintain original records associated with the sale and storage of dairy products for two years and must make those records available to USDA upon request. Manufacturers who produce and market less than one million pounds of cheddar cheese, butter, nonfat dry milk, or dry whey are exempt from the reporting requirements for those products.

No changes have been made to the reporting forms. The estimated number of respondents who should file each form has decreased. Therefore, the total hours necessary to complete the forms has been decreased.

Information collection requirements included in this request for an extension are as follows:

(1) Dairy Products Sales, Cheddar Cheese, 40-Pound Blocks

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 20 minutes per week for each report submitted.

Respondents: Cheddar cheese manufacturers of 40-pound blocks. Each reporting entity may report for a single cheddar cheese plant or it may report for more than one cheddar cheese plant, depending upon how the business is structured.

Estimated Number of Respondents: 16.

Estimated Number of Responses per Respondent: 52.

Estimated Total Annual Burden on Respondents: 277 hours.

(2) Dairy Products Sales, Cheddar Cheese, 500-Pound Barrels

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 20 minutes per week for each report submitted.

Respondents: Cheddar cheese manufacturers of 500-pound barrels. Each reporting entity may report for a

single cheddar cheese plant or it may report for more than one cheddar cheese plant, depending upon how the business is structured.

Estimated Number of Respondents: 13.

Estimated Number of Responses per Respondent: 52.

Estimated Total Annual Burden on Respondents: 225 hours.

(3) Dairy Products Sales, Butter

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 20 minutes per week for each report submitted.

Respondents: Butter manufacturers. Each reporting entity may report for a single butter plant or it may report for more than one butter plant, depending upon how the business is structured.

Estimated Number of Respondents: 19.

Estimated Number of Responses per Respondent: 52.

Estimated Total Annual Burden on Respondents: 329 hours.

(4) Dairy Products Sales, Nonfat Dry Milk

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 20 minutes per week for each report submitted.

Respondents: Nonfat dry milk (NFDM) manufacturers. Each reporting entity may report for a single NFDM plant or it may report for more than one NFDM plant, depending upon how the business is structured.

Estimated Number of Respondents: 28.

Estimated Number of Responses per Respondent: 52.

Estimated Total Annual Burden on Respondents: 485 hours.

(5) Dairy Products Sales, Dry Whey

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 20 minutes per week for each report submitted.

Respondents: Dry whey manufacturers. Each reporting entity may report for a single dry whey plant or it may report for more than one dry whey plant, depending upon how the business is structured.

Estimated Number of Respondents: 19.

Estimated Number of Responses per Respondent: 52.

Estimated Total Annual Burden on Respondents: 329 hours.

(6) Annual Validation Survey

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 20 minutes per year for each report submitted.

Respondents: Dairy manufacturers. Each reporting entity may report for a single plant or it may report for more than one plant, depending upon how the business is structured.

Estimated Number of Respondents: 181.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 60 hours.

(7) Survey Follow-Up, Verification

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 5 minutes for each contact from AMS.

Respondents: Dairy manufacturers. Each reporting entity may report for a single plant or it may report for more than one plant, depending upon how the business is structured. AMS may contact manufacturers as necessary to follow up on missing or incomplete reports and ensure that accurate information is provided by manufacturers.

Estimated Number of Respondents: 7.

Estimated Total Annual Burden on Respondents: 30 hours.

Comments are invited on: (1) Whether the proposed collection of the 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 through 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 also become a matter of public record.

Dated: October 3, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–24012 Filed 10–7–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Farm Loan Pilot Projects

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comment.

SUMMARY: The Farm Service Agency (FSA) will conduct pilot projects of limited scope and duration to evaluate processes and techniques that may improve the efficiency and effectiveness of the Farm Loan Programs (FLP) real estate loans (also referred to as ''farm ownership loans''), operating loans, emergency loans, and administrative provisions, as required by the Agricultural Act of 2014 (the 2014 Farm Bill). This notice provides an opportunity for the public to provide comments for FSA to consider for pilot projects. FSA expects to conduct at least two to three pilot projects.

DATES: We will consider comments that we receive by November 7, 2014.

ADDRESSES: We invite you to submit comments on this notice. In your comment, include volume, date, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Carrie L. Novak, Senior Loan Officer, LMD DAFLP FSA, US Department of Agriculture, 1400 Independence Avenue SW., Stop 0522, Washington, DC 20250–0522.

Comments will be available for viewing online at *http://www.regulations.gov.* In addition, comments will be available for public inspection at the above address during business hours from 8 a.m. to 5 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Carrie Novak; phone: (202) 720–1643. Persons with disabilities who require alternative means for communication of information for this notice (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

FSA makes and services a variety of direct and guaranteed loans to farmers who are temporarily unable to obtain private commercial credit. FSA also provides direct loan customers with credit counseling and supervision to enhance their opportunity for success. FSA loan applicants are often beginning

farmers and socially disadvantaged farmers who do not qualify for conventional loans because of insufficient net worth or established farmers who have suffered financial setbacks due to natural disasters or economic downturns. FSA loans are tailored to a customer's needs and may be used to buy farmland and to finance agricultural production.

FSA makes direct and guaranteed operating and farm ownership loans to eligible farmers and ranchers. Under its direct operating loan program, FSA also makes loans to youths to establish and operate income-producing projects of modest size in connection with their participation in 4–H clubs, Future Farmers of America, and similar organizations. Guaranteed loans are made through private lenders with a guarantee of up to 95 percent of the loss of principal and interest. Direct and guaranteed operating loans can be used to purchase livestock, equipment, feed, seed, and other material essential to a farm or ranch operation.

Direct and guaranteed farm ownership loan funds may be used to purchase land, construct buildings, or make farm improvements. Guaranteed operating and farm ownership loans may also be used to refinance debt. FSA also provides assistance to beginning and socially disadvantaged farmers and ranchers under its Direct Farm Ownership Down Payment Loan Program, and provides retiring farmers the opportunity to transfer their land to future generations of farmers and ranchers.

FSA also targets a portion of its direct and guaranteed operating loan and farm ownership loan funds to beginning farmers and ranchers and socially disadvantaged applicants.

Emergency loans are available to established farmers and ranchers who have suffered losses as a result of a natural disaster or quarantine.

FLP Pilot Projects

Section 5302 of the 2014 Farm Bill amends the Consolidated Farm and Rural Development Act (also known as the CONACT) to provide the Secretary authority to conduct pilot projects of limited scope and duration to evaluate processes and techniques that may improve the efficiency and effectiveness of real estate loans, operating loans, emergency loans, and administrative provisions (7 U.S.C. 1983d). Processes and techniques can be as specific as the manner in which applications for assistance are submitted (for example, through electronic submissions), or as broad as more effective methods of outreach on programs for existing and potential customers.

FSA is constantly identifying ways to improve services and is interested in hearing what kinds of pilots our customers, stakeholders, and other members of the public want to see. FSA wants to hear how we can better serve our customers and understand their needs. The following are examples of initiatives that FSA has already taken to improve efficiency and effectiveness for FLP.

One way that FSA has made improvements is by expanding credit opportunities for farmers and ranchers with the Microloan Program. A Microloan is a small direct farm operating loan with a shortened application process and reduced paperwork. In addition, modifications were made to the experience requirement to allow for mentors and apprenticeships. This has already helped farmers.

FSA has recently released a recent package of technology enhancements that include Web access for handheld and smartphone users, as well as a more efficient and timely option for receiving news and critical program information. The technology improvements will allow users of FSA information to gain access to easy-to-read data, including key features such as loan deficiency payment rates, posted county prices, FSA news releases and AskFSA, the agency's online self-help knowledge base.

A recently revised policy allows FSA to issue farm loan guarantees to nontraditional lenders. A nontraditional lender is one that does not typically hold deposit accounts and is not subject to oversight and supervision. The most common nontraditional lenders are those who are funded under the U.S. Department of Treasury's Community Development Financial Institutions Fund. Nontraditional lenders can originate, hold and service guaranteed loans. The goal is to improve and maintain the quality of rural communities. This goal is accomplished by assisting rural communities, individuals, groups, and support organizations with viable rural development enterprises. FSA has worked with traditional lenders in the past, but is now expanding to work with both traditional and nontraditional lenders.

FSA is currently operating a pilot project in digital signatures. The Electronic Signatures in Global and National Commerce Act (Pub. L. 106–229) ensures that a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form. It is an FSA policy decision whether a certain electronic format is practicable for a certain transaction.

This digital signature pilot will allow FSA to evaluate the use of this available technology, potential cost and time savings, and determine whether it is practical for FLP and Farm Programs (FP) purposes. This will assist FSA to develop policy to not only allow the use of digital signatures by FSA officials, but by producers, FLP applicants, borrowers, and lenders as well. The pilot is to be conducted in Indiana and Texas; digital signatures are only authorized for certain FLP and FP documents.

FSA is requesting comments that will be used to develop recommendations for pilot projects that will meet the intended goals to evaluate processes and techniques that may improve the efficiency and effectiveness of real estate loans, operating loans, emergency loans, and administrative provisions. The pilot projects may diverge from program regulations at 7 CFR parts 761 through 767, but the pilot projects must be consistent with the existing statutory provisions governing Real Estate Loans, Operating Loans, Emergency Loans, and Administrative Provisions (see 7 U.S.C. Chapter 50, subchapters I through IV for the details of these CONACT provisions). For example, a suggestion could be for projects that provide financial and management assistance to eligible family farmers for authorized loan purposes. Additional information on FLP policies and procedures is available in FSA handbooks 1–FLP through 6–FLP at *http://www.fsa.usda.gov/FSA/webapp?area=home&subject=lare&topic=hbk.*

The following questions provide examples of loan making and servicing concerns that may be helpful to consider for your comment:

- How can FSA better reach and serve veterans, especially returning veterans who plan to start or return to farming?
- How can FSA encourage lending for urban agriculture?
- What pricing models can be developed or expanded to assist loan officers in lending to producers who sell traditional and specialty agricultural products at non-traditional markets?
- What types of borrower training systems can be explored to provide long term economic benefits to agricultural producers?
- Should FSA explore the use of credit scores for small, streamlined loan applications?
- Are there alternative lenders and financers (grocery chains, implement

and feed dealers, community development organizations) that could partner and improve service to joint customers as well as strengthen their own business needs?

• What type of consulting service could be developed to assist existing borrowers to be more productive and successful?

• How can the role of a mentor be expanded beyond microloans?

• What are other methods that an applicant can successfully prove experience and managerial ability?

In your comment it will be most helpful to:

• Explain the proposed pilot project in as much detail as possible, including the issue or concern to be addressed and the intended benefit(s);

• Provide specific examples to illustrate your points;

• Describe whether the project is intended to benefit any particular region, type of agricultural producer (organic, direct market, wholesale, etc.), or end customer; and

• Outline any potential costs or costs savings and the basis for the assumptions.

At the conclusion of the comment period, FSA staff will review and consider all of the suggestions in the comments.

As required by the 2014 Farm Bill, at least 60 days before initiating a pilot project, the Secretary will submit notice of the proposed pilot project to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. FSA will also consider any feedback provided to the Secretary in response to that notice.

FSA expects to select at least two to three pilot projects. FSA will announce the pilot projects through news release.

FSA expects that one of the results of the pilot project will help expand service to underserved producers. For example, in remote areas, such as Indian Country, distance and travel time make it extremely difficult to establish the network of contacts essential for effective outreach and to provide technical assistance. FSA lacks the necessary knowledge and staff resources to overcome language and cultural barriers for some minority communities and provide effective outreach and technical assistance. In such situations, partnerships with local organizations could use existing networks and expertise to provide effective outreach and technical assistance and expand participation. This is one example of how FSA may carry out some pilot projects.

In addition to this notice, general information about FSA's administration of FLP is also available on the FSA Web site at *http://www.fsa.usda.gov/FSA/webapp?area=home&subject=fmlp&topic=landing.*

Signed on September 30, 2014.

Val Dolcini,

Administrator, Farm Service Agency.

[FR Doc. 2014–24050 Filed 10–7–14; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–71–2014]

Foreign-Trade Zone (FTZ) 32—Miami, Florida; Notification of Proposed Production Activity; Brightstar Corporation (Cell Phone Kitting); Miami, Florida

Greater Miami Foreign-Trade Zone, Inc., grantee of FTZ 32, submitted a notification of proposed production activity to the FTZ Board on behalf of Brightstar Corporation (Brightstar), located in Miami, Florida. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on October 1, 2014.

Brightstar already has authority to produce cell phones and cell phone accessories within Site 6 of FTZ 32. The current request would add foreign status materials/components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials/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 Brightstar from customs duty payments on the foreign status materials/components used in export production. On its domestic sales, Brightstar would be able to choose the duty rates during customs entry procedures that apply to cell phones (duty rate 0%) for the foreign status materials/components noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The materials/components sourced from abroad include: Plastic bubble wrap; plastic carrying cases; packaging trays and inserts; plastic bags and sacks; corrugated and non-corrugated paper boxes; paper packaging trays and inserts; paper labels; instruction manuals; nickel-cadmium batteries; nickel-iron batteries; nickel-metal batteries; lithium-ion batteries; lithium-metal batteries; cell phone parts; and, memory cards (duty rate ranges from 0 to 6.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 17, 2014.

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

For further information, contact Christopher Kemp at *christopher.kemp@trade.gov* (202) 482–0862.

Dated: October 1, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–24088 Filed 10–7–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Ming Xie, a/k/a Michael Xie, 16 Nathan Drive, Towaco, New Jersey 07082, Respondent; Horizon RX Systems, 16 Nathan Drive, Towaco, New Jersey 07082, Related Person; Order Denying Export Privileges

A. Denial of Export Privileges of Ming Xie a/k/a Michael Xie

On May 22, 2013, in the U.S. District Court for the District of New Jersey, Ming Xie, a/k/a Michael Xie (''Xie''), was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA'') and the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)) (''IEEPA''). Specifically, Xie knowingly and willfully exported and caused to be exported from the United States power amplifiers, defense articles of United States origin, without first obtaining from the U.S. Department of State a license or other export authorization for such export, in violation of the AECA. Xie also knowingly and willfully exported from the United States to the People's Republic of China power amplifiers, items subject to the Export Adminstration Regulations, without first obtaining the required export license or other authorization from the U.S.

Department of Commerce, in violation of IEEPA. Xie was sentenced to probation for two years, 300 hours of community service, and a $20,000 fine. Xie also is listed on the U.S. Department of State's Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA, the EAR, of any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to ten (10) years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

BIS received notice of Xie's conviction for violating the AECA and IEEPA, and has provided notice and an opportunity for Xie to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS received a submission from Xie. Based upon my review and consideration of that submission, and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Xie's export privileges under the Regulations for a period of ten (10) years from the date of Xie's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Xie had an interest at the time of his conviction.

B. Denial of Export Privileges of Related Person Horizon RX Systems

Pursuant to Sections 766.25(h) and 766.23 of the Regulations, the Director of BIS's Office of Exporter Services, in consultation with the Director of BIS's Office of Export Enforcement, may, in order to prevent evasion of a denial order, make a denial order applicable not only to the respondent, but also to other persons related to the respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business.

As provided in Section 766.23 of the Regulations, BIS gave notice to Horizon that its export privileges under the Regulations could be denied for up to ten (10) years due to its relationship with Xie and that BIS believed that naming Horizon as a person related to Xie would be necessary to prevent evasion of a denial order imposed against Xie. In providing such notice, BIS gave Horizon an opportunity to oppose its addition to the Xie Denial Order as a related party.

Having received and reviewed a submission from Xie, I have decided, following consideration of that submission and consultations with BIS's Office of Export Enforcement, including its Director, to include name Horizon as a Related Person and make this Denial Order applicable to Horizon, thereby denying its export privileges for ten (10) years from the date of Xie's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Horizon had an interest at the time of Xie's conviction. The 10-year denial period is scheduled to end on May 22, 2023.

Xie is the president of Horizon. Therefore, Horizon is related to Xie within the meaning of Section 766.23. BIS also has reason to believe that Horizon should be added as a related person in order to prevent evasion of this Denial Order. Xie conducted the unlawful export activities involved in his conviction through Horizon.

Accordingly, it is hereby *ordered:*

First, from the date of this Order until May 22, 2023, Ming Xie a/k/a Michael Xie, with a last known address of 16 Nathan Drive, Towaco, New Jersey 07082, and when acting for or on his behalf, his successors, assigns, employees, agents, or representatives, and Horizon RX Systems, with a last known address of 16 Nathan Drive, Towaco, New Jersey 07082, and when acting for or on its behalf, its successors, assigns, directors, officers, employees, agents, or representatives (each as ''Denied Person'' and collectively the ''Denied Persons'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including but not limited to:

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

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

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

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

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

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

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

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

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person, if such service involves the use of any item subject to the Regulations that has been

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2014). The Regulations are issued pursuant to the Export Administration Act of 1979 (50 U.S.C. app. §§ 2401–2420 (2000)) (''the EAA'' or ''the Act''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 Fed. Reg. 46959 (August 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, in addition to the Related Person named above, after notice and opportunity for comment as provided in section 766.23 of the Regulations, any other individual, firm, corporation, or other association or organization or other person related to a Denied Person by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order if necessary to prevent evasion of this Order.

Fourth, in accordance with Part 756 and Section 766.25(g) of the Regulations, Xie may file an appeal of the issuance of this Order against him with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, in accordance with Part 756 and Section 766.23(c) of the Regulations, Horizon RX Systems may file an appeal of its naming as a related person in this Order with the Under Secretary of Commerce for Industry and Security. This appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Sixth, Xie shall have an opportunity to request reinstatement of his export privileges in whole or part by seeking termination or modification, as applicable, of this Order, provided that Xie has first been removed from the U.S. Department of State's Debarred List, and provided that Xie has committed no violation of the Act, or any regulation, order, or license issued thereunder prior to the submission of his request for reinstatement. BIS shall in its sole unreviewable discretion determine whether to grant or deny, in whole or in part, such a request for reinstatement of Xie's export privileges. If BIS reinstates Xie's export privileges in whole or in part under the Denial Order, Horizon's export privileges shall be reinstated to the same extent, provided that it has remained named to the Denial Order as a related person, rather than as a respondent, and otherwise has committed no violation of the Act, or any regulation, order, or license issued thereunder.

Seventh, a copy of this Order shall be provided to Ming Xie and Horizon RX Systems and shall be published in the **Federal Register**.

Eighth, this Order is effectively immediately and shall remain in effect until May 22, 2023.

Issued this 30th day of September, 2014.

Karen H. Nies-Vogel,

Acting Director, Office of Exporter Services.

[FR Doc. 2014–23993 Filed 10–7–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD443

Identifying Research Funding Priorities for a Potential Competitive Financial Assistance Program Addressing the Conservation and Recovery of Pinnipeds in Waters off Alaska

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

ACTION: Notice; request for comments.

SUMMARY: NMFS is considering the adoption of a new competitive, merit-based, financial assistance program supporting research on Alaska pinniped populations (seals and sea lions). To this end, NMFS is soliciting comments from the public and the marine mammal research community concerning possible program priorities to consider for an annual Alaska Pinniped Research Program. The objective of the program would be to support effective conservation and management of pinnipeds in waters off Alaska through a grant program focused on high priority research objectives related to NMFS recovery plans, conservation plans, research plans (including those developed with Alaska Native co-management organizations), or post-delisting monitoring plans for these species. Final competitive program priorities will be selected by NMFS after considering input received from the public.

DATES: Comments must be received no later than November 7, 2014.

ADDRESSES: You may submit comments, identified by FDMS docket Number NOAA–NMFS–2014–0123, any of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0123,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

Mail: Submit written comments to Jon Kurland, Assistant Regional Administrator for Protected Resources, Alaska Region NMFS, Attn: Ellen Sebastian, P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *http://www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Copies of pertinent NMFS recovery plans, conservations plans, research plans (including those developed with Alaska Native co-management organizations), and post-delisting monitoring plans for Alaska pinniped species are available at *http://alaskafisheries.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Kim Rivera, NMFS Alaska Region, 907–586–7424, *kim.rivera@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS is responsible for the stewardship, conservation, and management of pinniped species in Alaska, including the Steller sea lion (*Eumetopias jubatus*), Northern fur seal (*Callorhinus ursinus*), ringed seal (*Phoca hispida*), bearded seal (*Erignathus barbatus*), spotted seal (*Phoca largha*), ribbon seal (*Histriophoca fasciata*), and harbor seal (*Phoca vitulina richardii*). Under the Endangered Species Act (ESA), the western Distinct Population Segment of Steller sea lions is listed as endangered and the Arctic subspecies of ringed seals is listed as threatened. NMFS is entrusted with the recovery of these ESA-listed species and under the Marine Mammal Protection Act, as well as with the conservation of all pinniped populations in waters off Alaska. Additionally, NMFS partners with Alaska Native Organization in the co-management of marine mammal stocks which are an important subsistence resource throughout Alaska. Beginning in Fiscal Year 2015, NMFS is considering supporting pinniped research in Alaska that would be administered through a competitively-funded, merit-based grants program.

This proposed program would restrict its focus on Alaska pinnipeds under the statutory jurisdiction of NMFS (seals and sea lions); proposals focusing on marine mammals under the jurisdiction of the U.S. Fish and Wildlife Service would not be eligible.

The objectives of a potential Alaska Pinniped Research Program would include: 1) Supporting effective conservation and management of seals, sea lions, and Northern fur seals in waters off Alaska; and 2) Implementing high-priority research objectives or address species conservation priorities specified in a NMFS recovery plan, conservations plan, research plans (including those developed with Alaska Native co-management organizations), or post-delisting monitoring plans (for copies of these plans see **ADDRESSES**).

This is not a notice of availability of grant funds; moreover, any future funding is contingent on availability of funds. NMFS is seeking input on specific program priorities that might be considered for inclusion in an annual Alaska Pinniped Research Program that addresses the above-stated objectives. If NMFS proceeds with such a program, NMFS will issue a Federal Funding Opportunity notice to solicit applications for grants to address the selected priorities.

Dated: October 2, 2014.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–23928 Filed 10–7–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RIN 0648–XD528]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Observer Policy Committee will meet to review scientific information affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Thursday, October 23, 2014 beginning at 9:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton Colonial Hotel; One Audubon Road; Wakefield, MA 01880; telephone: (781) 245–9300; fax: (781) 245–0842.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: *Agenda items:*

The Observer Policy Committee will meet to: Review progress regarding development of NMFS-led omnibus amendment to establish provisions for industry-funded monitoring across all Council-managed fisheries; review and discuss timeline; discuss details of omnibus industry-funded amendment alternatives and develop related Committee recommendations and plan next meeting. They will address other business as necessary.

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: October 3, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–24022 Filed 10–7–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD534

Marine Fisheries Advisory Committee

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

ACTION: Notice of open public meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Marine Fisheries Advisory Committee (MAFAC). The members will discuss and provide advice on issues outlined in the agenda below.

DATES: The meeting is scheduled for October 23, 2014, 4–5:30 p.m., Eastern Daylight Time.

ADDRESSES: The public meeting will be conducted by telephone. Public access is available at 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to attend the public teleconference may contact Heidi Lovett, (301) 427–8004; email: *heidi.lovett@noaa.gov.*

SUPPLEMENTARY INFORMATION: The MAFAC was established by the Secretary of Commerce (Secretary), and, since 1971, advises the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. The charter and other information are located online at *http://www.nmfs.noaa.gov/ocs/mafac/.*

Matters To Be Considered

The Committee is convening to discuss and finalize comments on the proposed rule for the Gulf of Mexico Aquaculture Plan for submission to the NOAA Fisheries Assistant Administrator and to consider other administrative matters. This agenda is subject to change.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Heidi Lovett, 301–427–8004 by October 16, 2014.

Dated: October 2, 2014.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–24049 Filed 10–7–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA122

Marine Mammals; File No. 14330

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that a major amendment to Permit No. 14330–01 has been issued to the Aleut Community of St. Paul Island, Tribal Government, Ecosystem Conservation Office, St. Paul Island, AK 99660.

ADDRESSES: The permit amendment and related documents are available for review upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; telephone: (301) 427–8401; fax: (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Brendan Hurley or Amy Sloan; telephone: (301) 427–8401.

SUPPLEMENTARY INFORMATION: On July 17, 2013, notice was published in the **Federal Register** (78 FR 42756) that a request for an amendment to Permit No. 14330–01 for research on northern fur seals (*Callorhinus ursinus*) and incidental disturbance to Steller sea lions (*Eumetopias jubatus*) and harbor seals (*Phoca vitulina*) had been submitted by the above-named applicant. The requested permit amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Permit No. 14330–02 authorizes the permit holder to conduct activities to fulfill their Biosampling, Disentanglement, and Island Sentinel program responsibilities as established under the co-management agreement between NMFS and the Aleut Communities. Activities include northern fur seal (1) disentanglement; (2) sample collection from dead animals and sample export; and (3) haulout and rookery observations, monitoring, and remote camera maintenance. The permit amendment authorizes additional takes of northern fur seals for new habitat use studies, incorporates incidental disturbance of Steller sea lions and harbor seals during other fur seal studies without increasing authorized takes, consolidates existing fur seal authorized takes of certain age and sex categories, consolidates existing fur seal authorized takes for studies with similar types of incidental disturbance, and extends the permit for one year. The permit amendment expires on August 31, 2015.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), NMFS has determined that the activities proposed are consistent with the Preferred Alternative in the Final Programmatic Environmental Impact Statement for Steller Sea Lion and Northern Fur Seal Research (NMFS 2007), and that issuance of the permit would not have a significant adverse impact on the human environment.

As required by the ESA, issuance of this permit was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: September 24, 2014.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–23940 Filed 10–7–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD256

Takes of Marine Mammals Incidental to Specified Activities; Low-Energy Marine Geophysical Survey in the Scotia Sea and South Atlantic Ocean, September to October 2014

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

ACTION: Notice; issuance of an Incidental Harassment Authorization (IHA).

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), notification is hereby given that NMFS has issued an IHA to the National Science Foundation (NSF) Division of Polar Programs, and Antarctic Support Contract (ASC) on behalf of two research institutions, University of Texas at Austin and University of Memphis, to take marine mammals, by Level B harassment, incidental to conducting a low-energy marine geophysical (seismic) survey in the Scotia Sea and South Atlantic Ocean, September to October 2014.

DATES: Effective September 20, 2014, to December 1, 2014.

ADDRESSES: A copy of the IHA and the application are available by writing Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910 or by telephone the contacts listed below (see **FOR FURTHER INFORMATION CONTACT**).

An electronic copy of the IHA application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental/*. Documents cited in this notice, including the IHA application, may also be viewed by appointment, during regular business hours, at the aforementioned address.

An ''Environmental Assessment on the Issuance of an Incidental Harassment Authorization to the National Science Foundation and Antarctic Support Contract to Take Marine Mammals by Harassment Incidental to a Low-energy Marine Geophysical Survey in the Scotia Sea and South Atlantic Ocean, September to October 2014'' was prepared by NMFS. NMFS also issued a Biological Opinion under section 7 of the Endangered Species Act (ESA) to evaluate the effects of the low-energy seismic survey and IHA on marine species listed as threatened and endangered. The NMFS Biological Opinion is available online at: *http://www.nmfs.noaa.gov/pr/consultations/opinions.htm.*

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, 301–427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA, (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will

not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On April 15, 2014, NMFS received an application from NSF and ASC requesting that NMFS issue an IHA for the take, by Level B harassment only, of small numbers of marine mammals incidental to conducting a low-energy marine seismic survey in the Exclusive Economic Zone (EEZ) of the South Georgia and South Sandwich Islands and International Waters (i.e., high seas) in the Scotia Sea and southern Atlantic Ocean during September to October 2014.

The research will be conducted by two research institutions: University of Texas at Austin and University of Memphis. NSF and ASC plan to use one source vessel, the RVIB *Nathaniel B. Palmer* (*Palmer*), and a seismic airgun array and hydrophone streamer to collect seismic data in the Scotia Sea and southern Atlantic Ocean. The vessel will be operated by ASC, which operates the United States Antarctic Program (USAP) under contract with NSF. In support of the USAP, NSF and ASC plan to use conventional low-energy, seismic methodology to perform marine-based studies in the Scotia Sea, including evaluation of lithosphere adjacent to and beneath the Scotia Sea and southern Atlantic Ocean in two areas, the South Georgia micro-continent and the seafloor of the eastern portion of the central Scotia Sea (see Figures 1 and 2 of the IHA application). In addition to the planned operations of the seismic airgun array and hydrophone streamer, NSF and ASC intend to operate a single-beam echosounder, multi-beam echosounder, acoustic Doppler current profiler (ADCP), and sub-bottom profiler continuously throughout the survey. NMFS published a notice making preliminary determinations and proposing to issue an IHA on August 5, 2014 (79 FR 45592). The notice initiated a 30-day public comment period.

Acoustic stimuli (i.e., increased underwater sound) generated during the operation of the seismic airgun array may have the potential to cause behavioral disturbance for marine mammals in the survey area. This is the principal means of marine mammal taking associated with these activities, and NSF and ASC have requested an authorization to take 26 species of marine mammals by Level B harassment. Take is not expected to result from the use of the single-beam echosounder, multi-beam echosounder, ADCP, and sub-bottom profiler, as the brief exposure of marine mammals to one pulse, or small numbers of signals, to be generated by these instruments in this particular case is not likely to result in the harassment of marine mammals. Also, NMFS does not expect take to result from collision with the source vessel because it is a single vessel moving at a relatively slow, constant cruise speed of 5 knots ([kts]; 9.3 kilometers per hour [km/hr]; 5.8 miles per hour [mph]) during seismic acquisition within the survey, for a relatively short period of time (approximately 30 operational days). It is likely that any marine mammal will be able to avoid the vessel.

Description of the Specified Activity

Overview

NSF and ASC plans to use one source vessel, the *Palmer,* a two GI airgun array and one hydrophone streamer to conduct the conventional seismic survey as part of the NSF-funded research project ''Role of Central Scotia Sea Floor and North Scotia Ridge in the Onset and Development of the Antarctic Circumpolar Current.'' In addition to the airguns, NSF and ASC intend to conduct a bathymetric survey, dredge sampling, and geodetic measurements from the *Palmer* during the low-energy seismic survey.

Dates and Duration

The *Palmer* is expected to depart from Punta Arenas, Chile on approximately September 20, 2014 and arrive at Punta Arenas, Chile on approximately October 20, 2014. Research operations will be conducted over a span of 30 days, including to and from port. Some minor deviation from this schedule is possible, depending on logistics and weather (e.g., the cruise may depart earlier or be extended due to poor weather; or there could be additional days of seismic operations if collected data are deemed to be of substandard quality).

Specified Geographic Region

The planned project and survey sites are located in selected regions of the Scotia Sea (located northeast of the Antarctic Peninsula) and the southern Atlantic Ocean and focus on two areas: (1) Between the central rise of the Scotia Sea and the East Scotia Sea, and (2) the far southern Atlantic Ocean immediately northeast of South Georgia towards the northeastern Georgia Rise (both encompassing the region between 53 to 58° South, and between 33 to 40° West) (see Figure 2 of the IHA application). The majority of the planned seismic survey will be within the EEZ of the Government of the South Georgia and South Sandwich Islands (United Kingdom) and a limited portion of the seismic survey will be conducted in International Waters. Figure 3 of the IHA application illustrates the general bathymetry of the planned study area and the border of the existing South Georgia Maritime Zone. Water depths in the survey area exceed 1,000 m. There is limited information on the depths in the study area and therefore more detailed information on bathymetry is not available. The planned seismic survey will be within an area of approximately 3,953 km^2 (1,152.5 nmi^2). This estimate is based on the maximum number of kilometers for the seismic survey (2,950 km) multiplied by the predicted rms radii (m) based on modeling and empirical measurements (assuming 100% use of the two 105 in^3 GI airguns in greater than 1,000 m water depths), which was calculated to be 675 m (2,214.6 ft).

Detailed Description of the Specified Activity

NSF and ASC plans to conduct a low-energy seismic survey in the Scotia Sea and the southern Atlantic Ocean from September to October 2014. In addition to the low-energy seismic survey, scientific activities will include conducting a bathymetric profile survey of the seafloor using transducer-based instruments such as a multi-beam echosounder and sub-bottom profiler; collecting global positioning system (GPS) information through the temporary installation of three continuous Global Navigation Satellite Systems (cGNSS) on the South Georgia micro-continent; and collecting dredge

sampling around the edges of seamounts or ocean floor with significant magnetic anomalies to determine the nature and age of bathymetric highs near the eastern edge of the central Scotia Sea. Water depths in the survey area are greater than 1,000 meters (m) (3,280.1 feet [ft]). The seismic survey is scheduled to occur for a total of approximately 325 hours over the course of the entire cruise, which will be for approximately 30 operational days in September to October 2014. The planned seismic survey will be conducted during the day and night, and for up to 40 hours of continuous operations at a time. The operation hours and survey length will include equipment testing, ramp-up, line changes, and repeat coverage. The long transit time between port and the study site constrains how long the ship can be in the study area and effectively limits the maximum amount of time the airguns can operate. Some minor deviation from these dates will be possible, depending on logistics and weather.

The low-energy seismic survey of the Scotia Sea and southern Atlantic Ocean will involve conducting single channel seismic reflection profiling across the northern central Scotia Sea along two lines that cross the seismically active and apparently compressive boundary between the South Georgia micro-continent and the Northeast Georgia Rise. The targeted seismic survey will occur in the unexplored zones of elevated crust in the eastern central Scotia Sea and is designed to address several critical questions with respect to the tectonic nature of the northern and southern boundaries of the South Georgia micro-continent.

Opening of deep Southern Ocean gateways between Antarctica and South America and between Antarctica and Australia permitted complete circum-Antarctic circulation. This Antarctic Circumpolar Current is not well understood. The Antarctic Circumpolar Current may have been critical in the transition from a warm Earth in the early Cenozoic to the subsequent much cooler conditions that persist to the present day. Opening of Drake Passage and the west Scotia Sea likely broke the final barrier formed by the Andes of Tierra del Fuego and the ''Antarctandes'' of the Antarctic Peninsula. Once this deep gateway, usually referred to as the Drake Passage gateway, was created, the strong and persistent mid-latitude winds could generate one of the largest deep currents on Earth, at approximately 135 Sverdrup (a Sverdrup [Sv] is a measure of average flow rate in million cubic meters of water per second). This event is widely believed to be closely associated in time with a major, abrupt drop in global temperatures and the rapid expansion of the Antarctic ice sheets at 33 to 34 Million Annus (Ma, i.e., million years from the present/before the current date), the Eocene-Oligocene boundary.

The events leading to the complete opening of the Drake Passage gateway are very poorly known. The uncertainty is due to the complex tectonic history of the Scotia Sea and its enclosing Scotia Ridge, the eastward-closing, locally emergent submarine ridge that joins the southernmost Andes to the Antarctic Peninsula and deflects the Antarctic Circumpolar Current through gaps in its northern limb. The critical keys to this problem are the enigmatic floor of the central Scotia Sea between the high relief South Georgia (approximately 3,000 m [9,842.5 ft]) and the lower South Orkney islands (approximately 1,200 m [3,937 ft]), emergent parts of micro-continental blocks on the North and South Scotia ridges respectively, and the North Scotia Ridge itself.

In 2008, an International Polar Year research program was conducted using the RVIB *Nathaniel B. Palmer* (*Palmer*) (Cruise NBP 0805) that was designed to elucidate the structure and history of this area to help provide the constraints necessary for understanding of the initiation of the critical Drake Passage—Scotia Sea gateway. Underway data and dredged samples produced unexpected results that led to a structurally different view of the central Scotia Sea and highlighted factors bearing on initiation of the Antarctic Circumpolar Current that had not been previously considered.

The results of this study of the central Scotia Sea are fragmentary due to the limited time available during Cruise NBP 0805. Therefore, the extent, geometry, and physiography of a submerged volcanic arc that may have delayed formation of a complete Antarctic Circumpolar Current until after the initiation of Antarctic glaciation are poorly defined, with direct dating limited to a few sites. To remedy these deficiencies, thereby further elucidating the role of the central Scotia Sea in the onset and development of the Antarctic Circumpolar Current, the planned targeted surveying and dredging will determine likely arc constructs in the eastern central Scotia Sea. These will be combined with a survey of the margins of the South Georgia micro-continent and installation of three continuous GPS stations on South Georgia that will test the hypothesis regarding the evolution of the North Scotia Ridge, also an impediment to the present Antarctic Circumpolar Current. The Principal Investigators are Dr. Ian Dalziel and Dr. Lawrence Lawver of the University of Texas at Austin, and Dr. Robert Smalley of the University of Memphis.

The procedures to be used for the survey will be similar to those used during previous low-energy seismic surveys by NSF and will use conventional seismic methodology. The planned survey will involve one source vessel, the *Palmer.* NSF and ASC will deploy a two Sercel Generator Injector (GI) airgun array (each with a discharge volume of 105 in^3 [1,720 cm^3], in one string, with a total volume of 210 in^3 [3,441.3 cm^3]) as an energy source, at a tow depth of up to 3 to 4 m (9.8 to 13.1 ft) below the surface (more information on the airguns can be found in Appendix B of the IHA application). A third airgun will serve as a ''hot spare'' to be used as a back-up in the event that one of the two operating airguns malfunctions. The airguns in the array will be spaced approximately 3 m (9.8 ft) apart and 15 to 40 m (49.2 to 131.2 ft) astern of the vessel. The receiving system will consist of one or two 100 m (328.1 ft) long, 24-channel, solid-state hydrophone streamer(s) towed behind the vessel. Data acquisition is planned along a series of predetermined lines, all of which will be in water depths greater than 1,000 m. As the GI airguns are towed along the survey lines, the hydrophone streamer(s) will receive the returning acoustic signals and transfer the data to the onboard processing system. All planned seismic data acquisition activities will be conducted by technicians provided by NSF and ASC, with onboard assistance by the scientists who have planned the study. The vessel will be self-contained, and the crew will live aboard the vessel for the entire cruise.

The weather and sea conditions will be closely monitored, including for conditions that could limit visibility. Pack ice is not anticipated to be encountered during the planned cruise; therefore, no icebreaking activities are expected. If situations are encountered which pose a risk to the equipment, impede data collection, or require the vessel to stop forward progress, the equipment will be shut-down and retrieved until conditions improve. In general, the airgun array and streamer(s) can be retrieved in less than 30 minutes.

The planned seismic survey (including equipment testing, start-up, line changes, repeat coverage of any areas, and equipment recovery) will consist of approximately 2,950 kilometers (km) (1,592.9 nautical miles

[nmi]) of transect lines (including turns) in the survey area in the Scotia Sea and southern Atlantic Ocean (see Figures 1, 2, and 3 of the IHA application). In addition to the operation of the airgun array, a single-beam and multi-beam echosounder, ADCP, and a sub-bottom profiler will also likely be operated from the *Palmer* continuously throughout the cruise. There will be additional airgun operations associated with equipment testing, ramp-up, and possible line changes or repeat coverage of any areas where initial data quality is sub-standard. In NSF and ASC's estimated take calculations, 25% has been added for those additional operations.

TABLE 1—PLANNED LOW-ENERGY SEISMIC SURVEY ACTIVITIES IN THE SCOTIA SEA AND THE SOUTHERN ATLANTIC OCEAN

Survey length (km)	Cumulative duration (hr) [1]	Airgun array total volume	Time between airgun shots (distance)	Streamer length (m)
2,950 (1,592.9 nmi)	≅325	2 × 105 in^3 (2 × 1,720 cm^3)	5 to 10 seconds (12.5 to 25 m or 41 to 82 ft)	100 (328.1 ft)

[1] Airgun operations are planned for no more than 40 continuous hours at a time.

NMFS outlined the purpose of the program in a previous notice for the proposed IHA (79 FR 45592, August 5, 2014). The activities to be conducted have not changed between the proposed IHA notice and this final notice announcing the issuance of the IHA. For a more detailed description of the authorized action, including vessel and acoustic source specifications, the reader should refer to the notice for the proposed IHA (79 FR 45592, August 5, 2014), the IHA application, EA, and associated documents referenced above this section.

Comments and Responses

A notice of preliminary determinations and proposed IHA for NSF and ASC's low-energy seismic survey was published in the **Federal Register** on August 5, 2015 (79 FR 45592). During the 30-day public comment period, NMFS received comments from one private citizen and the Marine Mammal Commission (Commission). The comments are posted online at: *http://www.nmfs.noaa.gov/pr/permits/incidental/*. Following are the substantive comments and NMFS's responses:

Comment 1: The Commission questions why L–DEO did not use 4 m (ft) as the maximum tow depth, because that depth was specified in the IHA application and should yield greater radii than a tow depth of 3 m. To estimate the buffer and exclusion zones for the seismic survey in the Scotia Sea and South Atlantic Ocean, L–DEO used two G airguns as a proxy for two GI airguns within the Nucleus modeling software and assumed a maximum tow depth of 3 m. It is also unclear why L–DEO included in Appendix A of NSF and ASC's IEE/EA the correction factors based on shallow-water measurements of 2 GI airguns in the Gulf of Mexico (GOM). The need for correction factors as large as 14.7 does substantiate the concerns continually expressed by the Commission regarding the inadequacies of the L–DEO model in environments other than a three dimensionally uniform and boundless sea. However, the discussion of such correction factors is irrelevant because the radii L–DEO proposed to use originated directly from its model, absent any correction factors. The Commission does not understand why L–DEO mentioned correction factors that apparently were not used.

Response: In almost all previous NSF EAs using GI airgun arrays, a typical tow depth was 3 m; therefore, that was used for the modeling for the planned low-energy seismic survey. As noted in the IHA application, the model results are for G airguns, which have more energy than GI airguns of the same size; thus, those results overestimate (by approximately 10%) the distances for the 105 in^3 GI airgun array. Although the distances were known to be overestimated, no distance adjustments were made to the radii distances to account for this overestimation. In this case, the difference between a 3 m and 4 m tow depth are nominal, and would be approximately equivalent given this 10% difference. Therefore, the proposed radii distances for the buffer and exclusion zones are still valid for monitoring and mitigation as well as take estimates. NMFS, NSF, ASC, and L–DEO agree that Appendix A of the IHA application included some superfluous information about correction factors not relevant to the discussion, given this was a seismic survey in deep water and only L–DEO model results were used. NMFS believes that the L–DEO model is adequate for establishing conservative radii for monitoring and mitigation.

Comment 2: The Commission remains very concerned that the L–DEO model is not based on best available science and does not support its continued use. The Commission recommends that NMFS (1) require L–DEO to re-estimate the proposed exclusion and buffer zones and associated takes of marine mammals using site-specific (including sound speed profiles, bathymetry, and sediment characteristics at a minimum) and operational (including number/type of airguns, tow depth) parameters for the proposed IHA; and (2) impose the same requirement for all future IHAs submitted by NSF, ASC, L–DEO, USGS, SIO, or any other relevant entity.

Response: At present, L–DEO cannot adjust its modeling methodology to add the environmental and site-specific parameters as requested by the Commission. NMFS is working with L–DEO, NSF, ASC, USGS, SIO, and any other relevant entity to explore ways to better consider site-specific information to inform the take estimates and development of mitigation measures for future seismic surveys with L–DEO and NSF, and NSF has been exploring different approaches in collaboration with L–DEO and other academic institutions with whom they collaborate. When available, NMFS will review and consider the final results from L–DEO's expected publications (Crone *et al.,* in prep), in which the results of a calibration off the coast of Washington will be reported, and how they reflect on L–DEO's model.

For this seismic survey, L–DEO developed the exclusion and buffer zones based on the conservative deep-water calibration results from Diebold et al. (2010). L–DEO's current modeling approach represents the best available information to reach NMFS's determinations for the IHA. The comparisons of L–DEO's model results and the field data collected in the Gulf of Mexico illustrate a degree of conservativeness built into L–DEO's model for deep water.

NMFS acknowledges the Commission's concerns about L–DEO's current modeling approach for estimating exclusion and buffer zones and also acknowledge that L–DEO did not incorporate site-specific sound speed profiles, bathymetry, and sediment characteristics of the research

area within the current approach to estimate those zones for this IHA. However, as described below, empirical data collected at two different sites and compared against model predictions indicate that other facets of the model (besides the site-specific factors cited above) do result in a conservative estimate of exposures in the cases tested.

The NSF and ASC IHA application and IEE/EA describe the approach to establishing mitigation exclusion and buffer zones. In summary, L–DEO acquired field measurements for several array configurations at shallow- and deep-water depths during acoustic verification studies conducted in the northern Gulf of Mexico in 2003 (Tolstoy *et al.,* 2004) and in 2007 and 2008 (Tolstoy *et al.,* 2009). Based on the empirical data from those studies, L–DEO developed a sound propagation modeling approach that conservatively predicts received sound levels as a function of distance from a particular airgun array configuration in deep water. In 2010, L–DEO assessed the accuracy of their modeling approach by comparing the sound levels of the field measurements in the Gulf of Mexico study to its model predictions (Diebold *et al.,* 2010). L–DEO reported that the observed sound levels from the field measurements fell almost entirely below the predicted mitigation radii curve for deep water (Diebold *et al.,* 2010). Based on this information, L–DEO has shown that its model can reliably estimate the mitigation radii in deep water.

L–DEO's model is most directly applicable to deep water. Reflected and refracted arrivals were considered in verifying L–DEO's model. Given the planned seismic survey is entirely in deep water, and the model has been demonstrated to be conservative in deep water, NMFS concludes that the L–DEO model is an effective means to aid in determining potential impacts to marine mammals from the planned seismic survey and estimating take numbers, as well as establishing buffer and exclusion zones for mitigation.

During a March 2013 meeting, L–DEO discussed the L–DEO model with the Commission, NMFS, and NSF. L–DEO compared the Gulf of Mexico (GOM) calibration measurements (Tolstoy *et al.,* 2004; Tolstoy *et al.,* 2009; Diebold *et al.,* 2010) comparison with L–DEO model results. L–DEO showed that at the calibration sites the model overestimated the size of the exclusion zones and, therefore, is likely precautionary in most cases. Based on the best available information that the current model overestimates mitigation zones, we will not require L–DEO to re-estimate the proposed buffer and exclusion zones and associated number of marine mammal takes using operational and site-specific environmental parameters for this IHA.

However, we continue to work with the NSF, ASC, L–DEO, and other related entities on verifying the accuracy of their model. L–DEO is currently analyzing whether received levels can be measured in real-time using the ship's hydrophone streamer to estimate the sound field around the ship and determine actual distances to the buffer and exclusion zones. Crone *et al.* (2013) are analyzing *Langseth* streamer data collected in 2012 off the Washington coast shelf and slope to measure received levels in situ up to 8 km (4.3 nmi) away from the ship. While results confirm the role that bathymetry plays in propagation, it also confirmed that empirical measurements from the GOM survey used to inform buffer and exclusion zones in shallow water and model results adapted for intermediate water depths also over-estimated the size of the zones for the Washington survey. Preliminary results were presented in a poster session at the American Geophysical Union fall meeting in December 2013 (Crone *et al.,* 2013; available at: *http://berna.ldeo.columbia.edu/agu2013/agu2013.pdf*) and a peer-reviewed journal publication is anticipated in 2014. When available, NMFS will review and consider the final results and how they reflect on the L–DEO model.

L–DEO has conveyed to NMFS that additional modeling efforts to refine the process and conduct comparative analysis may be possible with the availability of research funds and other resources. Obtaining research funds is typically through a competitive process, including those conducted by federal agencies. The use of models for calculating buffer and exclusion zone radii and developing take estimates is not a requirement of the MMPA ITA process. Furthermore, NMFS does not provide specific guidance on model parameters nor prescribe a specific model for applicants as part of the MMPA ITA process. There is a level of variability not only with parameters in models, but the uncertainty associated with data used in models, and therefore the quality of the model results submitted by applicants. NMFS, however, takes all of this variability into consideration when evaluating applications. Applicants use models as a tool to evaluate potential impacts, to estimate the number of takes of marine mammals, and for mitigation purposes. NMFS takes into consideration the model used and its results in determining the potential impacts to marine mammals; however, it is just a component of NMFS's analysis during the MMPA consultation process, as NMFS also takes into consideration other factors associated with the proposed action, such as geographic location, duration of activities, context, intensity, etc. Takes generated by modeling are used as estimates, not absolutes, and are factored into NMFS's analysis accordingly. Of broader note, NMFS is currently pursuing methods that include site-specific components to allow us to better cross-check isopleth and propagation predictions submitted by applicants. Using this information, NMFS could potentially recommend modifications to take estimates and/or mitigation zones, as appropriate.

Comment 3: The Commission states that in 2011, NSF and USGS modeled sound propagation under various environmental conditions in their PEIS. L–DEO and NSF (in cooperation with Pacific Gas and Electric Company [PG&E]) also used a similar modeling approach in the recent IHA application and associated EA for a seismic survey of Diablo Canyon in California (77 FR 58256). These recent examples indicate that L–DEO, NSF, and related entities are able to implement the recommended approach, if required to do so by NMFS. The Commission understands the constraints imposed by the current budgetary environment, but notes that other agencies that contend with similar funding constraints incorporate modeling based on site-specific parameters. USGS, L–DEO, NSF, and related entities should be held to that same standard. NMFS recently indicated that it does not, and does not believe it is appropriate to, prescribe the use of any particular modeling package (79 FR 38499). The Commission agrees that NMFS should not instruct applicants to use specific contractors or modeling packages, but it should hold applicants to the same standard, primarily one in which site- and operation-specific environmental parameters are incorporated into the models.

Response: PG&E submitted an IHA application to NMFS and the U.S. Fish and Wildlife Service for the Central Coastal California Seismic Imaging Project in 2012. The IHA application included a report of acoustic propagation modeling conducted by Greeneridge Sciences, Inc., sponsored by Padre Associates, Inc., to estimate received sound pressure level radii for airgun pulses operating off central California in the vicinity of the Diablo Canyon Nuclear Power Plant. A wave-

theory model and precise waveguide parameters that describe sound reflections and refractions at the ocean surface, seafloor, and water column were used to accurately model sound transmission in the ocean. As the action proponent, PG&E funded the seismic survey and related environmental compliance documents (e.g., IHA application, Environmental Assessment, etc.). NSF, as the owner of the *Langseth,* served as the federal nexus for the ESA section 7 consultation and need for the preparation of the NEPA document. L–DEO is the operator of the *Langseth* and often applies for IHAs for NSF-funded seismic surveys conducted for scientific research purposes.

There are many different modeling products and services commercially available that applicants could potentially use in developing their take estimates and analyses for MMPA ITAs. These different models range widely in cost, complexity, and the number of specific factors that can be considered in any particular modeling run. NMFS does not, and does not believe that it is appropriate to, prescribe the use of any particular modeling package. Rather, each applicant's approach is evaluated independently in the context of its activity. In cases where simpler models are used and there is concern that a model might not capture the variability across a parameter(s) that is not represented in the model, conservative choices are often made at certain decision points in the model to help ensure that modeled estimates are buffered in a manner that would not result in the agency underestimating the number of takes or extent of effects. In this case, results have shown that L–DEO's model reliably and conservatively estimates mitigation radii in deep water. The observed sound levels from the field measurements fell almost entirely below L–DEO's estimated mitigation radii for deep water (Diebold *et al.,* 2010). Based on these empirical data, which illustrate the model's conservative exposure estimates across two sites, NMFS finds that L–DEO's model effectively estimates sound exposures.

NMFS encourages applicants to incorporate modeling based on site-specific and operation-specific parameters in their IHA applications, whenever possible, but it is unrealistic to require all applicants to do so in IHA applications and/or NEPA documents (EAs and EISs) as activities may vary in their scope and level of anticipated impacts, and applicants may have varying funding and resource constraints. However, it is still incumbent upon NMFS to take the uncertainty that comes along with varying models into consideration in both the analysis of effects and the consideration of mitigation measures. In this case, as described elsewhere in this section, we have considered the uncertainty associated with the applicant's model and have determined that it does not change either our findings regarding the anticipated level and severity of impacts on marine mammals or our conclusion that the mitigation measures required provide the means of effecting the least practicable impact on the affected species or stocks and their habitat.

Of broader note, NMFS is currently pursuing methods (that include site-specific components) to allow us to better cross-check isopleth and propagation predictions submitted by applicants. Using this information, we could potentially recommend modifications to take estimates and/or mitigation zones, as appropriate.

Comment 4: The Commission recommends that NMFS either estimate the numbers of takes that could occur during the bathymetric survey, which includes the use of the multi-beam echosounder and sub-bottom profiler absent the airguns, based on the 120 dB (rms) threshold rather than the 160 dB (rms) threshold, or not include authorization for taking by the acoustic sources (echosounder, sub-bottom profiler, ADCP) in the final IHA.

Response: NMFS disagrees with the Commission's recommendation that NMFS require NSF and ASC to estimate the number of marine mammals taken when the single-beam and multi-beam echosounder, ADCP, and sub-bottom profiler are used in the absence of the airgun array based on the 120 dB (rms) threshold, for continuous sounds, rather than the 160 dB (rms) threshold, for impulsive sounds. 160 dB (rms) is the appropriate threshold for these sound sources. Continuous sounds are those whose sound pressure level remains above that of the ambient sound, with negligibly small fluctuations in level (NIOSH, 1998; ANSI, 2005), while intermittent sounds are defined as sounds with interrupted levels of low or no sound (NIOSH, 1998). Echosounder signals are emitted as separate pulses separated by silence, and thus are not continuous sounds but rather intermittent sounds. Intermittent sounds can further be defined as either impulsive or non-impulsive. Impulsive sounds have been defined as sounds which are typically transient, brief (less than 1 second), broadband, and consist of a high peak pressure with rapid rise time and rapid decay (ANSI, 1986; NIOSH, 1998). Echosounder signals also have durations that are typically very brief (less than 1 second), with temporal characteristics that more closely resemble those of impulsive sounds than non-impulsive sounds, which typically have more gradual rise times and longer decays (ANSI, 1995; NIOSH, 1998). With regard to behavioral thresholds, we therefore consider the temporal and spectral characteristics of echosounder signals to more closely resemble those of an impulsive sound than a continuous sound.

The Commission suggests that, for certain sources considered here, the interval between pulses would not be discernible to the animal, thus rendering them effectively continuous. However, an echosounder's ''rapid staccato'' of pulse trains is emitted in a similar fashion as odontocete echolocation click trains. Research indicates that marine mammals, in general, have extremely fine auditory temporal resolution and can detect each signal separately (e.g., Au *et al.*, 1988; Dolphin *et al.*, 1995; Supin and Popov, 1995; Mooney *et al.*, 2009), especially species with echolocation capabilities. Therefore, it is highly unlikely that marine mammals would perceive echosounder signals as being continuous.

In conclusion, echosounder, ADCP, and sub-bottom profiler signals are intermittent rather than continuous signals, and the fine temporal resolution of the marine mammals auditory systems allows them to perceive these sounds as such. Further, the physical characteristics of these signals indicate a greater similarity to the way that intermittent, impulsive sounds are received. Therefore, the 160 dB threshold (typically associated with impulsive sources) is more appropriate than the 120 dB threshold (typically associated with continuous sources) for estimating takes by behavioral harassment incidental to use of such sources.

Comment 5: The Commission believes that NMFS misinterpreted its implementing regulations, which require that applicants include ''the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species, the level of taking or impacts on populations of marine mammals that are expected to be present while conducting activities, and suggested means of minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activity.'' The Commission believes that monitoring and reporting requirements need to be

sufficient to provide accurate information on the numbers of marine mammals being taken and the manner in which they are taken, not merely better information on the qualitative nature of the impacts. The Commission continues to believe that appropriate g(0) and f(0) values are essential for making accurate estimates of the numbers of marine mammals taken during surveys. The Commission recommends that NMFS consult with the funding agency (e.g., NSF) and individual applicants (e.g., ASC, L–DEO, USGS, SIO, and other related entities) to develop, validate, and implement a monitoring program that provides a scientifically sound, reasonably accurate assessment of the types of marine mammal takes and the actual numbers of marine mammals taken, accounting for applicable g(0) and f(0) values.

Response: NMFS does not believe that we misinterpreted the MMPA implementing regulations in our previous response that the Commission references. With respect to levels of take, NMFS interprets the sentence quoted by the Commission to require the applicants include suggested monitoring and reporting that will result in ''an increased knowledge of . . . the level of taking . . .'' This is the most logical interpretation, because if we were to assume that the phrase ''increased knowledge of'' does not modify ''the level of taking,'' then the sentence would read: ''the suggested means of accomplishing the necessary monitoring and reporting that will result in . . . the level of taking . . . ,'' which does not make sense.

Even putting any potential grammatical questions aside, NMFS does not believe that the regulations suggests that the monitoring conducted by an authorized entity must be able to quantify the exact number of takes that occurred during the action, but rather that the monitoring increase understanding of the level and effects of the action. In fact, the Commission's comment supports this interpretation. As noted by the Commission, section 101(a)(5)(D)(iv) requires that NMFS ''modify, suspend, or revoke an authorization'' if it finds, among other things, that the authorized taking is having more than a negligible impact or that more than small numbers of marine mammals are being taken. Both the negligible impact and small numbers findings may be made using qualitative, or relative (compared to the stock abundance) information. The sorts of qualitative, or relative information collected during the wide variety of monitoring that is conducted pursuant to MMPA authorizations can be used to provide broad support for the findings underlying the issuance of an IHA or can highlight red flags that might necessitate either a reconsideration of an issued IHA or a change in analyses in future authorizations. NMFS's previous response is included below for reference.

NMFS's implementing regulations require that applicants include monitoring that will result in ''an increased knowledge of the species, the level of taking or impacts on populations of marine mammals that are expected to be present while conducting activities . . .'' This increased knowledge of the level of taking could be qualitative or relative in nature, or it could be more directly quantitative. Scientists use g(0) and f(0) values in systematic marine mammal surveys to account for the undetected animals indicated above; however, these values are not simply established and the g(0) value varies across every observer based on their sighting acumen. While we want to be clear that NMFS does not generally believe that post-activity take estimates using f(0) and g(0) are required to meet the monitoring requirement of the MMPA, in the context of the NSF and L–DEO's monitoring plan, NMFS agrees that developing and incorporating a way to better interpret the results of their monitoring (perhaps a simplified or generalized version of g(0) and f(0)) is a good idea. NMFS is continuing to examine this issue with NSF (and other entities) to develop ways to improve their post-survey take estimates. NMFS will consult with the Commission and NMFS scientists prior to finalizing these recommendations.

NMFS notes that current monitoring measures for past and current IHAs for research seismic surveys require the collection of visual observation data by PSOs prior to, during, and after airgun operations. This data collection may contribute to baseline data on marine mammals (e.g., presence/absence) and provide some generalized support for estimated take numbers (as well as providing data regarding behavioral responses to seismic operation that are observable at the surface). However, it is unlikely that the information gathered from these cruises alone would result in any statistically robust conclusions for any particular species because of the small numbers of animals typically observed.

Comment 6: One private citizen opposed the issuance of an IHA by NMFS and the conduct of the low-energy seismic survey in the Scotia Sea and South Atlantic Ocean, September to October 2014 by NSF and ASC. The commenter stated that NMFS should protect marine life from harm.

Response: As described in detail in the notice of the proposed IHA (79 FR 45592, August 5, 2014), as well as in this document, NMFS does not believe NSF and ASC's low-energy seismic survey would cause injury, serious injury, or mortality to marine mammals, and no take by injury, serious injury, or mortality is authorized. The required monitoring and mitigation measures that NSF and ASC will implement during the low-energy seismic survey will further reduce the potential impacts on marine mammals to the lowest level practicable. NMFS anticipates only behavioral disturbance to occur during the conduct of the low-energy seismic survey.

Description of the Marine Mammals in the Specified Geographic Area of the Specified Activity

Various national Antarctic research programs (e.g., British Antarctic Survey, Australian Antarctic Division, and NMFS National Marine Mammal Laboratory), academic institutions (e.g., Duke University, University of St. Andrews, and Woods Hole Oceanographic Institution), and other organizations (e.g., South Georgia Museum, Fundacion Cethus, Whale and Dolphin Conservation, and New England Aquarium) have conducted scientific cruises and/or examined data on marine mammal sightings along the coast of Antarctica, south Atlantic Ocean, Scotia Sea, and around South Georgia and South Sandwich islands, and these data were considered in evaluating potential marine mammals in the action area. Records from the International Whaling Commission's International Decade of Cetacean Research (IDCR), Southern Ocean Collaboration Program (SOC), and Southern Ocean Whale and Ecosystem Research (IWC–SOWER) circumpolar cruises were also considered.

The marine mammals that generally occur in the planned action area belong to three taxonomic groups: mysticetes (baleen whales), odontocetes (toothed whales), and pinnipeds (seals and sea lions). The marine mammal species that could potentially occur within the southern Atlantic Ocean in proximity to the action area in the Scotia Sea include 32 species of cetaceans and 7 species of pinnipeds.

The waters of the Scotia Sea and southern Atlantic Ocean, especially those near South Georgia Island, are characterized by high biomass and productivity of phytoplankton, zooplankton, and vertebrate predators,

and may be a feeding ground for many of these marine mammals (Richardson, 2012). In general, many of the species present in the sub-Antarctic study area may be present or migrating through the Scotia Sea during the planned low-energy seismic survey. Many of the species that may be potentially present in the study area seasonally migrate to higher latitudes near Antarctica. In general, most large whale species (except for the killer whale) migrate north in the middle of the austral winter and return to Antarctica in the early austral summer.

The six species of pinnipeds that are found in the southern Atlantic Ocean and Southern Ocean and may be present in the planned study area include the crabeater (*Lebodon carcinophagus*), leopard (*Hydrurga leptonyx*), Weddell (*Leptonychotes weddellii*), southern elephant (*Mirounga leonina*), Antarctic fur (*Arctocephalus gazella*), and Subantarctic fur (*Arctocephalus tropicalis*) seal. Many of these pinniped species breed on either the pack ice or subantarctic islands. The southern elephant seal and Antarctic fur seal have haul-outs and rookeries that are located on subantarctic islands and prefer beaches. The Ross seal (*Ommatophoca rossii*) is generally found in dense consolidated pack ice and on ice floes, but may migrate into open water to forage. This species' preferred habitat is not in the planned study area, and thus it is not considered further in this document.

Marine mammal species likely to be encountered in the planned study area that are listed as endangered under the U.S. Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*), includes the southern right (*Eubalaena australis*), humpback (*Megaptera novaeangliae*), sei (*Balaenoptera borealis*), fin (*Balaenoptera physalus*), blue (*Balaenoptera musculus*), and sperm (*Physeter macrocephalus*) whale.

In addition to the 26 species known to occur in the Scotia Sea and the southern Atlantic Ocean, there are 14 cetacean species with ranges that are known to potentially occur in the waters of the study area: pygmy right (*Caperea marginata*), Bryde's (*Balaenoptera brydei*), dwarf minke (*Balaenoptera acutorostrata* spp.), pygmy blue (*Balaenoptera musculus brevicauda*), pygmy sperm (*Kogia breviceps*), dwarf sperm (*Kogia sima*), Andrew's beaked (*Mesoplodon bowdoini*), Blainville's beaked (*Mesoplodon densirostris*), Hector's beaked (*Mesoplodon hectori*), and spade-toothed beaked (*Mesoplodon traversii*) whale, and Commerson's (*Cephalorhynchus commersonii*), Dusky (*Lagenorhynchus obscurus*), bottlenose (*Tursiops truncatus*), and Risso's (*Grampus griseus*) dolphin. However, these species have not been sighted and are not expected to occur where the planned activities will take place. These species are not considered further in this document. Table 2 (below) presents information on the habitat, occurrence, distribution, abundance, population status, and conservation status of the species of marine mammals that may occur in the planned study area during September to October 2014.

TABLE 2—THE HABITAT, OCCURRENCE, RANGE, REGIONAL ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE LOW-ENERGY SEISMIC SURVEY AREA IN THE SCOTIA SEA AND SOUTHERN ATLANTIC OCEAN

[See text and Tables 6 and 7 in NSF and ASC's IHA application for further details]

Species	Habitat	Occurrence	Range	Population estimate	ESA [1]	MMPA [2]
Mysticetes:						
Southern right whale (*Eubalaena australis*).	Coastal, pelagic	Common	Circumpolar 20 to 55° South.	8,000 [3] to 15,000 [4]	EN	D
Pygmy right whale (*Caperea marginata*).	Coastal, pelagic	Rare	30 to 55° South	NA	NL	NC
Humpback whale (*Megaptera novaeangliae*).	Pelagic, nearshore waters, and banks.	Common	Cosmopolitan	35,000 to 40,000 [3]—Worldwide, 9,484 [5]—Scotia Sea and Antarctica Peninsula.	EN	D
Minke whale (*Balaenoptera acutorostrata* including dwarf sub-species).	Pelagic and coastal	Common	Circumpolar—Southern Hemisphere to 65° South.	NA	NL	NC
Antarctic minke whale (*Balaenoptera bonaerensis*).	Pelagic, ice floes	Common	7° South to ice edge (usually 20 to 65° South).	Several 100,000 [3]—Worldwide, 18,125 [5]—Scotia Sea and Antarctica Peninsula.	NL	NC
Bryde's whale (*Balaenoptera brydei*).	Pelagic and coastal	Rare	Circumglobal 40° North to 40° South.	NA	NL	NC
Sei whale (*Balaenoptera borealis*).	Primarily offshore, pelagic.	Uncommon	Migratory, Feeding Concentration 40 to 50° South.	80,000 [3]—Worldwide	EN	D
Fin whale (*Balaenoptera physalus*).	Continental slope, pelagic.	Common	Cosmopolitan, Migratory.	140,000 [3]—Worldwide, 4,672 [5]—Scotia Sea and Antarctica Peninsula.	EN	D
Blue whale (*Balaenoptera musculus;* including pygmy blue whale [*Balaenoptera musculus brevicauda*]).	Pelagic, shelf, coastal	Uncommon	Migratory Pygmy blue whale—North of Antarctic Convergence 55° South.	8,000 to 9,000 [3]—Worldwide, 1,700 [6]—Southern Ocean.	EN	D
Odontocetes:						
Sperm whale (*Physeter macrocephalus*).	Pelagic, deep sea	Common	Cosmopolitan, Migratory.	360,000 [3]—Worldwide, 9,500 [3]—Antarctic.	EN	D

TABLE 2—THE HABITAT, OCCURRENCE, RANGE, REGIONAL ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE LOW-ENERGY SEISMIC SURVEY AREA IN THE SCOTIA SEA AND SOUTHERN ATLANTIC OCEAN—Continued

[See text and Tables 6 and 7 in NSF and ASC's IHA application for further details]

Species	Habitat	Occurrence	Range	Population estimate	ESA [1]	MMPA [2]
Pygmy sperm whale (*Kogia breviceps*).	Pelagic, slope	Rare	Widely distributed in tropical and temperate zones.	NA	NL	NC
Dwarf sperm whale (*Kogia sima*).	Pelagic, slope	Rare	Widely distributed in tropical and temperate zones.	NA	NL	NC
Arnoux's beaked whale (*Berardius arnuxii*).	Pelagic	Common	Circumpolar in Southern Hemisphere, 24 to 78° South.	NA	NL	NC
Cuvier's beaked whale (*Ziphius cavirostris*).	Pelagic	Uncommon	Cosmopolitan	NA	NL	NC
Shepherd's beaked whale (*Tasmacetus shepherdi*).	Pelagic	Common	Circumpolar—south of 30° South.	NA	NL	NC
Southern bottlenose whale (*Hyperoodon planifrons*).	Pelagic	Common	Circumpolar—30° South to ice edge.	500,000 [3]—South of Antarctic Convergence.	NL	NC
Andrew's beaked whale (*Mesoplodon bowdoini*).	Pelagic	Rare	32 to 55° South	NA	NL	NC
Blainville's beaked whale (*Mesoplodon densirostris*).	Pelagic	Rare	Temperate and tropical waters worldwide.	NA	NL	NC
Gray's beaked whale (*Mesoplodon grayi*).	Pelagic	Common	30° South to Antarctic waters.	NA	NL	NC
Hector's beaked whale (*Mesoplodon hectori*).	Pelagic	Rare	Circumpolar—cool temperate waters of Southern Hemisphere.	NA	NL	NC
Spade-toothed beaked whale (*Mesoplodon traversii*).	Pelagic	Rare	Circumantarctic	NA	NL	NC
Strap-toothed beaked whale (*Mesoplodon layardii*).	Pelagic	Common	30° South to Antarctic Convergence.	NA	NL	NC
Killer whale (*Orcinus orca*).	Pelagic, shelf, coastal, pack ice.	Common	Cosmopolitan	80,000 [3]—South of Antarctic Convergence, 25,000 [7]—Southern Ocean.	NL	NC
Long-finned pilot whale (*Globicephala melas*).	Pelagic, shelf, coastal	Common	Circumpolar—19 to 68° South in Southern Hemisphere.	200,000 [3 8]—South of Antarctic Convergence.	NL	NC
Risso's dolphin (*Grampus griseus*).	Shelf, slope, seamounts	Rare	60° North to 60° South	NA	NL	NC
Bottlenose dolphin (*Tursiops truncatus*).	Offshore, inshore, coastal, estuaries.	Rare	45° North to 45° South	>625,500 [3]—Worldwide	NL	NC
Southern right whale dolphin (*Lissodelphis peronii*).	Pelagic	Uncommon	12 to 65° South	NA	NL	NC
Peale's dolphin (*Lagenorhynchus australis*).	Coastal, continental shelf, islands.	Uncommon	33 to 60° South	NA, 200—southern Chile [3].	NL	NC
Commerson's dolphin (*Cephalorhynchus commersonii*).	Coastal, continental shelf, islands.	Rare	South America, Falkland Islands, Kerguelen Islands.	3,200—Strait of Magellan [3].	NL	NC
Dusky dolphin (*Lagenorhynchus obscurus*).	Coastal, continental shelf and slope.	Rare	Widespread in Southern Hemisphere.	NA	NL	NC
Hourglass dolphin (*Lagenorhynchus cruciger*).	Pelagic, ice edge	Common	33° South to pack ice	144,000 [3]—South of Antarctic Convergence.	NL	NC
Spectacled porpoise (*Phocoena dioptrica*).	Coastal, pelagic	Uncommon	Circumpolar—Southern Hemisphere.	NA	NL	NC
Pinnipeds:						
Crabeater seal (*Lobodon carcinophaga*).	Coastal, pack ice	Common	Circumpolar—Antarctic	5,000,000 to 15,000,000 [3 9].	NL	NC
Leopard seal (*Hydrurga leptonyx*).	Pack ice, sub-Antarctic islands.	Common	Sub-Antarctic islands to pack ice.	220,000 to 440,000 [3 10]	NL	NC

TABLE 2—THE HABITAT, OCCURRENCE, RANGE, REGIONAL ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE LOW-ENERGY SEISMIC SURVEY AREA IN THE SCOTIA SEA AND SOUTHERN ATLANTIC OCEAN—Continued

[See text and Tables 6 and 7 in NSF and ASC's IHA application for further details]

Species	Habitat	Occurrence	Range	Population estimate	ESA [1]	MMPA [2]
Ross seal (*Ommatophoca rossii*).	Pack ice, smooth ice floes, pelagic.	Rare	Circumpolar—Antarctic	130,000 [3] 20,000 to 220,000 [14].	NL	NC
Weddell seal (*Leptonychotes weddellii*).	Fast ice, pack ice, sub-Antarctic islands.	Uncommon ...	Circumpolar—Southern Hemisphere.	500,000 to 1,000,000 [3 11].	NL	NC
Southern elephant seal (*Mirounga leonina*).	Coastal, pelagic, sub-Antarctic waters.	Common	Circumpolar—Antarctic Convergence to pack ice.	640,000 [12] to 650,000 [3], 470,000—South Georgia Island [14].	NL	NC
Antarctic fur seal (*Arctocephalus gazella*).	Shelf, rocky habitats	Common	Sub-Antarctic islands to pack ice edge.	1,600,000 [13] to 3,000,000 [3].	NL	NC
Subantarctic fur seal (*Arctocephalus tropicalis*).	Shelf, rocky habitats	Uncommon ...	Subtropical front to sub-Antarctic islands and Antarctica.	Greater than 310,000 [3]	NL	NC

NA = Not available or not assessed.
[1] U.S. Endangered Species Act: EN = Endangered, T = Threatened, DL = Delisted, NL = Not listed.
[2] U.S. Marine Mammal Protection Act: D = Depleted, S = Strategic, NC = Not Classified.
[3] Jefferson *et al.,* 2008.
[4] Kenney, 2009.
[5] Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) survey area (Reilly *et al.,* 2004).
[6] Sears and Perrin, 2009.
[7] Ford, 2009.
[8] Olson, 2009.
[9] Bengston, 2009.
[10] Rogers, 2009.
[11] Thomas and Terhune, 2009.
[12] Hindell and Perrin, 2009.
[13] Arnould, 2009.
[14] Academic Press, 2009.

Refer to sections 3 and 4 of NSF and ASC's IHA application for detailed information regarding the abundance and distribution, population status, and life history and behavior of these other marine mammal species and their occurrence in the planned project area. The IHA application also presents how NSF and ASC calculated the estimated densities for the marine mammals in the study area. NMFS has reviewed these data and determined them to be the best available scientific information for the purposes of the IHA.

Potential Effects of the Specified Activity on Marine Mammals

This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (e.g., seismic airgun operation, vessel movement, gear deployment) have been observed to impact marine mammals. This discussion may also include reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of take (for example, with acoustics, we may include a discussion of studies that showed animals not reacting at all to sound or exhibiting barely measureable avoidance). This section is intended as a background of potential effects and does not consider either the specific manner in which this activity will be carried out or the mitigation that will be implemented, and how either of those would shape the anticipated impacts from this specific activity. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Mitigation'' section, and the ''Anticipated Effects on Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms have been derived using auditory evoked potentials, anatomical modeling, and other data, Southall *et al.* (2007) designate ''functional hearing groups'' for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (though animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range):

- Low-frequency cetaceans (13 species of mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 30 kHz;
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (eight species of true porpoises, six species of river dolphins, *Kogia* spp., the franciscana [*Pontoporia blainvillei*], and four species of cephalorhynchids): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz; and
- Phocid pinnipeds in water: Functional hearing is estimated to occur

between approximately 75 Hz and 100 kHz;

• Otariid pinnipeds in water: Functional hearing is estimated to occur between approximately 100 Hz and 40 kHz.

As mentioned previously in this document, 26 marine mammal species (20 cetacean and 6 pinniped species) are likely to occur in the seismic survey area. Of the 20 cetacean species likely to occur in NSF and ASC's action area, 7 are classified as low-frequency cetaceans (southern right, humpback, minke, Antarctic minke, sei, fin, and blue whale), 12 are classified as mid-frequency cetaceans (sperm, Arnoux's beaked, Cuvier's beaked, Shepherd's beaked, southern bottlenose, Gray's beaked, strap-toothed beaked, killer, and long-finned pilot whale, and southern right whale, Peale's, and hourglass dolphin), and 1 is classified as a high-frequency cetacean (spectacled porpoise) (Southall *et al.,* 2007). Of the 6 pinniped species likely to occur in NSF and ASC's planned action area, 4 are classified as phocid pinnipeds (crabeater, leopard, Weddell, and southern elephant seal), and 2 are classified as otariid pinnipeds (Antarctic and Subantarctic fur seal) (Southall *et al.,* 2007). A species functional hearing group is a consideration when we analyze the effects of exposure to sound on marine mammals.

Acoustic stimuli generated by the operation of the airguns, which introduce sound into the marine environment, may have the potential to cause Level B harassment of marine mammals in the survey area. The effects of sounds from airgun operations might include one or more of the following: Tolerance, masking of natural sounds, behavioral disturbance, temporary or permanent hearing impairment, or non-auditory physical or physiological effects (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007). Permanent hearing impairment, in the unlikely event that it occurred, would constitute injury, but temporary threshold shift (TTS) is not an injury (Southall *et al.,* 2007). Although the possibility cannot be entirely excluded, it is unlikely that the planned project will result in any cases of temporary or permanent hearing impairment, or any significant non-auditory physical or physiological effects. Based on the available data and studies described here, some behavioral disturbance is expected, but NMFS expects the disturbance to be localized and short-term. NMFS described the range of potential effects from the specified activity in the notice of the proposed IHA (79 FR 45592). A more comprehensive review of these issues can be found in the ''Programmatic Environmental Impact Statement/ Overseas Environmental Impact Statement prepared for Marine Seismic Research that is funded by the National Science Foundation and conducted by the U.S. Geological Survey'' (NSF/ USGS, 2011) and L–DEO's ''Draft Environmental Assessment of a Marine Geophysical Survey by the R/V *Marcus G. Langseth* in the Atlantic Ocean off Cape Hatteras, September to October 2014.''

The notice of the proposed IHA (79 FR 45592, August 5, 2014) included a discussion of the effects of sounds from airguns on mysticetes and odontocetes, including tolerance, masking, behavioral disturbance, hearing impairment, and other non-auditory physical effects. NMFS refers the readers to USGS's IHA application and EA for additional information on the behavioral reactions (or lack thereof) by all types of marine mammals to seismic vessels.

Anticipated Effects on Marine Mammal Habitat

NMFS included a detailed discussion of the potential effects of this action on marine mammal habitat, including physiological and behavioral effects on marine fish and invertebrates, in the notice of the proposed IHA (79 FR 45592, August 5, 2014). The seismic survey will not result in any permanent impacts on habitats used by the marine mammals in the study area, including the food sources they use (i.e., fish and invertebrates), and there will be no physical damage to any habitat. While NMFS anticipates that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible, which was considered in further detail in the notice of the proposed IHA (79 FR 45592, August 5, 2014), as behavioral modification. The main impact associated with the activity will be temporarily elevated noise levels and the associated direct effects on marine mammals.

Mitigation

In order to issue an Incidental Take Authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses (where relevant).

NSF and ASC reviewed the following source documents and have incorporated a suite of appropriate mitigation measures into their project description.

(1) Protocols used during previous NSF and USGS-funded seismic research cruises as approved by NMFS and detailed in the ''Final Programmatic Environmental Impact Statement/ Overseas Environmental Impact Statement for Marine Seismic Research Funded by the National Science Foundation or Conducted by the U.S. Geological Survey;''

(2) Previous IHA applications and IHAs approved and authorized by NMFS; and

(3) Recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman, (2007).

To reduce the potential for disturbance from acoustic stimuli associated with the planned activities, NSF, ASC, and their designees shall implement the following mitigation measures for marine mammals:

(1) Exclusion zones around the sound source;

(2) Speed and course alterations;

(3) Shut-down procedures; and

(4) Ramp-up procedures.

Exclusion Zones—During pre-planning of the cruise, the smallest airgun array was identified that could be used and still meet the geophysical scientific objectives. NSF and ASC use radii to designate exclusion and buffer zones and to estimate take for marine mammals. Table 3 (see below) shows the distances at which one would expect to receive three sound levels (160, 180, and 190 dB) from the two GI airgun array. The 180 and 190 dB level shut-down criteria are applicable to cetaceans and pinnipeds, respectively, as specified by NMFS (2000). NSF and ASC used these levels to establish the exclusion and buffer zones.

TABLE 3—PREDICTED AND MODELED (TWO 105 IN^3 GI AIRGUN ARRAY) DISTANCES TO WHICH SOUND LEVELS ≥ 160, 180, AND 190 dB re 1 μPa (rms) COULD BE RECEIVED IN DEEP WATER DURING THE LOW-ENERGY SEISMIC SURVEY IN THE SCOTIA SEA AND THE SOUTHERN ATLANTIC OCEAN, SEPTEMBER TO OCTOBER 2014

Source and total volume	Tow depth (m)	Water depth (m)	Predicted RMS radii distances (m) for 2 GI airgun array		
			160 dB	180 dB	190 dB
Two GI Airguns (105 in^3)	3 to 4	Deep >(1,000)	670 ..... (2,198.2 ft)	100 (328.1 ft)	20 (65.6 ft) * 100 will be used for pinnipeds as well as cetaceans*.

Received sound levels have been modeled by L–DEO for a number of airgun configurations, including two 45 in^3 Nucleus G airguns, in relation to distance and direction from the airguns (see Figure 2 of the IHA application). In addition, propagation measurements of pulses from two GI airguns have been reported for shallow water (approximately 30 m [98.4 ft] depth) in the GOM (Tolstoy *et al.,* 2004). However, measurements were not made for the two GI airguns in deep water. The model does not allow for bottom interactions, and is most directly applicable to deep water. Based on the modeling, estimates of the maximum distances from the GI airguns where sound levels are predicted to be 190, 180, and 160 dB re 1 μPa (rms) in shallow, intermediate, and deep water were determined (see Table 3 above).

Empirical data concerning the 190, 180, and 160 dB (rms) distances were acquired for various airgun arrays based on measurements during the acoustic verification studies conducted by L–DEO in the northern GOM in 2003 (Tolstoy *et al.,* 2004) and 2007 to 2008 (Tolstoy *et al.,* 2009). Results of the 18 and 36 airgun arrays are not relevant for the two GI airguns to be used in the planned survey because the airgun arrays are not the same size or volume. The empirical data for the 6, 10, 12, and 20 airgun arrays indicate that, for deep water, the L–DEO model tends to overestimate the received sound levels at a given distance (Tolstoy *et al.,* 2004). Measurements were not made for the two GI airgun array in deep water; however, NSF and ASC plan to use the safety radii predicted by L–DEO's model for the planned GI airgun operations in deep water, although they are likely conservative given the empirical results for the other arrays.

Based on the modeling data, the outputs from the pair of 105 in^3 GI airguns planned to be used during the seismic survey are considered a low-energy acoustic source in the NSF/USGS PEIS (2011) for marine seismic research. A low-energy seismic source was defined in the NSF/USGS PEIS as an acoustic source whose received level at 100 m is less than 180 dB. The NSF/USGS PEIS also established for these low-energy sources, a standard exclusion zone of 100 m for all low-energy sources in water depths greater than 100 m. This standard 100 m exclusion zone will be used during the planned low-energy seismic survey. The 180 and 190 dB (rms) radii are shut-down criteria applicable to cetaceans and pinnipeds, respectively, as specified by NMFS (2000); these levels were used to establish exclusion zones. Therefore, the assumed 180 and 190 dB radii are 100 m for intermediate and deep water. If the PSO detects a marine mammal within or about to enter the appropriate exclusion zone, the airguns will be shut-down immediately.

Speed and Course Alterations—If a marine mammal is detected outside the exclusion zone and, based on its position and direction of travel (relative motion), is likely to enter the exclusion zone, changes of the vessel's speed and/or direct course will be considered if this does not compromise operational safety or damage the deployed equipment. This will be done if operationally practicable while minimizing the effect on the planned science objectives. For marine seismic surveys towing large streamer arrays, course alterations are not typically implemented due to the vessel's limited maneuverability. However, the *Palmer* will be towing a relatively short hydrophone streamer, so its maneuverability during airgun operations with the hydrophone streamer will not be limited as vessels towing long streamers, thus increasing the potential to implement course alterations, if necessary. After any such speed and/or course alteration is begun, the marine mammal activities and movements relative to the seismic vessel will be closely monitored to ensure that the marine mammal does not approach within the exclusion zone. If the marine mammal appears likely to enter the exclusion zone, further mitigation actions will be taken, including further speed and/or course alterations, and/or shut-down of the airgun(s). Typically, during airgun operations, the source vessel is unable to change speed or course, and one or more alternative mitigation measures will need to be implemented.

Shut-down Procedures—If a marine mammal is detected outside the exclusion zone for the airgun(s) and the vessel's speed and/or course cannot be changed to avoid having the animal enter the exclusion zone, NSF and ASC will shut-down the operating airgun(s) before the animal is within the exclusion zone. Likewise, if a marine mammal is already within the exclusion zone when first detected, the seismic source will be shut-down immediately.

Following a shut-down, NSF and ASC will not resume airgun activity until the marine mammal has cleared the exclusion zone. NSF and ASC will consider the animal to have cleared the exclusion zone if:

- A PSO has visually observed the animal leave the exclusion zone, or
- A PSO has not sighted the animal within the exclusion zone for 15 minutes for species with shorter dive durations (i.e., small odontocetes and pinnipeds), or 30 minutes for species with longer dive durations (i.e., mysticetes and large odontocetes, including sperm, pygmy and dwarf sperm, killer, and beaked whales).

Although power-down procedures are often standard operating practice for seismic surveys, they will not be used during this planned seismic survey because powering-down from two airguns to one airgun would make only a small difference in the exclusion zone(s) that probably would not be enough to allow continued one-airgun operations if a marine mammal came within the exclusion zone for two airguns.

Ramp-up Procedures—Ramp-up of an airgun array provides a gradual increase in sound levels, and involves a step-wise increase in the number and total volume of airguns firing until the full volume of the airgun array is achieved. The purpose of a ramp-up is to ''warn'' marine mammals in the vicinity of the airguns and to provide the time for them to leave the area, avoiding any potential injury or impairment of their hearing

abilities. NSF and ASC will follow a ramp-up procedure when the airgun array begins operating after a specified period without airgun operations or when a shut-down has exceeded that period. NSF and ASC proposed that, for the present cruise, this period would be approximately 15 minutes. SIO, L–DEO, and USGS have used similar periods (approximately 15 minutes) during previous low-energy seismic surveys.

Ramp-up will begin with a single GI airgun (105 in^3). The second GI airgun (105 in^3) will be added after 5 minutes. During ramp-up, the PSOs will monitor the exclusion zone, and if marine mammals are sighted, a shut-down will be implemented as though both GI airguns were operational.

If the complete exclusion zone has not been visible for at least 30 minutes prior to the start of operations in either daylight or nighttime, NSF and ASC will not commence the ramp-up. Given these provisions, it is likely that the airgun array will not be ramped-up from a complete shut-down at night or in thick fog, because the outer part of the exclusion zone for that array would not be visible during those conditions. If one airgun has operated, ramp-up to full power will be permissible at night or in poor visibility, on the assumption that marine mammals will be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away if they choose. A ramp-up from a shut-down may occur at night, but only where the exclusion zone is small enough to be visible. NSF and ASC will not initiate a ramp-up of the airguns if a marine mammal is sighted within or near the applicable exclusion zones during the day or close to the vessel at night.

Mitigation Conclusions

NMFS has carefully evaluated the applicant's mitigation measures and has considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. NMFS's evaluation of potential measures included consideration of the following factors in relation to one another:

(1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;

(2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

(3) The practicability of the measure for applicant implementation including consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the activity.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance of minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of airguns, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(3) A reduction in the number of time (total number or number at biologically important time or location) individuals would be exposed to received levels of airguns, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(4) A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of airguns, or other activities, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

(5) Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on NMFS's evaluation of the applicant's measures, as well as other measures considered by NMFS or recommended by the public, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. NSF and ASC submitted a marine mammal monitoring plan as part of the IHA application. It can be found in Section 13 of the IHA application. The plan has not been modified or supplemented between the notice of the proposed IHA (79 FR 45592, August 5, 2014) and this final notice announcing the issuance of the IHA, as none of the comments or new information received from the public during the public comment period required a change to the plan.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

(1) An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

(2) An increase in our understanding of how many marine mammals are likely to be exposed to levels of sound (airguns) that we associate with specific adverse effects, such as behavioral harassment, TTS, or PTS;

(3) An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information); and
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

(4) An increased knowledge of the affected species; and

(5) An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

Monitoring

NSF and ASC will conduct marine mammal monitoring during the low-energy seismic survey, in order to implement the mitigation measures that require real-time monitoring and to satisfy the anticipated monitoring requirements of the IHA. NSF and ASC's ''Monitoring Plan'' is described below this section. NSF and ASC understand that this monitoring plan will be subject to continuing review by NMFS and that refinements may be required. The monitoring work described here has been planned as a self-contained project independent of any other related monitoring projects that may be occurring simultaneously in the same regions. NSF and ASC are prepared to discuss coordination of their monitoring program with any related work that might be done by other groups insofar as this is practical and desirable.

Vessel-Based Visual Monitoring

NSF and ASC's PSOs will be based aboard the seismic source vessel and will watch for marine mammals near the vessel during daytime airgun operations and during any ramp-ups of the airguns at night. PSOs will also watch for marine mammals near the seismic vessel for at least 30 minutes prior to the start of airgun operations and after an extended shut-down (i.e., greater than approximately 15 minutes for this low-energy seismic survey). When feasible, PSOs will conduct observations during daytime periods when the seismic system is not operating (such as during transits) for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods. Based on PSO observations, the airguns will be shut-down when marine mammals are observed within or about to enter a designated exclusion zone. The exclusion zone is a region in which a possibility exists of adverse effects on animal hearing or other physical effects.

During seismic operations in the Scotia Sea and southern Atlantic Ocean, at least three PSOs will be based aboard the *Palmer.* At least one PSO will stand watch at all times while the *Palmer* is operating airguns during the low-energy seismic survey; this procedure will also be followed when the vessel is in transit. NSF and ASC will appoint the PSOs with NMFS's concurrence. The lead PSO will be experienced with marine mammal species in the Scotia Sea, southern Atlantic Ocean, and/or Southern Ocean, the second and third PSOs will receive additional specialized training from the lead PSO to ensure that they can identify marine mammal species commonly found in the Scotia Sea and southern Atlantic Ocean. Observations will take place during ongoing daytime operations and nighttime ramp-ups of the airguns. During the majority of seismic operations, at least one PSO will be on duty from observation platforms (i.e., the best available vantage point on the source vessel) to monitor marine mammals near the seismic vessel. PSO(s) will be on duty in shifts no longer than 4 hours in duration. Other crew will also be instructed to assist in detecting marine mammals and implementing mitigation requirements (if practical). Before the start of the low-energy seismic survey, the crew will be given additional instruction on how to do so.

The *Palmer* is a suitable platform for marine mammal observations and will serve as the platform from which PSOs will watch for marine mammals before and during seismic operations. Two locations are likely as observation stations onboard the *Palmer.* One observing station is located on the bridge level, with the PSO eye level at approximately 16.5 m (54.1 ft) above the waterline and the PSO will have a good view around the entire vessel. In addition, there is an aloft observation tower for the PSO approximately 24.4 m (80.1 ft) above the waterline that is protected from the weather, and affords PSOs an even greater view. The approximate view around the vessel from the bridge is 270° and from the aloft observation tower is 360°.

Standard equipment for PSOs will be reticle binoculars. Night-vision equipment will not be available. The PSOs will be in communication with ship's officers on the bridge and scientists in the vessel's operations laboratory, so they can advise promptly of the need for avoidance maneuvers or seismic source shut-down. During daytime, the PSO(s) will scan the area around the vessel systematically with reticle binoculars (e.g., 7 × 50 Fujinon FMTRC–SX) and the naked eye. These binoculars will have a built-in daylight compass. Estimating distances is done primarily with the reticles in the binoculars. The PSO(s) will be in direct (radio) wireless communication with ship's officers on the bridge and scientists in the vessel's operations laboratory during seismic operations, so they can advise the vessel operator, science support personnel, and the science party promptly of the need for avoidance maneuvers or a shut-down of the seismic source.

When a marine mammal is detected within or about to enter the designated exclusion zone, the airguns will immediately be shut-down, unless the vessel's speed and/or course can be changed to avoid having the animal enter the exclusion zone. The PSO(s) will continue to maintain watch to determine when the animal is outside the exclusion zone by visual confirmation. Airgun operations will not resume until the animal is confirmed to have left the exclusion zone, or is not observed after 15 minutes for species with shorter dive durations (small odontocetes and pinnipeds) or 30 minutes for species with longer dive durations (mysticetes and large odontocetes, including sperm, killer, and beaked whales).

PSO Data and Documentation

PSOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data will be used to estimate numbers of animals potentially ''taken'' by harassment (as defined in the MMPA). They will also provide information needed to order a shut-down of the airguns when a marine mammal is within or near the exclusion zone. Observations will also be made during daytime periods when the *Palmer* is underway without seismic operations (i.e., transits to, from, and through the study area) to collect baseline biological data.

When a sighting is made, the following information about the sighting will be recorded:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the seismic source or vessel (e.g., none, avoidance, approach, paralleling, etc.), and behavioral pace.

2. Time, location, heading, speed, activity of the vessel, sea state, wind force, visibility, and sun glare.

The data listed under (2) will also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

All observations, as well as information regarding ramp-ups or shut-downs will be recorded in a standardized format. Data will be entered into an electronic database. The data accuracy will be verified by computerized data validity checks as the data are entered and by subsequent

manual checking of the database by the PSOs at sea. These procedures will allow initial summaries of data to be prepared during and shortly after the field program, and will facilitate transfer of the data to statistical, graphical, and other programs for further processing and archiving.

Results from the vessel-based observations will provide the following information:

1. The basis for real-time mitigation (airgun shut-down).

2. Information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS.

3. Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted.

4. Information to compare the distance and distribution of marine mammals relative to the source vessel at times with and without seismic activity.

5. Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

Reporting

NSF and ASC will submit a comprehensive report to NMFS within 90 days after the end of the cruise. The report will describe the operations that were conducted and sightings of marine mammals near the operations. The report submitted to NMFS will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report will summarize the dates and locations of seismic operations and all marine mammal sightings (i.e., dates, times, locations, activities, and associated seismic survey activities). The report will include, at a minimum:

- Summaries of monitoring effort—total hours, total distances, and distribution of marine mammals through the study period accounting for Beaufort sea state and other factors affecting visibility and detectability of marine mammals;
- Analyses of the effects of various factors influencing detectability of marine mammals including Beaufort sea state, number of PSOs, and fog/glare;
- Species composition, occurrence, and distribution of marine mammals sightings including date, water depth, numbers, age/size/gender, and group sizes, and analyses of the effects of seismic operations;
- Sighting rates of marine mammals during periods with and without airgun activities (and other variables that could affect detectability);
- Initial sighting distances versus airgun activity state;
- Closest point of approach versus airgun activity state;
- Observed behaviors and types of movements versus airgun activity state;
- Numbers of sightings/individuals seen versus airgun activity state; and
- Distribution around the source vessel versus airgun activity state.

The report will also include estimates of the number and nature of exposures that could result in ''takes'' of marine mammals by harassment or in other ways. NMFS will review the draft report and provide any comments it may have, and NSF and ASC will incorporate NMFS's comments and prepare a final report. After the report is considered final, it will be publicly available on the NMFS Web site at: *http://www.nmfs.noaa.gov/pr/permits/incidental/.*

Reporting Prohibited Take—In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury or mortality (e.g., ship-strike, gear interaction, and/or entanglement), NSF and ASC would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov.* The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with NSF and ASC to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. NSF and ASC may not resume their activities until notified by NMFS via letter or email, or telephone.

Reporting an Injured or Dead Marine Mammal with an Unknown Cause of Death—In the event that NSF and ASC discover an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition), NSF and ASC shall immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov.* The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with NSF and ASC to determine whether modifications in the activities are appropriate.

Reporting an Injured or Dead Marine Mammal Not Related to the Activities—In the event that NSF and ASC discover an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate or advanced decomposition, or scavenger damage), NSF and ASC will report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov,* within 24 hours of discovery. NSF and ASC will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS. Activities may continue while NMFS reviews the circumstances of the incident.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

TABLE 4—NMFS'S CURRENT UNDERWATER ACOUSTIC EXPOSURE CRITERIA

Impulsive (non-explosive) sound		
Criterion	Criterion definition	Threshold
Level A harassment (injury) ...	Permanent threshold shift (PTS) ..... (Any level above that which is known to cause TTS)	180 dB re 1 μPa-m (root means square [rms]) (cetaceans). 190 dB re 1 μPa-m (rms) (pinnipeds).
Level B harassment	Behavioral disruption (for impulsive noise)	160 dB re 1 μPa-m (rms).
Level B harassment	Behavioral disruption (for continuous noise)	120 dB re 1 μPa-m (rms).

Level B harassment is anticipated and authorized as a result of the low-energy seismic survey in the Scotia Sea and southern Atlantic Ocean. Acoustic stimuli (i.e., increased underwater sound) generated during the operation of the seismic airgun array are expected to result in the behavioral disturbance of some marine mammals. There is no evidence that the planned activities for which NSF and ASC seek the IHA could result in injury, serious injury, or mortality. The required mitigation and monitoring measures will minimize any potential risk for injury, serious injury, or mortality.

The following sections describe NSF and ASC's methods to estimate take by incidental harassment and present the applicant's estimates of the numbers of marine mammals that could be affected during the low-energy seismic survey in the Scotia Sea and southern Atlantic Ocean. The estimates are based on a consideration of the number of marine mammals that could be harassed during the approximately 325 hours and 2,950 km of seismic airgun operations with the two GI airgun array to be used.

During simultaneous operations of the airgun array and the other sound sources, any marine mammals close enough to be affected by the single and multi-beam echosounders, ADCP, or sub-bottom profiler will already be affected by the airguns. During times when the airguns are not operating, it is unlikely that marine mammals will exhibit more than minor, short-term responses to the echosounders, ADCPs, and sub-bottom profiler given their characteristics (e.g., narrow, downward-directed beam) and other considerations described previously in the notice of the proposed IHA (79 FR 45592, August 5, 2014). Such reactions are not considered to constitute ''taking'' (NMFS, 2001). Therefore, for this activity, take was not authorized specifically for these sound sources beyond that which is already planned to be authorized for airguns.

There are no stock assessments and very limited population information available for marine mammals in the Scotia Sea and southern Atlantic Ocean. Published estimates of marine mammal densities are limited for the planned low-energy seismic survey's action area. Available density estimates from the Naval Marine Species Density Database (NMSDD) (NAVFAC, 2012) were used for 5 mysticetes and eight odontocetes. Density of spectacled porpoise was based on the density reported in Santora *et al.* (2009; as reported in NOAA SWFSC, 2013). Densities for minke (including the dwarf sub-species) whales and Subantarctic fur seals were unavailable and the densities for Antarctic minke whales and Antarctic fur seals were used as proxies, respectively.

For other mysticetes and odontocetes, reported sightings data from two previous research surveys in the Scotia Sea and vicinity were used to identify species that may be present in the planned action area and to estimate densities. While these surveys were not specifically designed to quantify marine mammal densities, there was sufficient information to develop density estimates. The data collected for the two studies were in terms of animals sighted per time unit, and the sighting data were then converted to an areal density (number of animals per square km) by multiplying the number of animals observed by the estimated area observed during the survey.

Some marine mammals that were present in the area may not have been observed. Southwell *et al.* (2008) suggested a 20 to 40% sighting factor for pinnipeds, and the most conservative value from Southwell *et al.* (2008) was applied for cetaceans. Therefore, the estimated frequency of sightings data in the notice of the proposed IHA (79 FR 45592, August 5, 2014) and this IHA for cetaceans incorporates a correction factor of 5, which assumes only 20% of the animals present were reported due to sea and other environmental conditions that may have hindered observation, and therefore, there were 5 times more cetaceans actually present. The correction factor (20%) was intended to conservatively account for unobserved animals.

Sighting data collected during the 2003 RRS *James Clark Ross* Cruise JR82 (British Antarctic Survey, undated) were used as the basis to estimate densities for four species: southern right whale, southern bottlenose whale, hourglass dolphin, and Peale's dolphin. The cruise length was 4,143 km (2,237 nmi); however, lateral distance from the vessel where cetaceans were viewed was not identified in the report. Therefore, it was assumed that all species were sighted within 2.5 km (1.4 nmi) of the vessel (5 km [2.7 nmi] width) because this was the assumed sighting distance (half strip width). This resulted in a survey area of 20,715 km^2 (6,039 nmi^2). Density of the strap-toothed beaked whale was based on sighting data reported in Rossi-Santos *et al.* (2007). The survey length was 1,296 km (699.8 nmi); however, lateral distance from the vessel where cetaceans were sighted was not identified in the report. Therefore, it was assumed that all species were sighted within 2.5 km of the vessel (5 km width) because this was assumed as a conservative distance where cetaceans could be consistently observed. This width was needed to calculate densities from data sources where only cruise distance and animal numbers were available in the best available reports. This resulted in a survey area of 6,480 km^2 (1,889.3 nmi^2)

With respect to pinnipeds, one study (Santora *et al.,* 2009 as reported in NOAA SWFSC, 2013) provided a density estimate for southern elephant seals. No other studies in the region of the Scotia Sea provided density estimates for pinnipeds. Therefore, reported sighting data from two previous research surveys in the Scotia Sea and vicinity were used to identify species that may be present and to estimate densities. Sighting data collected during the 2003 RRS *James Clark Ross* Cruise JR82 (British Antarctic Survey, undated) were used as the basis to estimate densities for four species: Antarctic fur seal, crabeater seal, leopard seal, and Weddell seal. The survey length was 4,143 km (1,207.9 nmi); however, lateral distance from the vessel where pinnipeds were viewed was not identified in the report.

Therefore, it was assumed that all species were sighted within 0.4 km (0.2 nmi) of the vessel (0.8 km [0.4 nmi] width), based on Southwell *et al.* (2008). This resulted in a survey area of 3,315 km^2 (966.5 nmi^2).

Some pinnipeds that were present in the area during the British Antarctic Survey cruise may not have been observed. Therefore, a correction factor of 1.66 was applied to the pinniped density estimates, which assumes 66% more animals than observed were present and potentially may have been in the water. This conservative correction factor takes into consideration that pinnipeds are relatively difficult to observe in the water due to their small body size and surface behavior, and some pinnipeds may not have been observed due to poor visibility conditions.

The pinnipeds that may be present in the study area during the planned action and are expected to be observed occur mostly near pack ice, coastal areas, and rocky habitats on the shelf, and are not prevalent in open sea areas where the low-energy seismic survey will be conducted. Because density estimates for pinnipeds in the sub-Antarctic and Antarctic regions typically represent individuals that have hauled-out of the water, those estimates are not necessarily representative of individuals that are in the water and could be potentially exposed to underwater sounds during the seismic airgun operations; therefore, the pinniped densities have been adjusted downward to account for this consideration. Take was not requested for Ross seals because preferred habitat for this species is not within the planned action area. Although there is some uncertainty about the representativeness of the data and the assumptions used in the calculations below, the approach used here is believed to be the best available approach, using the best available science.

TABLE 5—ESTIMATED DENSITIES AND NUMBER OF MARINE MAMMAL SPECIES THAT MIGHT BE EXPOSED TO GREATER THAN OR EQUAL TO 160 dB (AIRGUN OPERATIONS) DURING NSF AND ASC'S LOW-ENERGY SEISMIC SURVEY (APPROXIMATELY 2,950 km OF TRACKLINES/APPROXIMATELY 3,953 km^2 [0.67 km × 2 × 2,950 km] ENSONIFIED AREA FOR AIRGUN OPERATIONS) IN THE SCOTIA SEA AND SOUTHERN ATLANTIC OCEAN, SEPTEMBER TO OCTOBER 2014

Species	Density (# of animals/ km^2) [1]	Calculated take from seismic airgun operations (i.e., estimated number of individuals exposed to sound levels ≥160 dB re 1 μPa) [2]	Authorized take	Abundance [3]	Approximate percentage of population estimate (authorized take) [4]	Population trend [5]
Mysticetes:						
Southern right whale	0.0079652	31	31	8,000 to 15,000	0.39	Increasing at 7 to 8% per year
Humpback whale	0.0006610	3	3	35,000 to 40,000—Worldwide 9,484—Scotia Sea and Antarctica Peninsula.	0.03	Increasing
Antarctic minke whale	0.1557920	616	616	Several 100,000—Worldwide 18,125—Scotia Sea and Antarctica Peninsula.	3.4	Stable
Minke whale (including dwarf minke whale sub-species).	0.1557920	616	616	NA	NA	NA
Sei whale	0.0063590	25	25	80,000—Worldwide	0.03	NA
Fin whale	0.0182040	72	72	140,000—Worldwide 4,672—Scotia Sea and Antarctica Peninsula.	1.54	NA
Blue whale	0.0000510	1	1	8,000 to 9,000—Worldwide	0.01	NA
Odontocetes:						
Sperm whale	0.0020690	8	8	360,000—Worldwide 9,500—Antarctic.	<0.01	NA
Arnoux's beaked whale	0.0113790	45	45	NA	NA	NA
Cuvier's beaked whale	0.000548	3	3	NA	NA	NA
Gray's beaked whale	0.0018850	7	7	NA	NA	NA
Shepherd's beaked whale	0.0092690	37	37	NA	NA	NA
Strap-toothed beaked whale	0.0007716	3	3	NA	NA	NA
Southern bottlenose whale	0.0089307	35	35	50,000—South of Antarctic Convergence.	0.07	NA
Killer whale	0.0153800	61	61	80,000—South of Antarctic Convergence.	0.08	NA
Long-finned pilot whale	0.2145570	848	848	200,000—South of Antarctic Convergence.	0.42	NA
Peale's dolphin	0.0026551	10	10	NA—Worldwide; 200—southern Chile[3].	NA 5	NA
Hourglass dolphin	0.0154477	61	61	144,000	0.04	NA
Southern right whale dolphin	0.0061610	24	24	NA	NA	NA
Spectacled porpoise	0.0015000	6	6	NA	NA	NA
Pinnipeds:						
Crabeater seal	0.0185313	73	73	5,000,000 to 15,000,000	<0.01	Increasing
Leopard seal	0.0115194	46	46	220,000 to 440,000	0.02	NA
Weddell seal	0.005129	20	20	500,000 to 1,000,000	<0.01	NA
Southern elephant seal	0.0003000	1	1	640,000 to 650,000—Worldwide; 470,000—South Georgia Island.	<0.01	Increasing, decreasing, or stable depending on breeding population
Antarctic fur seal	0.5103608	2,017	2,017	1,600,000 to 3,000,000	0.13	Increasing

TABLE 5—ESTIMATED DENSITIES AND NUMBER OF MARINE MAMMAL SPECIES THAT MIGHT BE EXPOSED TO GREATER THAN OR EQUAL TO 160 dB (AIRGUN OPERATIONS) DURING NSF AND ASC'S LOW-ENERGY SEISMIC SURVEY (APPROXIMATELY 2,950 km OF TRACKLINES/APPROXIMATELY 3,953 km^2 [0.67 km × 2 × 2,950 km] ENSONIFIED AREA FOR AIRGUN OPERATIONS) IN THE SCOTIA SEA AND SOUTHERN ATLANTIC OCEAN, SEPTEMBER TO OCTOBER 2014—Continued

Species	Density (# of animals/ km^2) [1]	Calculated take from seismic airgun operations (i.e., estimated number of individuals exposed to sound levels ≥160 dB re 1 μPa) [2]	Authorized take	Abundance [3]	Approximate percentage of population estimate (authorized take) [4]	Population trend [5]
Subantarctic fur seal	0.5103608	2,017	2,017	>310,000	0.65	Increasing

NA = Not available or not assessed.

[1] Sightings from a 47 day (7,560 km) period on the RRS *James Clark Ross* JR82 survey during January to February 2003 and sightings from a 34 day (1,296 km) period on the *Kotic* II from January to March 2006.

[2] Calculated take is estimated density (reported density times correction factor) multiplied by the area ensonified to 160 dB (rms) around the planned seismic lines, increased by 25% for contingency.

[3] See population estimates for marine mammal species in Table 4 (above).

[4] Total authorized takes expressed as percentages of the species or regional populations.

[5] Jefferson *et al.* (2008).

Note: Take was not requested for Ross seals because preferred habitat for these species is not within the planned action area.

Numbers of marine mammals that might be present and potentially disturbed are estimated based on the available data about marine mammal distribution and densities in the planned Scotia Sea and southern Atlantic Ocean study area. NSF and ASC estimated the number of different individuals that may be exposed to airgun sounds with received levels greater than or equal to 160 dB re 1 μPa (rms) for seismic airgun operations on one or more occasions by considering the total marine area that would be within the 160 dB radius around the operating airgun array on at least one occasion and the expected density of marine mammals in the area (in the absence of the a seismic survey). The number of possible exposures can be estimated by considering the total marine area that would be within the 160 dB radius (the diameter is 670 m times 2) around the operating airguns. The 160 dB radii are based on acoustic modeling data for the airguns that may be used during the planned action (see Attachment B of the IHA application). As summarized in Table 3 (see Table 8 of the IHA application), the modeling results for the planned low-energy seismic airgun array indicate the received levels are dependent on water depth. Since the majority of the planned airgun operations will be conducted in waters greater than 1,000 m deep, the buffer zone of 670 m for the two 105 in^3 GI airguns was used.

The number of different individuals potentially exposed to received levels greater than or equal to 160 dB re 1 μPa (rms) from seismic airgun operations was calculated by multiplying:

(1) The expected species density (in number/km^2), times

(2) The anticipated area to be ensonified to that level during airgun operations.

Applying the approach described above, approximately 3,953 km^2 (including the 25% contingency) would be ensonified within the 160 dB isopleth for seismic airgun operations on one or more occasions during the planned survey. The take calculations within the study sites do not explicitly add animals to account for the fact that new animals (i.e., turnover) not accounted for in the initial density snapshot could also approach and enter the area ensonified above 160 dB for seismic airgun operations. However, studies suggest that many marine mammals will avoid exposing themselves to sounds at this level, which suggests that there will not necessarily be a large number of new animals entering the area once the seismic survey started. Because this approach for calculating take estimates does not account for turnover in the marine mammal populations in the area during the course of the planned survey, the actual number of individuals exposed may be underestimated. However, any underestimation is likely offset by the conservative (i.e., probably overestimated) line-kilometer distances (including the 25% contingency) used to calculate the survey area, and the fact the approach assumes that no cetaceans or pinnipeds will move away or toward the tracklines as the *Palmer* approaches in response to increasing sound levels before the levels reach 160 dB for seismic airgun operations, which is likely to occur and which will decrease the density of marine mammals in the survey area. Another way of interpreting the estimates in Table 5 is that they represent the number of individuals that will be expected (in absence of a seismic program) to occur in the waters that will be exposed to greater than or equal to 160 dB (rms) for seismic airgun operations.

NSF and ASC's estimates of exposures to various sound levels assume that the planned seismic survey will be carried out in full; however, the ensonified areas calculated using the planned number of line-kilometers has been increased by 25% to accommodate lines that may need to be repeated, equipment testing, etc. As is typical during offshore ship surveys, inclement weather and equipment malfunctions will be likely to cause delays and may limit the number of useful line-kilometers of seismic operations that can be undertaken. The estimates of the numbers of marine mammals potentially exposed to 160 dB (rms) received levels are precautionary and probably overestimate the actual numbers of marine mammals that could be involved. These estimates assume that there will be no weather, equipment, or mitigation delays that limit the seismic operations, which is highly unlikely.

Table 5 shows the estimates of the number of different individual marine mammals anticipated to be exposed to greater than or equal to 160 dB re 1 μPa (rms) for seismic airgun operations

during the low-energy seismic survey if no animals moved away from the survey vessel. The total authorized take authorization is given in the middle column (fourth from the right) of Table 5.

Encouraging and Coordinating Research

NSF and ASC will coordinate the planned marine mammal monitoring program associated with the low-energy seismic survey with other parties that express interest in this activity and area. NSF and ASC will coordinate with applicable U.S. agencies (e.g., NMFS), and will comply with their requirements. NSF has already prepared a permit application for the Government of South Georgia and South Sandwich Islands for the planned research activities, including trawling and sampling of the seafloor. The action will complement fieldwork studying other Antarctic ice shelves, oceanographic studies, and ongoing development of ice sheet and other ocean models. It will facilitate learning at sea and ashore by students, help to fill important spatial and temporal gaps in a lightly sampled region of coastal Antarctica, provide additional data on marine mammals present in the Scotia Sea study areas, and communicate its findings via reports, publications, and public outreach.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(D) of the MMPA also requires NMFS to determine that the authorization will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals implicated by this action (in the Scotia Sea and southern Atlantic Ocean study area). Therefore, NMFS has determined that the total taking of affected species or stocks will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Analysis and Determinations

Negligible Impact

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.) and the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

In making a negligible impact determination, NMFS evaluated factors such as:

(1) The number of anticipated serious injuries and or mortalities;

(2) The number and nature of anticipated injuries;

(3) The number, nature, intensity, and duration of takes by Level B harassment (all of which are relatively limited in this case);

(4) The context in which the takes occur (e.g., impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);

(5) The status of stock or species of marine mammals (i.e., depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);

(6) Impacts on habitat affecting rates of recruitment/survival; and

(7) The effectiveness of monitoring and mitigation measures.

NMFS has determined that the specified activities associated with the marine seismic survey are not likely to cause PTS, or other non-auditory injury, serious injury, or death, based on the analysis above and the following factors:

(1) The likelihood that, given sufficient notice through relatively slow ship speed, marine mammals are expected to move away from a noise source that is annoying prior to its becoming potentially injurious;

(2) The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the operation of the airgun(s) to avoid acoustic harassment;

(3) The potential for temporary or permanent hearing impairment is relatively low and would likely be avoided through the implementation of the required monitoring and mitigation measures (including shut-down measures); and

(4) The likelihood that marine mammal detection ability by trained PSOs is high at close proximity to the vessel.

No injuries, serious injuries, or mortalities are anticipated to occur as a result of NSF and ASC's planned low-energy seismic survey, and none are authorized by NMFS. Table 5 of this document outlines the number of authorized Level B harassment takes that are anticipated as a result of these activities. Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described in this notice (see ''Potential Effects on Marine Mammals'' section above), the activity is not expected to impact rates of annual recruitment or survival for any affected species or stock, particularly given NMFS's and the applicant's planned mitigation, monitoring, and reporting measures to minimize impacts to marine mammals. Additionally, the seismic survey would not adversely impact marine mammal habitat.

For the marine mammal species that may occur within the action area, there are no known designated or important feeding and/or reproductive areas. Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (i.e., 24 hr cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). While airgun operations are anticipated to occur on consecutive days, the estimated duration of the survey will not last more than a total of 30 days. Additionally, the seismic survey will be increasing sound levels in the marine environment in a relatively small area surrounding the vessel (compared to the range of the animals), which is constantly travelling over distances, so individual animals likely will only be exposed to and harassed by sound for less than a day.

As mentioned previously, NMFS estimates that 26 species of marine mammals under its jurisdiction could be potentially affected by Level B harassment over the course of the IHA. The population estimates for the marine mammal species that may be taken by Level B harassment were provided in Tables 2 and 5 of this document. As shown in those tables, the takes all represent small proportions of the overall populations of these marine mammal species (i.e., all are less than or equal to 5%). No injury, serious injury, or mortality is expected to occur for any

of these species, and due to the nature, degree, and context of the Level B harassment anticipated, the activity is not expected to impact rates of recruitment or survival for any of these marine mammal species.

Of the 26 marine mammal species under NMFS jurisdiction that may or are known to likely occur in the study area, six are listed as threatened or endangered under the ESA: Southern right, humpback, sei, fin, blue, and sperm whales. These species are also considered depleted under the MMPA. None of the other marine mammal species that may be taken are listed as depleted under the MMPA. Of the ESA-listed species, incidental take has been authorized for all six species. To protect these animals (and other marine mammals in the study area), NSF and ASC will be required to cease airgun operations if any marine mammal enters designated exclusion zones. No injury, serious injury, or mortality is expected to occur for any of these species, and due to the nature, degree, and context of the Level B harassment anticipated, the activity is not expected to impact rates of recruitment or survival for any of these species.

NMFS's practice has been to apply the 160 dB re 1 μPa (rms) received level threshold for underwater impulse sound levels to determine whether take by Level B harassment occurs. Southall *et al.* (2007) provide a severity scale for ranking observed behavioral responses of both free-ranging marine mammals and laboratory subjects to various types of anthropogenic sound (see Table 4 in Southall *et al.* [2007]). NMFS has determined that, provided that the aforementioned mitigation and monitoring measures are implemented, the impact of conducting a low-energy marine seismic survey in the Scotia Sea and southern Atlantic Ocean, September to October 2014, may result, at worst, in a modification in behavior and/or low-level physiological effects (Level B harassment) of certain species of marine mammals.

While behavioral modifications, including temporarily vacating the area during the operation of the airgun(s), may be made by these species to avoid the resultant acoustic disturbance, the availability of alternate areas for species to move to and the short and sporadic duration of the research activities have led NMFS to determine that the taking by Level B harassment from the specified activity will have a negligible impact on the affected species in the specified geographic region. Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described (see ''Potential Effects on Marine Mammals'' section above) in this notice, the activity is not expected to impact rates of annual recruitment or survival for any affected species or stock, particularly given the NMFS and applicant's plan to implement mitigation and monitoring measures will minimize impacts to marine mammals. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the required monitoring and mitigation measures, NMFS finds that the total marine mammal take from NSF and ASC's low-energy seismic survey will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

As mentioned previously, NMFS estimates that 26 species of marine mammals under its jurisdiction could be potentially affected by Level B harassment over the course of the IHA. The population estimates for the marine mammal species that may be taken by Level B harassment were provided in Tables 2 and 5 of this document.

The estimated numbers of individual cetaceans and pinnipeds that could be exposed to seismic sounds with received levels greater than or equal to 160 dB re 1 μPa (rms) during the survey (including a 25% contingency) are in Table 5 of this document. Of the cetaceans, 31 southern right, 3 humpback, 616 Antarctic minke, 616 minke, 25 sei, 72 fin, 1 blue, and 8 sperm whales could be taken by Level B harassment during the planned seismic survey, which would represent 0.39, 0.03, 3.4, unknown, 0.03, 1.54, 0.1, and <0.01% of the affected worldwide or regional populations, respectively. In addition, 45 Arnoux's beaked, 3 Cuvier's beaked, 7 Gray's beaked, 37 Shepherd's beaked, 3 strap-toothed beaked, and 35 southern bottlenose whales could be taken be Level B harassment during the planned seismic survey, which would represent unknown, unknown, unknown, unknown, unknown, and 0.07% of the affected worldwide or regional populations, respectively. Of the delphinids, 61 killer whales, 848 long-finned pilot whales, and 10 Peale's, 61 hourglass, and 24 southern right whale dolphins, and 6 spectacled porpoise could be taken by Level B harassment during the planned seismic survey, which would represent 0.08, 0.42, unknown/5, 0.04, unknown, and unknown of the affected worldwide or regional populations, respectively. Of the pinnipeds, 73 crabeater, 46 leopard, 20 Weddell, and 1 southern elephant seals and 2,017 Antarctic and 2,017 Subantarctic fur seals could be taken by Level B harassment during the planned seismic survey, which would represent <0.01, 0.02, <0.01, <0.01, 0.13, and 0.65 of the affected worldwide or regional population, respectively.

No known current worldwide or regional population estimates are available for 9 species under NMFS's jurisdiction that could potentially be affected by Level B harassment over the course of the IHA. These species include the minke, Arnoux's beaked, Cuvier's beaked, Gray's beaked, Shepherd's beaked, and strap-toothed beaked whales, and Peale's and southern right whale dolphins and spectacled porpoises. Minke whales occur throughout the North Pacific Ocean and North Atlantic Ocean and the dwarf sub-species occurs in the Southern Hemisphere (Jefferson *et al.,* 2008). Arnoux's beaked whales have a vast circumpolar distribution in the deep, cold waters of the Southern Hemisphere generally southerly from 34° South. Cuvier's beaked whales generally occur in deep, offshore waters of tropical to polar regions worldwide. They seem to prefer waters over and near the continental slope (Jefferson *et al.,* 2008). Gray's beaked whales are generally found in deep waters of temperate regions (south of 30° South) in the Southern Hemisphere (Jefferson *et al.,* 2008). Shepherd's beaked whales are generally found in deep temperate waters (south of 30° South) of the Southern Hemisphere and are thought to have a circumpolar distribution (Jefferson *et al.,* 2008). Strap-toothed beaked whales are generally found in deep temperate waters (between 35 to 60° South) of the Southern Hemisphere (Jefferson *et al.,* 2008). Peale's dolphins generally occur in the waters around the southern tip of South America from 33 to 38° South, but may extend to islands further south. This species is considered coastal as they are commonly found in waters over the continental shelf (Jefferson *et al.,* 2008). Southern right whale dolphins are generally found in temperate to subantarctic waters (30 to 65° South), with a southern limit bounded by the Antarctic Convergence (Jefferson *et al.,* 2008). Spectacled porpoises are generally found in subantarctic waters and may have a circumpolar distribution in the Southern Hemisphere (as far south as 64° South). They have been sighted in oceanic waters, near islands, as well as in rivers and channels (Jefferson *et al.,* 2008). Based on these distributions and preferences of these species, NMFS

concludes that the authorized take of these species likely represent small numbers relative to the affected species' overall population sizes.

NMFS makes its small numbers determination based on the number of marine mammals that will be taken relative to the populations of the affected species or stocks. The authorized take estimates all represent small numbers relative to the affected species or stock size (i.e., all are less than or equal to 5%). Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks. See Table 5 for the authorized take numbers of marine mammals.

Endangered Species Act

Of the species of marine mammals that may occur in the survey area, six are listed as endangered under the ESA: The southern right, humpback, sei, fin, blue, and sperm whales. Under section 7 of the ESA, NSF, on behalf of ASC and two other research institutions, initiated formal consultation with the NMFS, Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, on this low-energy seismic survey. NMFS's Office of Protected Resources, Permits and Conservation Division, initiated and engaged in formal consultation under section 7 of the ESA with NMFS's Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. These two consultations were consolidated and addressed in a single Biological Opinion addressing the direct and indirect effects of these independent actions. In September 2014, NMFS issued a Biological Opinion that concluded that the action is not likely to jeopardize the continued existence of the six listed cetaceans that may occur in the survey area and included an Incidental Take Statement (ITS) incorporating the requirements of the IHA as Terms and Conditions of the ITS. Compliance with those Terms and Conditions is likewise a mandatory requirement of the IHA. The Biological Opinion also concluded that designated critical habitat of these species does not occur in the action area and would not be affected by the survey.

National Environmental Policy Act

With NSF and ASC's complete IHA application, NSF and ASC provided NMFS an ''Initial Environmental Evaluation/Environmental Assessment to Conduct a Study of the Role of the Central Scotia Sea and North Scotia Ridge in the Onset and Development of the Antarctic Circumpolar Current,'' (IEE/EA), prepared by AECOM on behalf of NSF and ASC. The IEE/EA analyzes the direct, indirect, and cumulative environmental impacts of the planned specified activities on marine mammals, including those listed as threatened or endangered under the ESA. NMFS, after review and evaluation of the NSF and ASC IEE/EA for consistency with the regulations published by the Council of Environmental Quality (CEQ) and NOAA Administrative Order 216–6, Environmental Review Procedures for Implementing the National Environmental Policy Act, prepared an independent Environmental Assessment titled ''Environmental Assessment on the Issuance of an Incidental Harassment Authorization to the National Science Foundation and Antarctic Support Contract to Take Marine Mammals by Harassment Incidental to a Low-Energy Marine Geophysical Survey in the Scotia Sea and South Atlantic Ocean, September to October 2014.'' NMFS has determined that the issuance of the IHA is not likely to result in significant impacts on the human environment and issued a Finding of No Significant Impact (FONSI).

Authorization

NMFS has issued an IHA to NSF and ASC for conducting a low-energy seismic survey in the Scotia Sea and southern Atlantic Ocean, incorporating the previously mentioned mitigation, monitoring, and reporting requirements.

Dated: October 2, 2014.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD531

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Rocky Intertidal Monitoring Surveys Along the Oregon and California Coasts

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received an application from the Partnership for Interdisciplinary Study of Coastal Oceans (PISCO) at the University of California (UC) Santa Cruz for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to rocky intertidal monitoring surveys. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to PISCO to incidentally take, by Level B harassment only, marine mammals during the specified activity.

DATES: Comments and information must be received no later than November 7, 2014.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *ITP.Nachman@noaa.gov*. NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 25-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm* without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

An electronic copy of the application containing a list of the references used in this document and associated Environmental Assessment (EA) may be

obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm*. PISCO's 2013–2014 monitoring report can also be found at this Web site. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Candace Nachman, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking, other means of effecting the least practicable impact on the species or stock and its habitat, and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].''

Summary of Request

On July 30, 2014, NMFS received an application from PISCO for the taking of marine mammals incidental to rocky intertidal monitoring surveys along the Oregon and California coasts. NMFS determined that the application was adequate and complete on August 22, 2014. In December 2012, NMFS issued a 1-year IHA to PISCO to take marine mammals incidental to these same proposed activities (77 FR 72327, December 5, 2012). In December 2013, NMFS issued a second 1-year IHA to PISCO to take marine mammals incidental to these same proposed activities (78 FR 79403, December 30, 2013). The 2013 IHA expires on December 16, 2014.

The research group at UC Santa Cruz operates in collaboration with two large-scale marine research programs: PISCO and the Multi-agency Rocky Intertidal Network. The research group at UC Santa Cruz (PISCO) is responsible for many of the ongoing rocky intertidal monitoring programs along the Pacific coast. Monitoring occurs at rocky intertidal sites, often large bedrock benches, from the high intertidal to the water's edge. Long-term monitoring projects include Community Structure Monitoring, Intertidal Biodiversity Surveys, Marine Protected Area Baseline Monitoring, Intertidal Recruitment Monitoring, and Ocean Acidification. Research is conducted throughout the year along the California and Oregon coasts and will continue indefinitely. Most sites are sampled one to two times per year over a 4–6 hour period during a negative low tide series. This IHA, if issued, though, would only be effective for a 12-month period. The following specific aspects of the proposed activities are likely to result in the take of marine mammals: presence of survey personnel near pinniped haulout sites and approach of survey personnel towards hauled out pinnipeds. Take, by Level B harassment only, of individuals of California sea lions (*Zalophus californianus californianus*), harbor seals (*Phoca vitulina richardii*), and northern elephant seals (*Mirounga angustirostris*) is anticipated to result from the specified activity.

Description of the Specified Activity

Overview

PISCO proposes to continue rocky intertidal monitoring work that has been ongoing for 20 years. PISCO focuses on understanding the nearshore ecosystems of the U.S. west coast through a number of interdisciplinary collaborations. The program integrates long-term monitoring of ecological and oceanographic processes at dozens of sites with experimental work in the lab and field. A short description of each project is contained here. Additional information can be found in PISCO's application (see **ADDRESSES**).

Dates and Duration

PISCO's research is conducted throughout the year. Most sites are sampled one to two times per year over a 1-day period (4–6 hours per site) during a negative low tide series. Due to the large number of research sites, scheduling constraints, the necessity for negative low tides and favorable weather/ocean conditions, exact survey dates are variable and difficult to predict. Table 1 in PISCO's application (see **ADDRESSES**) outlines the typical sampling season for the various locations. Some sampling is anticipated to occur in all months, except for January and September.

Specified Geographic Region

Sampling sites occur along the California and Oregon coasts. Exact locations of sampling sites can be found in Tables 1 through 3 of PISCO's application (see **ADDRESSES**). Due to the large number of research sites, scheduling constraints, the necessity for negative low tides and favorable weather/ocean conditions, exact survey dates are variable and difficult to predict.

Detailed Description of Activities

Community Structure Monitoring involves the use of permanent photoplot quadrats which target specific algal and invertebrate assemblages (e.g. mussels, rockweeds, barnacles). Each photoplot is photographed and scored for percent cover. The Community Structure Monitoring approach is based largely on surveys that quantify the percent cover and distribution of algae and invertebrates that constitute these communities. This approach allows researchers to quantify both the patterns of abundance of targeted species, as well as characterize changes in the communities in which they reside. Such information provides managers with insight into the causes and consequences of changes in species abundance. Each Community Structure site is surveyed over a 1-day period during a low tide series one to two times a year. Sites, location, number of times sampled per year, and typical sampling months for each site are presented in Table 1 in PISCO's application (see **ADDRESSES**).

Biodiversity Surveys, which are part of a long-term monitoring project and

are conducted every 3–5 years at established sites, involve point contact identification along permanent transects, mobile invertebrate quadrat counts, sea star band counts, and tidal height topographic measurements. Table 2 in PISCO's application (see **ADDRESSES**) lists established biodiversity sites in Oregon and California.

In September 2007, the state of California began establishing a network of Marine Protected Areas along the California coast as part of the Marine Life Protection Act (MLPA). Under baseline monitoring programs funded by Sea Grant and the Ocean Protection Council, PISCO established additional intertidal monitoring sites in the Central Coast, North Central Coast, and South Coast study regions. Six additional sites will be established and sampled in the North Coast study region during 2015 (see Table 3 in PISCO's application). Baseline characterization of newly established areas involves sampling of these new sites, as well as established sites both within and outside of marine protected areas. These sites were sampled using existing Community Structure and Biodiversity protocols for consistency. Resampling of these sites may take place as part of future marine protected area evaluation.

The intertidal zones where PISCO conducts intertidal monitoring are also areas where pinnipeds can be found hauled out on the shore at or adjacent to some research sites. Accessing portions of the intertidal habitat may cause incidental Level B (behavioral) harassment of pinnipeds through some unavoidable approaches if pinnipeds are hauled out directly in the study plots or while biologists walk from one location to another. No motorized equipment is involved in conducting these surveys.

Description of Marine Mammals in the Area of the Specified Activity

Several pinniped species can be found along the California and Oregon coasts. The three that are most likely to occur at some of the research sites are California sea lion, harbor seal, and northern elephant seal. On rare occasions, PISCO researchers have seen very small numbers (i.e., five or fewer) of Steller sea lions at one of the sampling sites. These sightings are rare. Therefore, encounters are not expected. However, if Steller sea lions are sighted before approaching a sampling site, researchers will abandon approach and return at a later date. For this reason, this species is not considered further in this proposed IHA notice.

We refer the public to Carretta *et al.* (2014) for general information on these species which are presented below this section. The publication is available on the internet at: *http://www.nmfs.noaa.gov/pr/sars/pdf/pacific2013_final.pdf.* Additional information on the status, distribution, seasonal distribution, and life history can also be found in PISCO's application.

Northern Elephant Seal

Northern elephant seals are not listed as threatened or endangered under the Endangered Species Act (ESA), nor are they categorized as depleted under the MMPA. The estimated population of the California breeding stock is approximately 124,000 animals with a minimum estimate of 74,913 (Carretta *et al.,* 2014).

Northern elephant seals range in the eastern and central North Pacific Ocean, from as far north as Alaska and as far south as Mexico. Northern elephant seals spend much of the year, generally about nine months, in the ocean. They are usually underwater, diving to depths of about 330–800 m (1,000–2,500 ft) for 20- to 30-minute intervals with only short breaks at the surface. They are rarely seen out at sea for this reason. While on land, they prefer sandy beaches.

Northern elephant seals breed and give birth in California (U.S.) and Baja California (Mexico), primarily on offshore islands (Stewart *et al.,* 1994), from December to March (Stewart and Huber, 1993). Males feed near the eastern Aleutian Islands and in the Gulf of Alaska, and females feed further south, south of 45° N (Stewart and Huber, 1993; Le Boeuf *et al.,* 1993). Adults return to land between March and August to molt, with males returning later than females. Adults return to their feeding areas again between their spring/summer molting and their winter breeding seasons.

During PISCO research activities, the maximum number of northern elephant seals observed at a single site was at least 10 adults plus 10–20 sub-adults and pups. These were observed offshore of Piedras Blancas. One adult elephant seal has been observed at Pigeon Point. At other sites, elephant seals are very rarely observed during research activities.

California Sea Lion

California sea lions are not listed as threatened or endangered under the ESA, nor are they categorized as depleted under the MMPA. The California sea lion is now a full species, separated from the Galapagos sea lion (*Z. wollebaeki*) and the extinct Japanese sea lion (*Z. japonicus*) (Brunner, 2003; Wolf *et al.,* 2007; Schramm *et al.,* 2009). The estimated population of the U.S. stock of California sea lion is approximately 296,750 animals with a minimum of 153,337 individuals, and the current maximum population growth rate is 12 percent (Carretta *et al.,* 2014).

California sea lion breeding areas are on islands located in southern California, in western Baja California, Mexico, and the Gulf of California. During the breeding season, most California sea lions inhabit southern California and Mexico. Rookery sites in southern California are limited to the San Miguel Islands and the southerly Channel Islands of San Nicolas, Santa Barbara, and San Clemente (Carretta *et al.,* 2014). Males establish breeding territories during May through July on both land and in the water. Females come ashore in mid-May and June where they give birth to a single pup approximately 4–5 days after arrival and will nurse pups for about a week before going on their first feeding trip. Females will alternate feeding trips with nursing bouts until the pup is weaned between 4 and 10 months of age (NMML, 2010). In central California, a small number of pups are born on Ano Nuevo Island, Southeast Farallon Island, and occasionally at a few other locations; otherwise, the central California population is composed of non-breeders.

A 2005 haul-out count of California sea lions between the Oregon/California border and Point Conception as well as the Channel Islands found 141,842 individuals (Carretta *et al.,* 2010). The number of sea lions found at any one of PISCO's study sites is variable, and often no California sea lions are observed during sampling.

Pacific Harbor Seal

Pacific harbor seals are not listed as threatened or endangered under the ESA, nor are they categorized as depleted under the MMPA. The estimated population of the California stock of Pacific harbor seals is approximately 30,196 animals with a minimum estimated population size of 26,667 (Carretta *et al.,* 2014). No current estimation of annual growth rate has been made for the California stock (Carretta *et al.,* 2014). A 1999 census of the Oregon/Washington harbor seal stock found 16,165 individuals, of which 5,735 were in Oregon (Carretta *et al.,* 2014). This stock is growing at a maximum annual rate of 12% (Carretta *et al.,* 2014).

The animals inhabit near-shore coastal and estuarine areas from Baja California, Mexico, to the Pribilof Islands in Alaska. Pacific harbor seals are divided into two subspecies: *P. v. stejnegeri* in the western North Pacific, near Japan, and *P. v. richardii* in the northeast Pacific Ocean. The latter subspecies, recognized as three separate stocks, inhabits the west coast of the continental U.S., including: the outer coastal waters of Oregon and Washington states; Washington state inland waters; and Alaska coastal and inland waters.

In California, over 500 harbor seal haulout sites are widely distributed along the mainland and offshore islands, and include rocky shores, beaches and intertidal sandbars (Lowry *et al.,* 2005). Harbor seals mate at sea, and females give birth during the spring and summer, although, the pupping season varies with latitude. Pups are nursed for an average of 24 days and are ready to swim minutes after being born. Harbor seal pupping takes place at many locations, and rookery size varies from a few pups to many hundreds of pups. Pupping generally occurs between March and June, and molting occurs between May and July (NCCOS, 2007).

At several sites, harbor seals are often observed and have the potential to be disturbed by researchers accessing or sampling the site. The largest number of harbor seals occurs at Hopkins where often 20–30 adults and 10–15 pups are hauled-out on a small beach adjacent to the sampling site.

Other Marine Mammals in the Proposed Action Area

California (southern) sea otters (*Enhydra lutris nereis*), listed as threatened under the ESA and categorized as depleted under the MMPA, usually range in coastal waters within 2 km (1.2 mi) of shore. This species is managed by the U.S. Fish and Wildlife Service and is not considered further in this notice.

Potential Effects of the Specified Activity on Marine Mammals

This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (e.g., personnel presence) have been observed to impact marine mammals. This discussion may also include reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of a take (for example, with acoustics, we may include a discussion of studies that showed animals not reacting at all to sound or exhibiting barely measurable avoidance). This section is intended as a background of potential effects and does not consider either the specific manner in which this activity will be carried out or the mitigation that will be implemented, and how either of those will shape the anticipated impacts from this specific activity. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Proposed Mitigation'' section, and the ''Anticipated Effects on Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

The appearance of researchers may have the potential to cause Level B harassment of any pinnipeds hauled out at sampling sites. Although marine mammals are never deliberately approached by survey personnel, approach may be unavoidable if pinnipeds are hauled out in the immediate vicinity of the permanent study plots. Disturbance may result in reactions ranging from an animal simply becoming alert to the presence of researchers (e.g., turning the head, assuming a more upright posture) to flushing from the haul-out site into the water. NMFS does not consider the lesser reactions to constitute behavioral harassment, or Level B harassment takes, but rather assumes that pinnipeds that move greater than 1 m (3.3 ft) or change the speed or direction of their movement in response to the presence of researchers are behaviorally harassed, and thus subject to Level B taking. Animals that respond to the presence of researchers by becoming alert, but do not move or change the nature of locomotion as described, are not considered to have been subject to behavioral harassment.

Numerous studies have shown that human activity can flush harbor seals off haulout sites (Allen *et al.,* 1985; Calambokidis *et al.,* 1991; Suryan and Harvey, 1999). The Hawaiian monk seal (*Monachus schauinslandi*) has been shown to avoid beaches that have been disturbed often by humans (Kenyon, 1972). And in one case, human disturbance appeared to cause Steller sea lions to desert a breeding area at Northeast Point on St. Paul Island, Alaska (Kenyon, 1962).

There are three ways in which disturbance, as described previously, could result in more than Level B harassment of marine mammals. All three are most likely to be consequences of stampeding, a potentially dangerous occurrence in which large numbers of animals succumb to mass panic and rush away from a stimulus, an occurrence that is not expected at the proposed sampling sites. The three situations are (1) falling when entering the water at high-relief locations; (2) extended separation of mothers and pups; and (3) crushing of elephant seal pups by large males during a stampede.

Because hauled-out animals may move towards the water when disturbed, there is the risk of injury if animals stampede towards shorelines with precipitous relief (e.g., cliffs). However, while cliffs do exist along the coast, shoreline habitats near the abalone study sites are of steeply sloping rocks with unimpeded and non-obstructive access to the water. If disturbed, hauled-out animals in these situations may move toward the water without risk of encountering barriers or hazards that would otherwise prevent them from leaving the area. In these circumstances, the risk of injury, serious injury, or death to hauled-out animals is very low. Thus, research activity poses no risk that disturbed animals may fall and be injured or killed as a result of disturbance at high-relief locations.

Anticipated Effects on Marine Mammal Habitat

The only habitat modification associated with the proposed activity is the placement of permanent bolts and other sampling equipment in the intertidal. Bolts are installed during the set-up of a site and, at existing sites, this has already occurred. In some instances, bolts will need to be replaced or installed for new plots. Bolts are 7.6 to 12.7 cm (2 to 5 in) long, stainless steel 1 cm (3/8 in) Hex or Carriage bolts. They are installed by drilling a hole with a battery powered DeWalt 24 volt rotary hammer drill with a 1 cm (3/8 in) bit. The bolts protrude 1.3–7.6 cm (0.5–3 in) above the rock surface and are held in place with marine epoxy. Although the drill does produce noticeable noise, researchers have never observed an instance where near-by or offshore marine mammals were disturbed by it. Any marine mammal at the site would likely be disturbed by the presence of researchers and retreat to a distance where the noise of the drill would not increase the disturbance. In most instances, wind and wave noise also

drown out the noise of the drill. The installation of bolts and other sampling equipment is conducted under the appropriate permits (Monterey Bay National Marine Sanctuary, California State Parks). Once a particular study has ended, the respective sampling equipment is removed. No trash or field gear is left at a site. Thus, the proposed activity is not expected to have any habitat-related effects, including to marine mammal prey species, that could cause significant or long-term consequences for individual marine mammals or their populations.

Proposed Mitigation

In order to issue an incidental take authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must, where applicable, set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

Mitigation Measures

PISCO proposes to implement several mitigation measures to reduce potential take by Level B (behavioral disturbance) harassment. Measures include: (1) Conducting slow movements and staying close to the ground to prevent or minimize stampeding; (2) avoiding loud noises (i.e., using hushed voices); (3) avoiding pinnipeds along access ways to sites by locating and taking a different access way and vacating the area as soon as sampling of the site is completed; (4) monitoring the offshore area for predators (such as killer whales and white sharks) and avoid flushing of pinnipeds when predators are observed in nearshore waters; (5) using binoculars to detect pinnipeds before close approach to avoid being seen by animals; (6) only flushing pinnipeds if they are located in the sampling plots and there are no other means to accomplish the survey (however, flushing must be done slowly and quietly so as not to cause a stampede); (7) no intentional flushing if pups are present at the sampling site; and (8) rescheduling sampling if Steller sea lions are present at the site.

The methodologies and actions noted in this section will be utilized and included as mitigation measures in any issued IHA to ensure that impacts to marine mammals are mitigated to the lowest level practicable. The primary method of mitigating the risk of disturbance to pinnipeds, which will be in use at all times, is the selection of judicious routes of approach to study sites, avoiding close contact with pinnipeds hauled out on shore, and the use of extreme caution upon approach. In no case will marine mammals be deliberately approached by survey personnel, and in all cases every possible measure will be taken to select a pathway of approach to study sites that minimizes the number of marine mammals potentially harassed. In general, researchers will stay inshore of pinnipeds whenever possible to allow maximum escape to the ocean. Each visit to a given study site will last for approximately 4–6 hours, after which the site is vacated and can be re-occupied by any marine mammals that may have been disturbed by the presence of researchers. By arriving before low tide, worker presence will tend to encourage pinnipeds to move to other areas for the day before they haul out and settle onto rocks at low tide.

PISCO will suspend sampling and monitoring operations immediately if an injured marine mammal is found in the vicinity of the project area and the monitoring activities could aggravate its condition.

Mitigation Conclusions

NMFS has carefully evaluated PISCO's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing the severity of harassment takes only).

5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must, where applicable, set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. PISCO submitted a marine mammal monitoring plan as part of the IHA application. It can be found in Section 13 of the application. The plan may be modified or supplemented based on comments or new information

received from the public during the public comment period.

Monitoring measures proposed by the applicant or prescribed by NMFS should accomplish one or more of the following top-level goals:

1. An increase in our understanding of the likely occurrence of marine mammal species in the vicinity of the action, i.e., presence, abundance, distribution, and/or density of species.

2. An increase in our understanding of the nature, scope, or context of the likely exposure of marine mammal species to any of the potential stressor(s) associated with the action (e.g. sound or visual stimuli), through better understanding of one or more of the following: the action itself and its environment (e.g. sound source characterization, propagation, and ambient noise levels); the affected species (e.g. life history or dive pattern); the likely co-occurrence of marine mammal species with the action (in whole or part) associated with specific adverse effects; and/or the likely biological or behavioral context of exposure to the stressor for the marine mammal (e.g. age class of exposed animals or known pupping, calving or feeding areas).

3. An increase in our understanding of how individual marine mammals respond (behaviorally or physiologically) to the specific stressors associated with the action (in specific contexts, where possible, e.g., at what distance or received level).

4. An increase in our understanding of how anticipated individual responses, to individual stressors or anticipated combinations of stressors, may impact either: the long-term fitness and survival of an individual; or the population, species, or stock (e.g. through effects on annual rates of recruitment or survival).

5. An increase in our understanding of how the activity affects marine mammal habitat, such as through effects on prey sources or acoustic habitat (e.g., through characterization of longer-term contributions of multiple sound sources to rising ambient noise levels and assessment of the potential chronic effects on marine mammals).

6. An increase in understanding of the impacts of the activity on marine mammals in combination with the impacts of other anthropogenic activities or natural factors occurring in the region.

7. An increase in our understanding of the effectiveness of mitigation and monitoring measures.

8. An increase in the probability of detecting marine mammals (through improved technology or methodology), both specifically within the safety zone (thus allowing for more effective implementation of the mitigation) and in general, to better achieve the above goals.

PISCO can add to the knowledge of pinnipeds in California and Oregon by noting observations of: (1) unusual behaviors, numbers, or distributions of pinnipeds, such that any potential follow-up research can be conducted by the appropriate personnel; (2) tag-bearing carcasses of pinnipeds, allowing transmittal of the information to appropriate agencies and personnel; and (3) rare or unusual species of marine mammals for agency follow-up.

Proposed monitoring requirements in relation to PISCO's rocky intertidal monitoring will include observations made by the applicant. Information recorded will include species counts (with numbers of pups/juveniles when possible), numbers of observed disturbances, and descriptions of the disturbance behaviors during the monitoring surveys, including location, date, and time of the event. In addition, observations regarding the number and species of any marine mammals observed, either in the water or hauled out, at or adjacent to the site, will be recorded as part of field observations during research activities. Observations of unusual behaviors, numbers, or distributions of pinnipeds will be reported to NMFS so that any potential follow-up observations can be conducted by the appropriate personnel. In addition, observations of tag-bearing pinniped carcasses as well as any rare or unusual species of marine mammals will be reported to NMFS. Information regarding physical and biological conditions pertaining to a site, as well as the date and time that research was conducted will also be noted.

If at any time injury, serious injury, or mortality of the species for which take is authorized should occur, or if take of any kind of any other marine mammal occurs, and such action may be a result of the proposed research, PISCO will suspend research activities and contact NMFS immediately to determine how best to proceed to ensure that another injury or death does not occur and to ensure that the applicant remains in compliance with the MMPA.

A draft final report must be submitted to NMFS Office of Protected Resources within 60 days after the conclusion of the 2014–2015 field season or 60 days prior to the start of the next field season if a new IHA will be requested. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the IHA. A final report must be submitted to the Director of the NMFS Office of Protected Resources and to the NMFS West Coast Regional Administrator within 30 days after receiving comments from NMFS on the draft final report. If no comments are received from NMFS, the draft final report will be considered to be the final report.

Monitoring Results From Previously Authorized Activities

PISCO complied with the mitigation and monitoring that we required under the IHA issued in December 2013. In compliance with the IHA, PISCO submitted a report detailing the activities and marine mammal monitoring they conducted. The IHA required PISCO to conduct counts of pinnipeds present at study sites prior to approaching the sites and to record species counts and any observed reactions to the presence of the researchers.

From December 17, 2013, through August 31, 2014, PISCO researchers conducted rocky intertidal sampling at 65 sites during 50 days (see Table 6 in PISCO's 2013–2014 report). During this time period, no injured, stranded, or dead pinnipeds were observed. Tables 7, 8, and 9 in PISCO's monitoring report (see **ADDRESSES**) outline marine mammal observations and reactions. Level B harassment takes of harbor seals, California sea lions, and northern elephant seals included short movements of 1–3 m (3.3–10 ft) away from researchers and in some instances flushing into the water.

Based on the results from the previous monitoring report, we conclude that these results support our original findings that the mitigation measures set forth in the 2013–2014 IHA effected the least practicable impact on the species or stocks. During periods of low tide (e.g., when tides are 0.6 m (2 ft) or less and low enough for pinnipeds to haul-out), we would expect the pinnipeds to return to the haulout site within 60 minutes of the disturbance (Allen *et al.,* 1985). The effects to pinnipeds appear at the most to displace the animals temporarily from their haul out sites, and we do not expect that the pinnipeds would permanently abandon a haul-out site during the conduct of rocky intertidal surveys.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has

the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

All anticipated takes would be by Level B harassment, involving temporary changes in behavior. The proposed mitigation and monitoring measures are expected to minimize the possibility of injurious or lethal takes such that take by injury, serious injury, or mortality is considered remote. Animals hauled out close to the actual survey sites may be disturbed by the presence of biologists and may alter their behavior or attempt to move away from the researchers.

As discussed earlier, NMFS considers an animal to have been harassed if it moved greater than 1 m (3.3 ft) in response to the researcher's presence or if the animal was already moving and changed direction and/or speed, or if the animal flushed into the water. Animals that became alert without such movements were not considered harassed.

For the purpose of this proposed IHA, only Oregon and California sites that are frequently sampled and have a marine mammal presence during sampling were included in take estimates. Sites where only Biodiversity Surveys are conducted were not included due to the infrequency of sampling and rarity of occurrences of pinnipeds during sampling. In addition, Steller sea lions are not included in take estimates as they will not be disturbed by researchers or research activities since activities will not occur or will be suspended if Steller sea lions are present. A small number of harbor seal and northern elephant seal pup takes are anticipated as pups may be present at several sites during spring and summer sampling.

Takes estimates are based on marine mammal observations from each site. Marine mammal observations are done as part of PISCO site observations, which include notes on physical and biological conditions at the site. The maximum number of marine mammals, by species, seen at any given time throughout the sampling day is recorded at the conclusion of sampling. A marine mammal is counted if it is seen on access ways to the site, at the site, or immediately up-coast or down-coast of the site. Marine mammals in the water immediately offshore are also recorded. Any other relevant information, including the location of a marine mammal relevant to the site, any unusual behavior, and the presence of pups is also noted.

These observations formed the basis from which researchers with extensive knowledge and experience at each site estimated the actual number of marine mammals that may be subject to take. In most cases the number of takes is based on the maximum number of marine mammals that have been observed at a site throughout the history of the site (1–3 observation per year for 5–10 years or more). Section 6 in PISCO's application outlines the number of visits per year for each sampling site and the potential number of pinnipeds anticipated to be encountered at each site. Table 4 in PISCO's application outlines the number of potential takes per site (see **ADDRESSES**).

Based on this information, NMFS proposes to authorize the take, by Level B harassment only, of 55 California sea lions, 183 harbor seals, and 30 northern elephant seals. These numbers are considered to be maximum take estimates; therefore, actual take may be slightly less if animals decide to haul out at a different location for the day or animals are out foraging at the time of the survey activities.

Analysis and Preliminary Determinations

Negligible Impact

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, feeding, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

No injuries or mortalities are anticipated to occur as a result of PISCO's rocky intertidal monitoring, and none are proposed to be authorized. The behavioral harassments that could occur would be of limited duration, as researchers only conduct sampling one to two times per year at each site for a total of 4–6 hours per sampling event. Therefore, disturbance will be limited to a short duration, allowing pinnipeds to reoccupy the sites within a short amount of time.

The risk of marine mammal injury, serious injury, or mortality associated with rocky intertidal monitoring increases somewhat if disturbances occur during breeding season. These situations present increased potential for mothers and dependent pups to become separated and, if separated pairs do not quickly reunite, the risk of mortality to pups (through starvation) may increase. Separately, adult male elephant seals may trample elephant seal pups if disturbed, which could potentially result in the injury, serious injury, or mortality of the pups. The risk of either of these situations is greater in the event of a stampede.

Very few pups are anticipated to be encountered during the proposed monitoring surveys. No California sea lion pups are anticipated to be encountered, as rookery sites are typically limited to the islands. A very small number of harbor seal and northern elephant seal pups have been observed at a couple of the proposed monitoring sites over the past years. Though elephant seal pups are occasionally present when researchers visit survey sites, risk of pup mortalities is very low because elephant seals are far less reactive to researcher presence than the other two species. Further, pups are typically found on sand beaches, while study sites are located in the rocky intertidal zone, meaning that there is typically a buffer between researchers and pups. Finally, the caution used by researchers in approaching sites generally precludes the possibility of behavior, such as stampeding, that could result in extended separation of mothers and dependent pups or trampling of pups. No research would occur where separation of mother and her nursing pup or crushing of pups can become a concern.

Typically, even those reactions constituting Level B harassment would result at most in temporary, short-term disturbance. In any given study season, researchers will visit sites one to two times per year for a total of 4–6 hours per visit. Therefore, disturbance of pinnipeds resulting from the presence of researchers lasts only for short periods of time and is separated by significant amounts of time in which no disturbance occurs. Because such disturbance is sporadic, rather than chronic, and of low intensity, individual

marine mammals are unlikely to incur any detrimental impacts to vital rates or ability to forage and, thus, loss of fitness. Correspondingly, even local populations, much less the overall stocks of animals, are extremely unlikely to accrue any significantly detrimental impacts.

Some of the pinniped species may use some of the sites during certain times of year to conduct pupping and/or breeding. However, some of these species prefer to use the offshore islands for these activities. At the sites where pups may be present, PISCO has proposed to implement certain mitigation measures, such as no intentional flushing if dependent pups are present, which will avoid mother/pup separation and trampling of pups.

Of the three marine mammal species anticipated to occur in the proposed activity areas, none are listed under the ESA. Taking into account the mitigation measures that are planned, effects to marine mammals are generally expected to be restricted to short-term changes in behavior or temporary abandonment of haulout sites, falling within the MMPA definition of ''Level B harassment.'' Pinnipeds are not expected to permanently abandon any area that is surveyed by researchers, as is evidenced by continued presence of pinnipeds at the sites during annual monitoring counts. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed mitigation and monitoring measures, NMFS preliminarily finds that the total marine mammal take from PISCO's rocky intertidal monitoring program will not adversely affect annual rates of recruitment or survival and therefore will have a negligible impact on the affected species or stocks.

Small Numbers

Table 1 in this document presents the abundance of each species or stock, the proposed take estimates, the percentage of the affected populations or stocks that may be taken by harassment, and the species or stock trends. Based on these estimates, PISCO would take less than 1.1% of each species or stock. Because these are maximum estimates, actual take numbers are likely to be lower, as some animals may select other haulout sites the day the researchers are present.

TABLE 1—POPULATION ABUNDANCE ESTIMATES, TOTAL PROPOSED LEVEL B TAKE, AND PERCENTAGE OF POPULATION THAT MAY BE TAKEN FOR THE POTENTIALLY AFFECTED SPECIES DURING THE PROPOSED ROCKY INTERTIDAL MONITORING PROGRAM

Species	Abundance *	Total proposed Level B take	Percentage of stock or population
Harbor Seal	[1] 30,196 [2] 16,165	183	0.6–1.1
California Sea Lion	296,750	60	0.02
Northern Elephant Seal	124,000	30	0.02

* Abundance estimates are taken from the 2013 U.S. Pacific Marine Mammal Stock Assessments (Carretta *et al.,* 2014).
[1] California stock abundance estimate; [2] Oregon/Washington stock abundance estimate.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

None of the marine mammals for which incidental take is proposed are listed as threatened or endangered under the ESA. NMFS' Permits and Conservation Division worked with the NMFS Southwest Regional Office to ensure that Steller sea lions would be avoided and incidental take would not occur. Therefore, NMFS has determined that issuance of the proposed IHA to PISCO under section 101(a)(5)(D) of the MMPA will have no effect on species listed as threatened or endangered under the ESA.

National Environmental Policy Act (NEPA)

In 2012, we prepared an EA analyzing the potential effects to the human environment from conducting rocky intertidal surveys along the California and Oregon coasts and issued a Finding of No Significant Impact (FONSI) on the issuance of an IHA for PISCO's rocky intertidal surveys in accordance with section 6.01 of the NOAA Administrative Order 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999). PISCO's proposed activities and impacts for 2014–2015 are within the scope of our 2012 EA and FONSI. We have reviewed the 2012 EA and determined that there are no new direct, indirect, or cumulative impacts to the human and natural environment associated with the IHA requiring evaluation in a supplemental EA and we, therefore, intend to reaffirm the 2012 FONSI.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to PISCO for the take of marine mammals incidental to conducting rocky intertidal monitoring research activities, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This IHA is valid from December 17, 2014, through December 16, 2015.

2. This IHA is valid only for specified activities associated with rocky intertidal monitoring surveys at specific sites along the U.S. California and Oregon coasts.

3. General Conditions

a. A copy of this IHA must be in the possession of personnel operating under the authority of this authorization.

b. The incidental taking of marine mammals, by Level B harassment only, is limited to the following species along the Oregon and California coasts:

i. 183 harbor seal (*Phoca vitulina richardii*);

ii. 60 California sea lion (*Zalophus californianus*); and

iii. 30 northern elephant seal (*Mirounga angustirostris*).

c. The taking by injury (Level A harassment), serious injury, or death of any of the species listed in condition 3(b) of the IHA or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

4. Mitigation Measures: In order to ensure the least practicable impact on the species listed in condition 3(b), the holder of this IHA is required to implement the following mitigation measures:

a. Field biologists must approach study sites cautiously and quietly, such that any disturbance of pinnipeds is minimized. The pathway and rate of approach must be chosen judiciously, avoiding to the extent possible any deliberate approach of hauled-out pinnipeds. If deliberate approach is unavoidable, field biologists must approach gradually such that stampeding of pinnipeds is avoided. Specific care must be taken to avoid any disturbance that may place pinniped pups at risk. Site visits should be limited to no more than 6 hours in the absence of extenuating circumstances, and personnel shall vacate the area as soon as sampling of the site is completed.

b. Staff shall use binoculars to detect pinnipeds before close approach to avoid being seen by the animals.

c. Staff shall monitor the offshore area for predators (such as killer whales and white sharks) and avoid flushing of pinnipeds when predators are observed in nearshore waters.

d. Staff shall reschedule work at sites where pups are present, unless other means to accomplishing the work can be done without causing disturbance to mothers and dependent pups.

e. Staff shall only flush pinnipeds if they are located in the sampling plots and there are no other means to accomplish the survey (however, flushing must be done slowly and quietly so as not to cause a stampede).

f. No intentional flushing if pups are present at the sampling site.

g. Sampling shall be rescheduled if Steller sea lions are present at the study site.

5. Monitoring: The holder of this IHA is required to conduct monitoring of marine mammals present at study sites prior to approaching the sites.

a. Information to be recorded shall include the following:

i. Species counts (with numbers of pups/juveniles); and

ii. Numbers of disturbances, by species and age, according to a three-point scale of intensity including (1) Head orientation in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, or changing from a lying to a sitting position and/or slight movement of less than 1 m; ''alert''; (2) Movements in response to or away from disturbance, typically over short distances (1–3 m) and including dramatic changes in direction or speed of locomotion for animals already in motion; ''movement''; and (3) All flushes to the water as well as lengthier retreats (>3 m); ''flight''.

6. Reporting: The holder of this IHA is required to:

a. Report observations of unusual behaviors, numbers, or distributions of pinnipeds, or of tag-bearing carcasses, to NMFS Southwest Fisheries Science Center (SWFSC).

b. Submit a draft monitoring report to NMFS Office of Protected Resources within 60 days after the conclusion of the 2014–2015 field season or 60 days prior to the start of the next field season if a new IHA will be requested. A final report shall be prepared and submitted within 30 days following resolution of any comments on the draft report from NMFS. This report must contain the informational elements described above, at minimum.

c. Reporting injured or dead marine mammals:

i. In the event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, PISCO shall immediately cease the specified activities and report the incident to the Office of Protected Resources (301–427–8401), NMFS, and the Southwest Regional Stranding Coordinator (562–980–3230), NMFS. The report must include the following information:

1. Time and date of the incident;

2. Description of the incident;

3. Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);

4. Description of all marine mammal observations in the 24 hours preceding the incident;

5. Species identification or description of the animal(s) involved;

6. Fate of the animal(s); and

7. Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with PISCO to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. PISCO may not resume the activities until notified by NMFS.

ii. In the event that an injured or dead marine mammal is discovered and it is determined that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), PISCO shall immediately report the incident to the Office of Protected Resources, NMFS, and the Southwest Regional Stranding Coordinator, NMFS. The report must include the same information identified in 6(c)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with PISCO to determine whether additional mitigation measures or modifications to the activities are appropriate.

iii. In the event that an injured or dead marine mammal is discovered and it is determined that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), PISCO shall report the incident to the Office of Protected Resources, NMFS, and the Southwest Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. PISCO shall provide photographs or video footage or other documentation of the stranded animal sighting to NMFS. Activities may continue while NMFS reviews the circumstances of the incident.

7. This IHA may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

Request for Public Comments

NMFS requests comment on our analysis, the draft authorization, and any other aspect of the Notice of Proposed IHA for PISCO's proposed rocky intertidal monitoring program. Please include with your comments any supporting data or literature citations to help inform our final decision on PISCO's request for an MMPA authorization.

Dated: October 2, 2014.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

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BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2014–0022]

Proposed Language Access Plan for the Consumer Financial Protection Bureau

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice of proposed plan with request for public comment.

SUMMARY: Consistent with Executive Order 13166 (Aug. 11, 2000), the Consumer Financial Protection Bureau (Bureau or CFPB) is committed to providing persons with limited English proficiency (LEP) meaningful access to its programs and services. The Language Access Plan describes the Bureau's policy and how the Bureau's current language access activities are implemented across all of the Bureau's operations, programs and services. The Bureau will review this plan every three years and revise it as necessary. The public is invited to comment on the Bureau's programs and activities available to LEP persons and on steps that the Bureau could take to ensure that LEP persons have meaningful access to such services.

DATES: Comments must be received on or before January 6, 2015 to be assured of consideration.

ADDRESSES: You may submit comments regarding the Proposed Language Access Plan, identified by title and by Docket No. CFPB–2014–0022, by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Consumer Financial Protection Bureau (Attention: Office of Financial Education), 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Consumer Financial Protection Bureau (Attention: Office of Financial Education), 1275 First Street NE., Washington, DC 20002.

Instructions: The Bureau encourages the early submission of comments. All submissions must include the document title and docket number. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1275 First Street, NE., Washington, DC 20002, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Standard Time. You can make an appointment to inspect the documents by telephoning 202–435–7275.

All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Do not include sensitive personal information such as account numbers or Social Security numbers. Comments will not be edited to remove any identifying or contact information, such as name and address information, email addresses, or telephone numbers.

FOR FURTHER INFORMATION CONTACT: For general inquiries, submission process questions or any additional information, please contact Monica Jackson, Office of the Executive Secretary, at 202–435–7275. For information about the Proposed Language Access Plan, please contact Dubis Correal, Office of Financial Education, at 202–435–7937.

SUPPLEMENTARY INFORMATION:

I. Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act [1] (Dodd-Frank Act) established the Bureau of Consumer Financial Protection. Section 1021 of the Dodd-Frank Act provides that the purpose of the Bureau is to ''implement, and where applicable, enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.'' 12 U.S.C. 5511.

Listening and responding to consumers is central to the Bureau's purpose of ensuring that all consumers have access to consumer financial products and services. Since its inception, the Bureau has provided consumers with numerous ways to make their voices heard. Consumers nationwide have engaged with the Bureau through public field hearings, listening events, roundtables, town halls, the Bureau's Web site, consumerfinance.gov, and the Bureau's Consumer Response function. The Bureau has also sought input from a range of financial education stakeholders about challenges consumers face, effective tools in overcoming those challenges, and what the Bureau can do to improve the financial decision-making process of consumers to help them better navigate the marketplace of financial products and services.[2] This engagement strengthens the Bureau's understanding of current issues in the *consumer financial* marketplace and informs its work.

The Bureau understands that this engagement is incomplete without efforts to include Limited English Proficiency (LEP) persons (individuals who do not speak English as their primary language and who have a limited ability to speak, write, or understand English). According to a 2010 Census Report, there are over 24 million people in the United States who do not speak English ''very well.'' This includes people who classify themselves as speaking English ''not well'' and people who do not speak English at all. Studies by Federal agencies and other stakeholders have highlighted that receipt of materials in consumers' native languages is essential to increasing these consumers' knowledge about financial products and services.

For instance, a study conducted by the FDIC [3] found that households that include a foreign-born noncitizen or where Spanish is the only language spoken are less likely to participate in the mainstream banking system. Household members who speak English as a second language, or who cannot read English, are particularly disadvantaged in their ability to review and understand financial documents and other important notifications. The Federal Trade Commission and immigrant advocacy organizations have also noted that some populations with limited English language skills are more susceptible to fraudulent and predatory practices.[4] Further, the Government Accountability Office (GAO) examined the extent to which individuals with limited English proficiency are impeded in their financial literacy and conduct of financial affairs. The GAO's report indicated that a lack of proficiency in English can create significant barriers to financial literacy and to conducting everyday financial affairs.[5]

Consistent with Executive Order 13166 (Aug. 11, 2000) and the Bureau's mission, the Bureau proposes to adopt the Proposed Language Access Plan to address meaningful access to Bureau services for LEP persons. The Bureau

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

[2] *See* Consumer Financial Protection Bureau, Feedback From the Financial Education Field (May 13, 2013), *http://files.consumerfinance.gov/f/201305_cfpb_OFE-request-for-information-report.pdf.*

[3] Federal Deposit Insurance Corporation, 2011 FDIC National Survey of Unbanked and Underbanked Households (September 2013), *http://www.fdic.gov/householdsurvey.*

[4] U.S. Government Accountability Office, Factors Affecting the Financial Literacy of Individuals with Limited English Proficiency, GAO–10–518 (May 21, 2010), *http://www.gao.gov/products/GAO-10-518.*

[5] *Id.* at 3.

invites public comment on the Proposed Language Access Plan and on related matters, as described below, that may be of interest to the LEP community.

II. Summary of Proposed Language Access Plan

The Bureau considered the following factors in drafting the proposed Language Access Plan: (1) The number or proportion of LEP persons who would not receive the Bureau's services absent efforts to remove language barriers; (2) The frequency and number of contacts by LEP persons with the Bureau's services; (3) The nature and importance of the services provided by the Bureau to people's lives; and (4) The resources available to the Bureau (including cost-benefit analysis) to provide services to LEP persons. Under the proposed Language Access Plan, the Bureau provides LEP individuals with access to information, services, activities, and programs through translating critical consumer-facing documents into select foreign languages and handling complaints from consumers about financial consumer products and services in over 180 languages. The Bureau invites public comment on the proposed Language Access Plan.

III. Related Matters of Interest

The public is invited to comment on the Bureau's programs and activities that are available to LEP persons and on steps the Bureau could take to ensure that LEP persons have meaningful access to such services. The Bureau will use the information gathered from this notice and other outreach efforts to improve access to these programs and activities.

A. *Language Access Task Force.* The Bureau has created and is committed to its Language Access Task Force, a cross-divisional working group aimed at developing and executing a Bureau-wide strategy to provide LEP consumers with meaningful access to information produced by the Bureau. The Task Force identifies and addresses barriers to language access, coordinates with internal and external stakeholders, ensures consistency within the Bureau in its communications with LEP individuals, and informs the Bureau's work to engage LEP consumers. The Bureau seeks public comment on how the Task Force can best accomplish these goals. The Task Force will consider any comments it receives in setting its agenda and priorities among these four activities. The Task Force also seeks public comment on how the Bureau can effectively make LEP consumers aware of consumer financial protections available to them in the financial marketplace.

B. *Handling complaints from consumers about consumer financial products and services.* The Bureau's Office of Consumer Response (Consumer Response) hears directly from consumers about the challenges they face in the marketplace and brings consumers' concerns to the attention of consumer financial product or service providers. Consumer Response currently accepts complaints about credit cards, mortgages, bank accounts and services, private student loans, vehicle and other consumer loans, credit reporting, money transfers, debt collection, payday loans, prepaid cards, credit repair and debt settlement services, title and pawn loans, and virtual currencies. The CFPB's contact centers can assist consumers with complaints in over 180 languages, and consumers have the option to receive written communications in Spanish. The contact centers also accept inquiries from consumers on various consumer financial products and services, as well as CFPB news and operations. The Bureau works to respond to consumer inquiries or refer consumers to other regulators and resources, as needed. The Bureau seeks comments on ways it can improve access to the CFPB consumer complaint system by the LEP community.

C. *Incorporation of translation and interpretation in Bureau supervision and enforcement.* The Bureau works to appropriately utilize translation and interpretation in the context of examinations and investigations. These services may be used for several purposes, for example interviews and other consultations with LEP consumer witnesses, whistleblowers, and employees of regulated entities; review of documents and recordings of phone calls; and with respect to critical settlement announcements. The Bureau seeks public comment on how to best incorporate translation and interpretation services in Bureau supervision and enforcement.

D. *Informing and educating consumers in the financial marketplace.* One of the Bureau's goals is to give consumers practical, actionable information about financial goals, decisions, products, and services to help consumers build the financial knowledge and skills that they need to make well-informed financial decisions for themselves and their families. For the LEP community, this includes access in consumers' native languages to consumer education materials. The Bureau offers free printed financial education materials translated into other languages for LEP consumers, which are distributed by both the Bureau and other stakeholders. To date, CFPB has routinely translated its most critical and frequently requested documents into Spanish (*http://promotions.usa.gov/cfpbpubs.html*). Certain publications are also available in Chinese, French, Haitian Créole, Tagalog, Chinese, Korean, and Vietnamese. The Bureau seeks comment on how to most effectively distribute printed financial education materials to LEP consumers.

E. *Digital Offering in Other Languages.* The Bureau has an interactive online tool titled ''AskCFPB'' that gives consumers answers to over 1,000 questions about financial products and services, including credit cards, mortgages, student loans, bank accounts, credit reports, payday loans, and debt collection. Ask CFPB is also available in Spanish. Additionally, consumers share the CFPB's information and communicate with the Bureau through Facebook and Twitter. The Bureau currently posts and responds to select messages in English and Spanish at *facebook.com/cfpbandtwitter.com/cfpb.* The Bureau seeks public comment on how to best provide valuable information to LEP communities online and through social media.

F. *Outreach and stakeholder engagement.* The Bureau works with key stakeholders within LEP communities to ensure consumers are aware of Bureau resources and tools. The Bureau seeks comment on ways that it can improve and enhance its outreach and stakeholder engagement. The Bureau also seeks comment on how LEP consumers' awareness of consumer protections affects their experience as consumers in the financial marketplace, and resources that LEP consumers utilize when navigating consumer financial products and services.

IV. Regulatory Requirements

This Proposed Language Access Plan articulates the Bureau's commitment to providing persons with limited English proficiency meaningful access to its programs and services. It is therefore exempt from the notice and comment rulemaking requirements under the Administrative Procedure Act pursuant to 5 U.S.C. 553(b).

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a).

The Bureau has determined that this Proposed Language Access Plan does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered

entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

Proposed Language Access Plan

The text of the Proposed Language Access Plan follows:

Consistent with Executive Order 13166 (Aug. 11, 2000), this document establishes the Language Access Plan of the Consumer Financial Protection Bureau (Bureau or CFPB) for addressing meaningful access to CFPB services for Limited English Proficiency (LEP) persons (individuals who do not speak English as their primary language and who have a limited ability to speak, write, or understand English).

The CFPB is committed to improving the accessibility of its services to LEP persons. In developing its Language Access Plan, the CFPB engaged stakeholders to understand the opportunities to serve LEP persons and to ensure LEP individuals have access to the CFPB's programs and services.

To ensure meaningful access, the Bureau considers the following factors: (1) The number or proportion of LEP persons who would not receive the Bureau's services absent efforts to remove language barriers; (2) The frequency and number of contact by LEP persons with the Bureau's services; (3) The nature and importance of the services provided by the Bureau to people's lives; and (4) The resources available to the Bureau (including cost-benefit analysis) to provide services to LEP persons.

The CFPB provides LEP individuals with access to information, services, activities, and programs through the following activities:

1. Translating Consumer-Facing Documents

The Bureau translates critical consumer-facing documents into the most frequently encountered languages, as established by U.S. Census Bureau data or based on specific issues affecting a particular group of LEP individuals. The Bureau publishes a wider range of consumer-facing documents in Spanish than other frequently encountered languages.

Translating public-facing documents into the languages most frequently encountered [6] is important when reaching LEP individuals. Given that Hispanics constitute 16.7 percent of the nation's total population, making them the nation's largest ethnic or racial minority, and that 62 percent of people who speak a language other than English at home speak Spanish,[7] the Bureau translates certain consumer-facing materials into Spanish. The CFPB has also translated brochures, fact sheets and other materials about certain topics into Chinese, French, French Créole, Korean, Tagalog, and Vietnamese. The Bureau audits translated materials to ensure quality and accuracy.

2. Handling Complaints From Consumers About Consumer Financial Products and Services

The Bureau's Office of Consumer Response (Consumer Response) hears directly from consumers about the challenges they face in the marketplace and brings consumers' concerns to the attention of consumer financial product or service providers. Consumer Response currently accepts complaints about credit cards, mortgages, bank accounts and services, private student loans, vehicle and other consumer loans, credit reporting, money transfers, debt collection, payday loans, prepaid cards, credit repair and debt settlement services, title and pawn loans, and virtual currencies. The CFPB's contact centers can assist consumers with complaints in over 180 languages, and consumers have the option to receive written communications in Spanish. The contact centers also accept inquiries from consumers on various consumer financial products and services as well as CFPB news and operations. The Bureau works to respond to these inquiries or refers consumers to other regulators and resources, as needed.

Dated: September 25, 2014.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2014–24122 Filed 10–7–14; 8:45 am]

BILLING CODE 4810–AM–P

[6] Language Used in The United States 2007—American Community Survey Report—U.S. Census Bureau. According to the 2012 American Community Survey Report from the U.S. Census Bureau, Spanish, Mandarin, French, Haitian Créole, Tagalog, Chinese, Korean and Vietnamese are the most common languages other than English that are spoken in the United States.

[7] Language Used in The United States 2007—American Community Survey Report—U.S. Census Bureau.

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2014–0030]

Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by November 7, 2014.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Appendix F, Material Inspection and Receiving Report; DD Form 250, DD Form 250c, DD Form 250–1; OMB Control Number 0704–0248.

Type of Request: Extension.

Number of Respondents: 92,500.

Responses per Respondent: 25.

Annual Responses: 2,352,941.

Average Burden per Response: 5 minutes.

Annual Burden Hours: 209,804.

Needs and Uses: This requirement provides for the collection of information related to material inspection and acceptance, shipping, and payment requests under Government contracts. DFARS 252.246–7000, Material Inspection and Receiving Report, is used in contracts that require separate and distinct deliverables and requires the contractor to prepare and furnish to the Government a material inspection and receiving report in a manner and to the extent required by DFARS Appendix F, primarily using Wide Area WorkFlow (WAWF) and the electronic WAWF Receiving Report. This information is used to process reports of inspection and receipt of materials, quality assurance, shipping, and contractor payment requests.

Affected Public: Businesses or other for-profit entities and not-for-profit institutions.

Frequency: On occasion.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. 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 the **Federal Register** document. The general policy for comments and other public 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 provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: Publication Collections Program, WHS/ESD Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2014–24016 Filed 10–7–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2014–0031]

Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, DoD.

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by November 7, 2014.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) part 247, Transportation, and related clauses at 252.247; DD Form 1659, Application for U.S. Government Shipping Documentation/Instructions; OMB Control Number 0704–0245.

Type of Request: Extension.

Number of Respondents: 250,000.

Responses per Respondent: Approximately 1.67.

Annual Responses: 417,341.

Average Burden per Response: Approximately .4 hours.

Annual Burden Hours: 166,420.

Needs and Uses: DoD contracting officers use this information to verify that prospective contractors have adequate insurance prior to award of stevedoring contracts; to provide appropriate price adjustments to stevedoring contracts; to assist the Maritime Administration in monitoring compliance with requirements for use of U.S.-flag vessels in accordance with the Cargo Preference Act of 1904 (10 U.S.C. 2631); and to provide appropriate and timely shipping documentation/instructions to contractors.

Affected Public: Businesses or other for-profit entities and not-for-profit institutions.

Frequency: On occasion.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. 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 the **Federal Register** document. The general policy for comments and other public 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 provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Public Collections Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: Publication Collections Program, WHS/ESD Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2014–24015 Filed 10–7–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, DoD.

ACTION: Notice of partially closed meeting.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry, as the Board shall deem necessary, into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. The executive session of this meeting from 11 a.m. to 12 p.m. on December 1, 2014, will include discussions of new and pending administrative/minor disciplinary infractions and non-judicial punishments involving the Midshipmen attending the U.S. Naval Academy to include but not limited to individual honor/conduct violations within the Brigade; the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. For this reason, the executive session of this meeting will be closed to the public.

DATES: The open session of the meeting will be held on December 1, 2014, from 8 a.m. to 11 a.m. The closed session of this meeting will be the executive session held from 11 a.m. to 12 p.m.

ADDRESSES: The meeting will be held at the U.S. Naval Academy, Annapolis, MD. The meeting will be handicap accessible.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Eric Madonia, USN, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, 410–293–1503.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act, as amended (5 U.S.C. App.). The executive session of the meeting from 11 a.m. to

12 p.m. on December 1, 2014, will include discussion of new and pending administrative/minor disciplinary infractions and non-judicial punishments involving the Midshipmen attending the U.S. Naval Academy to include but not limited to individual honor/conduct violations within the Brigade. The discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. Accordingly, the Deputy Under Secretary of the Navy (Management) has determined in writing that the meeting shall be partially closed to the public because the discussions during the executive session from 11 a.m. to 12 p.m. will be concerned with matters coming under sections 552b(c)(5), (6), and (7) of title 5, United States Code.

Dated: September 29, 2014.

N.A. Hagerty-Ford,

Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2014–23903 Filed 10–7–14; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0139]

Agency Information Collection Activities; Comment Request; Evaluation of Preschool Special Education Practices Phase I

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before December 8, 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–0139 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 Yumiko Sekino, 202–219–2046.

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: Evaluation of Preschool Special Education Practices Phase I.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 1,251.

Total Estimated Number of Annual Burden Hours: 609.

Abstract: The main objective of the Evaluation of Preschool Special Education Practices, Phase I study is to assess the feasibility of conducting a large-scale randomized controlled trial (RCT) evaluation of one or more curricula or interventions that are used with preschool children with disabilities to promote their learning of language, literacy, social-emotional skills, and/or appropriate behavioral skills for school. The feasibility assessment will consider the core features of an evaluation design, including the following: (1) Curricula and/or interventions to be evaluated; (2) Study context and participants; and (3) Key design elements, such as the counterfactual condition, unit of assignment, target minimum detectable effects (MDEs), sample size, and data collection plans.

Data to inform the feasibility assessment will be obtained through surveys of school district preschool special education coordinators and state Section 619 coordinators, the subject of the current submission. Preschool special education coordinators in school districts and state Section 619 coordinators will provide information to address the study's overarching research question—whether there are promising curricula and interventions for preschool children with disabilities for which a large-scale effectiveness trial would be feasible and add value to the field. The district survey will be administered in a nationally representative sample of 1,200 school districts serving preschool children with disabilities as a 30-minute web survey. The state survey will be administered in all 50 states and the District of Columbia as a 10-minute editable PDF survey. Data collection for each survey will begin in April 2015.

The feasibility assessment will also be informed by use of extant data and conduct of an evidence review. In addition to collected survey data, extant data will provide information about preschool special education programs, the curricula and interventions that are available and supported by these programs, and the context in which curricula and interventions are delivered to inform decisions about key design elements. The evidence review will identify promising curricula and interventions for preschool children with disabilities and features about their implementation in schools.

Information obtained as part of the data collection for Phase I will be used to develop a publicly available report to provide educators and policymakers with nationally representative descriptive information about current preschool special education programs. If the Institute of Education Sciences (IES) decides to sponsor an RCT following the feasibility assessment, separate OMB packages will be submitted that request clearance for recruitment and data collection activities for the RCT.

Dated: October 2, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–23958 Filed 10–7–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Board for Education Sciences

AGENCY: Institute of Education Sciences, U.S. Department of Education.

ACTION: Announcement of an open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming meeting of the National Board for Education Sciences (NBES). The notice also describes the functions of the Committee. Notice of this meeting is required by Section 10(a) (2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend the meeting.

DATES: The NBES meeting will be held on October 30, 2014, from 9:00 a.m. to 3:30 p.m. Eastern Standard Time.

ADDRESSES: 80 F Street NW., Large Board Room, Washington, DC 20001

FOR FURTHER INFORMATION CONTACT: Ellie Pelaez, Designated Federal Official, NBES, U.S. Department of Education, 555 New Jersey Avenue NW., Room 600 E, Washington, DC 20208; phone: (202) 219–0644; fax: (202) 219–1402; email: *Ellie.Pelaez@ed.gov*.

SUPPLEMENTARY INFORMATION: *NBES' Statutory Authority and Function:* The National Board for Education Sciences is authorized by Section 116 of the Education Sciences Reform Act of 2002 (ESRA), *20 U.S.C. 9516.* The Board advises the Director of the Institute of Education Sciences (IES) on, among other things, the establishment of activities to be supported by the Institute and the funding for applications for grants, contracts, and cooperative agreements for research after the completion of peer review. The Board also reviews and evaluates the work of the Institute.

Meeting Agenda: On October 30, 2014, starting at 9:00 a.m., the Board meeting will commence and members will approve the agenda. From 9:05 to 10:15 a.m., the Commissioners of IES's national centers will give an overview of recent developments at IES. This session will be followed by a question and answer period regarding the Commissioners' reports. A break will take place from 10:15 to 10:30 a.m.

The Board meeting will resume from 10:30 to 12:00 p.m. when the Board will discuss ''Research on Educating African American Males.'' NBES Chair David Chard and Thomas Brock, Commissioner of the National Center for Education Research (NCER), will provide the opening remarks, followed by a panel discussion with researchers studying specific interventions. Roundtable discussion by board members will take place after the panel discussion. The meeting will break for lunch from 12:00 to 1:00 p.m.

From 1:00 p.m. to 3:00 p.m., the Board will consider the topic, ''Higher Education Rating System.'' Following opening remarks by the Department of Education's Under Secretary Ted Mitchell, a roundtable discussion of the topic will take place.

Closing remarks from Sue Betka, Acting Director of IES, and David Chard, will take place from 3:00 p.m. to 3:30 p.m., with adjournment scheduled for 3:30 p.m.

Submission of comments regarding the Board's policy recommendations: There will not be an opportunity for public comment. However, members of the public are encouraged to submit written comments related to NBES to Ellie Pelaez (see contact information above). A final agenda is available from Ellie Pelaez (see contact information above) and is posted on the Board Web site *http://ies.ed.gov/director/board/agendas/index.asp.*

Access to Records of the Meeting: The Department will post the official report of the meeting on the NBES Web site no later than 90 days after the meeting. Pursuant to the FACA, the public may also inspect the materials at 555 New Jersey Avenue NW., 6th Floor, Washington, DC, by emailing *Ellie.Pelaez@ed.gov* or by calling (202) 219–0644 to schedule an appointment.

Reasonable Accommodations: The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice by or before October 23, 2014. Although we will attempt to meet a request received after October 23, 2014, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Section 116 of the Education Sciences Reform Act of 2002 (ESRA), *20 U.S.C. 9516.*

Sue Betka,

Acting Director, Institute of Education Science.

[FR Doc. 2014–23992 Filed 10–7–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Senior Executive Service; Performance Review Board

AGENCY: U.S. Department of Energy.

ACTION: Designation of Performance Review Board Standing Register.

SUMMARY: This notice provides the Performance Review Board Standing Register for the Department of Energy. This listing supersedes all previously published lists of PRB members.

DATES: This appointment is effective as of September 30, 2014.

Bremer, John
Brown, Fred
Buttress, Larry
Cadieux, Gena
Chalk, Steven
Gamage, Sarah
Geiser, David
Jones, Wayne
Lee, Terri
Lenhard, Joseph
Mefford, Penny
O'Konski, Peter
Stephenson, April
Waisley, Sandra
White, William I.
Williams, Thomas D.

Issued in Washington, DC, October 2, 2014.

Tonya M. Mackey,

Director, Office of Executive Resources, Office of the Chief Human Capital Officer.

[FR Doc. 2014–24019 Filed 10–7–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Senior Executive Service; Performance Review Board

AGENCY: U.S. Department of Energy.

ACTION: Designation of Performance Review Board Chair.

SUMMARY: This notice provides the Performance Review Board Chair designee for the Department of Energy. This listing supersedes all previously published lists of Performance Review Board Chair.

DATES: This appointment is effective as of September 30, 2014.

Dennis M. Miotla.

Issued in Washington, DC, October 2, 2014.

Tonya M. Mackey,

Director, Office of Executive Resources, Office of the Chief Human Capital Officer.

[FR Doc. 2014–24017 Filed 10–7–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–1285–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: § 4(d) rate filing per 154.204: Negotiated Rates—Cherokee AGL—Replacement Shippers—Oct 2014 to be effective 10/1/2014.
Filed Date: 9/29/14.
Accession Number: 20140929–5148.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1286–000.
Applicants: Interstate Power & Light Company, Minnesota Energy Resources Corporation.
Description: Joint Petition for Temporary Waiver of Commission Policies, Capacity Release Regulations and Related Tariff Provisions and Request for Expedited Action of Interstate Power & Light Company, et. al.
Filed Date: 9/29/14.
Accession Number: 20140929–5168.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1287–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) rate filing per 154.204: Negotiated Rate Release—Great Western to EDF eff 10–1–2014 to be effective 10/1/2014.
Filed Date: 9/29/14.
Accession Number: 20140929–5211.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1288–000.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: § 4(d) rate filing per 154.204: Vol 2—Expiration of Non-Conforming Agreement—Cotton Valley Compression, LLC to be effective 3/1/2014.
Filed Date: 9/29/14.
Accession Number: 20140929–5273.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1289–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: § 4(d) rate filing per 154.204: Volume No. 2—Rose Lake Expansion Project to be effective 11/1/2014.
Filed Date: 9/29/14.
Accession Number: 20140929–5328.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1290–000.
Applicants: Millennium Pipeline Company, LLC.
Description: § 4(d) rate filing per 154.601: Negotiated Rate Service Agreement—Columbia to be effective 11/1/2014.
Filed Date: 9/30/14.
Accession Number: 20140930–5097.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1291–000.
Applicants: Guardian Pipeline, L.L.C.
Description: § 4(d) rate filing per 154.204: EPC Semi-Annual Adjustment—Fall 2014 to be effective 11/1/2014.
Filed Date: 9/30/14.
Accession Number: 20140930–5146.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1292–000.
Applicants: Viking Gas Transmission Company.
Description: § 4(d) rate filing per 154.204: Semi-Annual FLRP—Fall 2014 to be effective 11/1/2014.
Filed Date: 9/30/14.
Accession Number: 20140930–5175.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1293–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) rate filing per 154.601: Negotiated & Non-Conforming Service Agmts—Line 1570 to be effective 11/1/2014.
Filed Date: 9/30/14.
Accession Number: 20140930–5185.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1294–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) rate filing per 154.601: Non-Conforming Service Agmts—OPT–60 to be effective 11/1/2014.
Filed Date: 9/30/14.
Accession Number: 20140930–5192.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1295–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) rate filing per 154.204: Neg Rate 2014–09–30 Encana to be effective 10/1/2014.
Filed Date: 9/30/14.
Accession Number: 20140930–5198.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1296–000.
Applicants: Young Gas Storage Company, Ltd.
Description: Young Gas Storage Company, Ltd. Operational Purchases and Sales Annual Report.
Filed Date: 9/30/14.
Accession Number: 20140930–5211.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1297–000.
Applicants: Cimarron River Pipeline, LLC.
Description: Cash Out Refund Report of Cimarron River Pipeline, LLC.
Filed Date: 9/30/14.
Accession Number: 20140930–5212.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1298–000.
Applicants: Wyoming Interstate Company, L.L.C.
Description: Annual Operational Purchases and Sales Report of Wyoming Interstate Company, L.L.C.
Filed Date: 9/30/14.
Accession Number: 20140930–5217.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1299–000.
Applicants: Dominion Transmission, Inc.
Description: § 4(d) rate filing per 154.403: DTI—2014 Annual EPCA to be effective 11/1/2014.
Filed Date: 9/30/14.
Accession Number: 20140930–5224.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1300–000.
Applicants: Dominion Transmission, Inc.
Description: § 4(d) rate filing per 154.403(d)(2): DTI—2014 Annual TCRA to be effective 11/1/2014.
Filed Date: 9/30/14.
Accession Number: 20140930–5227.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1301–000.
Applicants: Dominion Transmission, Inc.
Description: § 4(d) rate filing per 154.204: DTI—Allegheny Storage Project (CP12–72) Transportation Service Implementation to be effective 11/1/2014.
Filed Date: 9/30/14.

Accession Number: 20140930–5239.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1302–000.
Applicants: Equitrans, L.P.
Description: § 4(d) rate filing per 154.601: Negotiated Rate AGS Service Agreement—EQT Energy, LLC to be effective 10/1/2014.
Filed Date: 9/30/14.
Accession Number: 20140930–5272.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1303–000.
Applicants: Equitrans, L.P.
Description: § 4(d) rate filing per 154.601: Negotiated Rate Agreement—EQT Energy effective 10–01–2014 to be effective 10/1/2014.
Filed Date: 9/30/14.
Accession Number: 20140930–5284.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1304–000.
Applicants: Tallgrass Interstate Gas Transmission, L.
Description: § 4(d) rate filing per 154.204: Neg Rate 2014–9–13 Cross Timbers A&R NRA to be effective 10/1/2014.
Filed Date: 9/30/14.
Accession Number: 20140930–5305.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1305–000.
Applicants: Cheniere Creole Trail Pipeline, L.P.
Description: § 4(d) rate filing per 154.402: CCTPL Transportation Retainage Adjustment to be effective 11/1/2014.
Filed Date: 9/30/14.
Accession Number: 20140930–5318.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–1306–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: § 4(d) rate filing per 154.204: Pipeline Safety and Greenhouse Gas Cost Adjustment to be effective 11/1/2014.
Filed Date: 9/30/14.
Accession Number: 20140930–5327.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP15–1–000.
Applicants: ANR Pipeline Company.
Description: § 4(d) rate filing per 154.601: Wisconsin Electric Power Company ETS Agmts to be effective 11/1/2014.
Filed Date: 10/1/14.
Accession Number: 20141001–5012.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP15–2–000.
Applicants: ANR Storage Company.
Description: § 4(d) rate filing per 154.601: United Energy Trading FS Agmt to be effective 10/1/2014.
Filed Date: 10/1/14.
Accession Number: 20141001–5014.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP15–3–000.
Applicants: Trunkline Gas Company, LLC.
Description: Compliance filing per 154.203: Annual Report of Flow Through filed 10–1–14.
Filed Date: 10/1/14.
Accession Number: 20141001–5040.
Comments Due: 5 p.m. ET 10/14/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP14–1193–001.
Applicants: Columbia Gas Transmission, LLC.
Description: Compliance filing per 154.203: Section 4 Revisions—Compliance Filing to be effective 11/1/2014
Filed Date: 9/30/14.
Accession Number: 20140930–5241.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: RP14–540–002.
Applicants: Paiute Pipeline Company.
Description: Compliance filing per 154.203: Place Interim Rates into Effect—Rate Case RP14–540 to be effective 9/1/2014.
Filed Date: 9/30/14.
Accession Number: 20140930–5308.
Comments Due: 5 p.m. ET 10/14/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 1, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23947 Filed 10–7–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–1280–000.
Applicants: Southern Natural Gas Company, L.L.C.
Description: Compliance filing per 154.203: Abandonment of Service—Compliance Filing to be effective 11/1/2014.
Filed Date: 9/26/14.
Accession Number: 20140926–5067.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: RP14–1281–000.
Applicants: Alliance Pipeline L.P.
Description: § 4(d) rate filing per 154.204: October 1–31 214 Auction to be effective 10/1/2014.
Filed Date: 9/26/14.
Accession Number: 20140926–5092.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: RP14–1282–000.
Applicants: Maritimes & Northeast Pipeline, L.L.C.
Description: Compliance filing per 154.203: MNUS FRQ 2014.
Filed Date: 9/26/14.
Accession Number: 20140926–5124.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: RP14–1283–000.
Applicants: Northwest Pipeline LLC.
Description: § 4(d) rate filing per 154.204: Receiving Party and Entitlement Revisions Filing to be effective 10/27/2014.
Filed Date: 9/26/14.
Accession Number: 20140926–5214.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: RP14–1284–000.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: § 4(d) rate filing per 154.204: Volume No. 2–UGI Penn Natural Gas, Inc. to be effective 11/1/2014.
Filed Date: 9/26/14.
Accession Number: 20140926–5223.
Comments Due: 5 p.m. ET 10/8/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date.

Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 29, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23930 Filed 10–7–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9917–65–OARM; EPA–HQ–OA–2014–0113]

National Advisory Council for Environmental Policy and Technology

AGENCY: Environmental Protection Agency.

ACTION: Notice of Advisory Committee Teleconference.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92463, the Environmental Protection Agency (EPA) gives notice of a public teleconference of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice to the EPA Administrator on a broad range of environmental policy, technology, and management issues. NACEPT members represent academia, industry, non-governmental organizations, and local, state, and tribal governments. The purpose of this committee meeting is for NACEPT to continue developing sustainability strategies to strengthen the Agency's core business principles and practices outlined in the FY2014–2018 EPA Strategic Plan. A copy of the meeting agenda will be posted at *http://www2.epa.gov/faca/nacept.*

DATES: NACEPT will hold a public teleconference on Monday, November 3, 2014, from 12:00 p.m. to 4:00 p.m. Eastern Standard Time.

ADDRESSES: The meeting will be held at the U.S. EPA, William Jefferson Clinton Federal Building East, 1201 Constitution Ave. NW., Room 1132, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Eugene Green, Acting Designated Federal Officer, *green.eugene@epa.gov,* (202) 564–2432, U.S. EPA, Office of Federal Advisory Committee Management and Outreach (1601M), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The meeting is open to the public with limited seating and requests to provide oral and/or written comments to NACEPT should be sent directly to Eugene Green by Monday, October 27, 2014.

In addition, members of the public wishing to participate in-person or via teleconference should follow the same procedure as noted above.

Accessibility/Accommodations: Individuals with disabilities requesting reasonable accommodations should submit requests to Eugene Green at least 10 days in advance of the scheduled meeting.

Dated: September 29, 2014.

Eugene Green,

Acting Designated Federal Officer.

[FR Doc. 2014–24024 Filed 10–7–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9917–66–OW]

Notice of a Public Meeting: The National Drinking Water Advisory Council (NDWAC) Lead and Copper Rule Working Group Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of a public meeting.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing a public meeting of the National Drinking Water Advisory Council (NDWAC) Lead and Copper Rule Working Group (LCRWG). The meeting is scheduled for November 12 and 13, 2014, in Arlington, VA. During this meeting, the LCRWG and the EPA will focus discussions on the Lead and Copper Rule revision issues associated with lead service line replacements.

DATES: The meeting on November 12, 2014, will be held from 9:00 a.m. to 5:00 p.m., eastern time, and on November 13, 2014, from 9:00 a.m. to 3:00 p.m., eastern time.

ADDRESSES: The meeting will be held at the Cadmus Group Inc., 1555 Wilson Blvd., Suite 300, Arlington, VA, and will be open to the public. All attendees must sign in with the security desk and show photo identification to enter the building.

FOR FURTHER INFORMATION CONTACT: For more information about this meeting or to request written materials contact Lameka Smith, Standards and Risk Management Division, Office of Ground Water and Drinking Water; by phone at (202) 564–1629 or by email at *LCRWorkingGroup@epa.gov.* For additional information about the Lead and Copper Rule, please visit: *http://water.epa.gov/lawsregs/rulesregs/sdwa/lcr/index.cfm.*

SUPPLEMENTARY INFORMATION:

Details about Participating in the Meeting: Members of the public who would like to register for this meeting should contact Lameka Smith by November 10, 2014, by email at *LCRWorkingGroup@epa.gov* or by phone at 202–564–1629. The LCRWG will allocate 15 minutes for the public's input at the meeting on November 12th and 15 minutes on November 13th. Each oral statement will be limited to five minutes at the meeting. It is preferred that only one person present a statement on behalf of a group or organization. To ensure adequate time for public involvement, individuals or organizations interested in presenting an oral statement should notify Lameka Smith no later than November 7, 2014. Any person who wishes to file a written statement can do so before or after the LCRWG meeting. Written statements intended for the meeting must be received by November 7, 2014, to be distributed to all members of the working group before the meeting. Any statements received on or after the date specified will become part of the permanent file for the meeting and will be forwarded to the LCRWG members for their information.

Special Accommodations: For information on access or to request special accommodations for individuals with disabilities please contact Lameka Smith at (202) 564–1629 or by email at *LCRWorkingGroup@epa.gov* at least 10 days prior to the meeting to give the EPA as much time as possible to process your request.

Dated: October 2, 2014.

Peter Grevatt,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2014–24096 Filed 10–7–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0686; FRL–9917–08]

Spatial Aquatic Model Development; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A simultaneous workshop and webinar on a regional test version of the Spatial Aquatic Model (SAM) will be held on October 29, 2014. This Notice announces the location and time for the meeting and provides a tentative list of topics to be covered in the meeting. With the development of SAM, EPA will be able to determine the magnitude, length, and duration of exposure to a chemical as well as where the exposure may occur.

DATES: The meeting will be held on October 29, 2014 from 8:30 a.m. to 1 p.m. Requests to participate in the meeting must be received on or before October 20, 2014.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held at the Environmental Protection Agency, Office of Pesticide Programs (OPP), One Potomac Yard (South Building), Fourth Floor Conference Room N4830, 2777 S. Crystal Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Nelson Thurman or Derek Scott, Environmental Fate and Effects Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone numbers: (703) 308–0465 or (703) 305–6627; fax number: 703–347–8011; email address: *thurman.nelson@epa.gov.* or *scott.derek@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA), the Federal Food, Drug, and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Agriculture, Forestry, Fishing and Hunting NAICS code 11
- Utilities NAICS code 22
- Professional, Scientific and Technical NAICS code 54

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0686, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. Background

EPA is developing a Spatial Aquatic Model (SAM) to address the need for more spatial and temporal contexts for pesticide aquatic exposure assessments. The model will provide a way to estimate how often, how long, and where adverse impacts overlap spatially with populations at risk. EPA plans to introduce an alpha test version of SAM at the workshop/Webinar to allow interested parties to evaluate and comment on the model.

III. How can I request to participate in this meeting?

You may submit a request to participate in this meeting to the person listed under **FOR FURTHER INFORMATION CONTACT**. Do not submit any information in your request that is considered CBI. Requests to participate in the meeting, identified by docket ID number EPA–HQ–OPP–2014–0686, must be received on or before 10 *days after date of publication in the* **Federal Register**.

IV. Tentative Topics for the Meeting

The workshop/Webinar will provide an overview of the Spatial Aquatic Model, a description of the model and data components, contrasts with current OPP aquatic exposure models, and preliminary evaluations of model performance. The workshop will include a hands-on demonstration of the test model so that participants will be able to evaluate/test the model and provide feedback that can be used to update and improve the model. Participants will have an opportunity to provide comments to the Agency and participate in a follow-up Webinar in January 2015.

Authority: 7 U.S.C. 136 *et. seq.;* 15 U.S.C. 2601 *et. seq.;* 21 U.S.C. 321(q), 346a, and 371.

Dated: October 2, 2014.

Derek Scott,

Acting Director Environmental Fate and Effects Division, Office of Pesticide Programs.

[FR Doc. 2014–24026 Filed 10–7–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 010979–060.

Title: Caribbean Shipowners Association.

Parties: CMA CGM, S.A.; Crowley Caribbean Services LLC; Hybur Ltd.; King Ocean Services Limited; Seaboard Marine, Ltd.; Seafreight Line, Ltd.; Tropical Shipping and Construction Company Limited; US Lines Limited; and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor, 1627 I Street NW., Washington, DC 20006.

Synopsis: The amendment would add Puerto Morelos, Mexico to the geographic scope of the agreement.

Agreement No.: 011961–017.

Title: The Maritime Credit Agreement.

Parties A.P. Moller-Maersk A/S trading under the name of Maersk Line; China Shipping Container Lines Co., Ltd.; Companhia Libra de Navegacao; Compania Libra de Navegacion Uruguay S.A.; Compania Sud Americana de Vapores, S.A.; COSCO Container Lines Company Limited; Dole Ocean Cargo Express; Hanjin Shipping Co., Ltd.; Independent Container Line Ltd.; Kawasaki Kisen Kaisha, Ltd.; Norasia Container Lines Limited; United Arab Shipping Company (S.A.G.); Wallenius Wilhelmsen Logistics AS; Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The amendment removes Hamburg Sud, Alianca Navegacao e

Logistica Ltda. & Cia., and Nippon Yusen Kaisha as a party to the Agreement.

By Order of the Federal Maritime Commission.

Dated: October 3, 2014.

Karen V. Gregory,

Secretary.

[FR Doc. 2014–24000 Filed 10–7–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meetings

October 3, 2014.

TIME AND DATE: 10:00 a.m., Thursday, October 16, 2014.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (entry from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Newmont USA Limited,* Docket Nos. WEST 2010–652–RM, et al. (Issues include whether the Administrative Law Judge erred by ruling that a non-working area where a fan was turned off is an unventilated area that must be sealed or barricaded.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Sarah Stewart (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2014–24115 Filed 10–6–14; 11:15 am]

BILLING CODE 6735–01–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 October 23, 2014.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Janet K. Wozniak, Los Gatos, California, as a member of the Hill family group,* to retain voting shares of Mid-America Bankshares, Inc., and thereby indirectly retain voting shares of Mid-America Bank, both in Baldwin City, Kansas.

Board of Governors of the Federal Reserve System, October 3, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–23998 Filed 10–7–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Putting the Person at the Center: Integrating Plans for Long-Term Services and Supports and Health Care Delivery through Health Information Technology; Public Workshop; Request for Comments

AGENCY: Administration for Community Living and Office of the National Coordinator on Health Information Technology, Department of Health and Human Services.

ACTION: Notice of public workshop; request for comments.

The Administration for Community Living (ACL) and the Office of the National Coordinator for Health Information Technology (ONC) of the U.S. Department of Health and Human Services announce the following workshop, *Putting the Person at the Center: Integrating Plans for Long-Term Services and Supports and Health Care Delivery through Health Information Technology.* ACL and the ONC (collectively referred to for the purpose of this notice as ''the Agencies'') seek input from stakeholders and experts on the use of health information technology (health IT) to enable a person-centered approach for planning and delivering both long-term services and supports (LTSS) and health care, including how to improve communication and collaboration among community-based organizations and health care partners. The topics to be discussed include person-centered planning and how it can serve as a focus for integrating health IT and LTSS; key opportunities and challenges; and, delivery and payment reform policy levers that could be used to accelerate the development of technology solutions in this arena.

Using health IT to support person and family-centered planning can provide a path to improving communication and quality of health care and LTSS, and ensuring that the individual's preferences, priorities and goals are the foundation for that plan and are addressed across the spectrum of health care and LTSS settings. Health care LTSS providers play a critical role in this care continuum. However the pace of health IT adoption and interoperable communication varies across systems. Interoperable health IT systems that reach across settings and health care and community partners would not only enhance communication, transitional care, and care coordination activities currently underway within programs funded by the Affordable Care Act, but could also facilitate the development of an accessible, integrated, person-centered plan that would better allow individuals to achieve their goals, manage their services, and enhance their quality of life.

Date and Times: The public workshop will be held on Thursday, October 16, 2014 from 9 a.m. to 4:15pm.

Location: The public workshop will be held at the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington DC 20201, Room 800.

Contact person: Caroline Ryan (*Caroline.Ryan@acl.hhs.gov*)

Registration: Registration is free and available on a first-come, first-served basis. Persons interested in attending this public workshop in-person must register online by 5 p.m., on October 10, 2014. Early registration is recommended because facilities are limited. Onsite registration on the day of the public workshop will not be available.

If you need special accommodations due to a disability, please contact Caroline Ryan (*Caroline.Ryan@acl.hhs.gov*) no later than October 10, 2014.

To register to attend the public workshop in-person, please visit: *https://www.eventbrite.com/e/advancing-person-centered-care-planning-and-integration-of-ltss-and-health-care-information-through-tickets-13337042453#.* Please provide complete contact information for each attendee, including name, title, affiliation, email, and telephone number. Those without internet access should contact Caroline

Ryan (*Caroline.Ryan@acl.hhs.gov*) to register. Registrants will receive confirmation after they have been accepted.

Webcast of the Public Workshop: This public workshop will also be available by webcast. Those interested in joining the webcast must register no later than October 14, 2014. Early registration is recommended; conference lines are limited. To register for the webcast, please visit: *https://attendee.gotowebinar.com/register/2329630204976253953.* Call details will be sent to all registered participants after October 14, 2014.

Requests for Public Comment: This public workshop will include topic-focused sessions with opportunities for public comment in-person or via webcast. The agencies will do their best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their comments.

Comments: The agencies seek broad input from stakeholders and experts on the use of health information technology (health IT) for the purposes of developing an integrated, person-centered plan, including how to improve communication and collaboration among community-based organizations and health care partners. To obtain broad public comment, the Agencies are soliciting comments on all aspects of the public workshop topics.

The deadline for submitting comments related to this public workshop is October 31, 2014.

Please submit comments to: *personcenteredhealthIT@hhs.gov*

Transcript: The meeting will be transcribed. A transcript and meeting materials will be posted on the healthit.gov Web site at: *http://healthitgov-stage.ahrqstg.org/person-centered-care.*

Dated: October 1, 2014.

Jacob Reider,

Deputy National Coordinator for Health Information Technology.

[FR Doc. 2014–23931 Filed 10–7–14; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0627]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; General Administrative Procedures: Citizen Petitions; Petition for Reconsideration or Stay of Action; Advisory Opinions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''General Administrative Procedures: Citizen Petitions; Petition for Reconsideration or Stay of Action; Advisory Opinions'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On June 12, 2014, the Agency submitted a proposed collection of information entitled ''General Administrative Procedures: Citizen Petitions; Petition for Reconsideration or Stay of Action; Advisory Opinions'' to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0183. The approval expires on August 31, 2017. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: October 2, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–24051 Filed 10–7–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0493]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Additional Criteria and Procedures for Classifying Over-the-Counter Drugs as Generally Recognized as Safe and Effective and Not Misbranded

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Additional Criteria and Procedures for Classifying Over-the-Counter Drugs as Generally Recognized as Safe and Effective and Not Misbranded'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On June 25, 2014, the Agency submitted a proposed collection of information entitled ''Additional Criteria and Procedures for Classifying Over-the-Counter Drugs as Generally Recognized as Safe and Effective and Not Misbranded'' to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0688. The approval expires on August 31, 2017. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: October 2, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–23956 Filed 10–7–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–P–1609]

Determination That LUPRON DEPOT (Leuprolide Acetate for Depot Suspension), Injectable 3.75 Milligrams/Vial Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that LUPRON DEPOT (leuprolide acetate for depot suspension), Injectable 3.75 milligrams (mg)/vial, was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for LUPRON DEPOT (leuprolide acetate for depot suspension), Injectable 3.75 mg/vial, if all other legal and regulatory requirements are met. However, in considering whether to file an ANDA for leuprolide acetate for depot suspension, future applicants are advised that they may not be able to obtain LUPRON DEPOT (leuprolide acetate for depot suspension), Injectable 3.75 mg/vial, for bioequivalence testing because the product has not been commercially available for a number of years. An ANDA applicant who is unable to obtain LUPRON DEPOT (leuprolide acetate for depot suspension), Injectable 3.75 mg/vial, for bioequivalence testing should contact the Office of Generic Drugs for a determination of what is necessary to show bioavailability and the same therapeutic effect.

FOR FURTHER INFORMATION CONTACT: Daniel Orr, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6208, Silver Spring, MD 20993–0002, 240–402–0979.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products with Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161). FDA may not approve an ANDA that does not refer to a listed drug.

LUPRON DEPOT (leuprolide acetate for depot suspension), Injectable 3.75 mg/vial, is the subject of NDA2001, held by Abbvie Endocrine, Inc. (Abbvie), and initially approved on October 22, 1990. LUPRON DEPOT is indicated for management of endometriosis, including pain relief and reduction of endometriotic lesions. LUPRON DEPOT, concomitantly with iron therapy, is also indicated for the preoperative hematologic improvement of patients with anemia caused by uterine leiomyomata.

In a report dated December 15, 1999, Abbvie notified FDA that LUPRON DEPOT (leuprolide acetate for depot suspension), Injectable 3.75 mg/vial, was being discontinued, and FDA moved the drug product to the ''Discontinued Drug Product List'' section of the Orange Book.

Terri Nataline, on behalf of Lachman Consultant Services, Inc., submitted a citizen petition dated November 25, 2013 (Docket No. FDA–2013–P–1609), under 21 CFR 10.30, requesting, in part, that the Agency determine whether LUPRON DEPOT, Injectable 3.75 mg/vial, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that LUPRON DEPOT, Injectable 3.75 mg/vial, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that LUPRON DEPOT, Injectable 3.75 mg/vial, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of LUPRON DEPOT, Injectable 3.75 mg/vial, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that the products were not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list LUPRON DEPOT, Injectable 3.75 mg/vial, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to LUPRON DEPOT, Injectable 3.75 mg/vial, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: October 1, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–23961 Filed 10–7–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–1439]

Critical Path Innovation Meetings; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Critical Path Innovation Meetings.'' This draft guidance describes a Critical Path Innovation Meeting (CPIM), a means by which FDA's Center for Drug Evaluation and Research (CDER) and investigators

from industry, academia, government, and patient advocacy groups can communicate to improve efficiency and success in drug development. The goals of the CPIM are to discuss a methodology or technology proposed by the meeting requester and for CDER to provide general advice on how this methodology or technology might enhance drug development. The discussions and background information submitted through the CPIM are nonbinding on both FDA and CPIM requesters.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by December 8, 2014.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Alicia Stuart, Office of Translational Sciences, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 21, Rm. 4547, Silver Spring, MD 20993–0002, 301–796–3852.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Critical Path Innovation Meetings.'' The draft guidance describes the purpose and scope of a CPIM and how to request such a meeting. A CPIM provides the opportunity to discuss a methodology or technology proposed by the meeting requester and for CDER to provide general advice on how the methodology or technology might enhance drug development. During a CPIM, CDER will identify some of the larger gaps in existing knowledge that requesters might consider addressing in the course of their work. The discussions and background information submitted through the CPIM are nonbinding on both FDA and CPIM requesters. The CPIM initiative meets Prescription Drug User Fee Act (PDUFA) V Reauthorization Goal IX.A, ''Enhancing Regulatory Science and Expediting Drug Development'' by ''Promoting Innovation Through Enhanced Communication Between FDA and Sponsors During Drug Development.''

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on CPIMs. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information in 21 CFR part 312 (investigational new drug applications) has been approved under OMB control number 0910–0014. The collection of information in 21 CFR part 314 (new drug applications) has been approved under OMB control number 0910–0001. The collection of information resulting from formal meetings between interested persons and FDA has been approved under OMB control number 0910–0429.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: October 2, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–23970 Filed 10–7–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–1411]

The Effect of Uniform National Policy on Drug Product Tracing and Wholesale Drug Distributor and Third-Party Logistics Provider Standards: Questions and Answers; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''The Effect of Section 585 of the FD&C Act on Drug Product Tracing and Wholesale Drug Distributor and Third-Party Logistics Provider Licensing Standards and Requirements: Questions and Answers.'' FDA is issuing these questions and answers to assist industry and State governments in understanding the effects of section 585 (Uniform National Policy) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) added by Title II of the Drug Quality and Security Act (DQSA), which was enacted on November 27, 2013, on State product tracing requirements and on standards, requirements, and regulations with respect to wholesale distributor and third-party logistics provider (3PL) licensing. Title II is also referred to as the Drug Supply Chain Security Act (DSCSA).

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by December 8, 2014.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New

Hampshire Ave., Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Office of Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3100, *drugtrackandtrace@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''The Effect of Section 585 of the FD&C Act on Drug Product Tracing and Wholesale Drug Distributor and Third-Party Logistics Provider Licensing Standards and Requirements: Questions and Answers.'' On November 27, 2013, the DSCSA (Title II of Pub. L.113–54) was signed into law. The DSCSA outlines critical steps to build an electronic, interoperable system to identify and trace certain prescription drugs as they are distributed in the United States. The DSCSA adds sections 581 through 585 as Subchapter H of the FD&C Act. These sections establish definitions (section 581), requirements for supply chain participants (section 582), standards for and licensing of wholesale drug distributors (section 583) and 3PL providers (section 584), and a Uniform National Policy (section 585).

The DSCSA establishes a Federal system for tracing prescription drug products through the pharmaceutical distribution supply chain and requires trading partners to provide, receive, and maintain certain product and distribution information. The DSCSA also requires FDA to establish Federal standards for licensing of wholesale drug distributors and 3PL providers. Section 585 of the FD&C Act sets forth a Uniform National Policy, preempting States and political subdivisions of states from establishing or continuing in effect certain standards and requirements. FDA is issuing this guidance to: (1) Help industry and States understand the immediate effects of the law and (2) clarify section 585's effect on State product tracing requirements and on standards, requirements, and regulations with respect to wholesale distributor and 3PL licensing.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on the effect of section 585 of the FD&C Act on drug product tracing and wholesale drug distributor and 3PL provider licensing and requirements. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

IV. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/biologicsbloodvaccines/guidancecomplianceregulatoryinformation/default.htm,* or *http://www.regulations.gov*.

Dated: October 1, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–23972 Filed 10–7–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–1473]

Over-the-Counter Pediatric Liquid Drug Products Containing Acetaminophen; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Over-the-Counter Pediatric Liquid Drug Products Containing Acetaminophen.'' The draft guidance is intended to help drug manufacturers, packagers, and labelers minimize the risk to consumers of acetaminophen-related liver damage associated with the use of nonprescription, also known as over-the-counter (OTC), acetaminophen-containing pediatric liquid drug products. This guidance provides recommendations for acetaminophen concentration, container labels and carton labeling, packaging of such products, and recommendations regarding any associated delivery devices. FDA's recommendations are designed to encourage safer use of these products by minimizing the potential for acetaminophen overdosing due to medication errors or accidental ingestion.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)), to ensure that the Agency considers your comments on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by December 8, 2014.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Alice Tu, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4325, Silver Spring, MD 20993–0002, 301–796–7586.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Over-the-Counter Pediatric Liquid Drug Products Containing Acetaminophen.'' Acetaminophen is

marketed in many OTC drug products as a pain reliever and fever reducer. A majority of OTC acetaminophen products are currently marketed under the conditions stated in FDA's tentative final monograph for internal analgesic, antipyretic, and antirheumatic drug products for over-the-counter human use (the IAAA TFM).[1] In addition to the drug labeling requirements described in section 502 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 352) and Title 21 of the Code of Federal Regulations (CFR), part 201, OTC acetaminophen products must also be labeled with liver injury warnings and other required information under § 201.326 (21 CFR 201.326). The Agency allows acetaminophen to be marketed without approval of a new drug application (see generally section 505 of the FD&C Act (21 U.S.C. 355) and 21 CFR part 314), in accordance with the IAAA TFM, and when the required acetaminophen-related warnings and other labeling requirements in § 201.326 are met. However, OTC pediatric liquid drug products containing acetaminophen have been associated with overdoses due to medication errors that resulted in serious adverse events, including severe liver damage and death. In particular, there have been many reports of overdose attributed to confusion between concentrated acetaminophen drops (80 milligrams (mg)/0.8 milliliters (mL) and 80 mg/mL) and acetaminophen oral liquid (160 mg/5 mL).

This draft guidance document is part of FDA's ongoing initiative to reduce the risk of acetaminophen-related liver injury associated with all OTC and prescription acetaminophen-containing products. As part of that initiative, in June 2009, three FDA committees, the Drug Safety and Risk Management Advisory Committee, the Nonprescription Drugs Advisory Committee, and the Anesthetic and Life Support Drugs Advisory Committee, met jointly to consider a range of risk reduction measures. Among other measures, the Advisory Committees recommended moving to a single, standardized acetaminophen concentration for OTC pediatric liquid drug products because the availability of multiple concentrations causes confusion and errors among both consumers and health care professionals. In May 2011, FDA convened a joint meeting of the Nonprescription Drugs Advisory Committee and the Pediatric Advisory Committee to discuss the use of acetaminophen in children. Shortly before the meeting, the Consumer Healthcare Products Association (CHPA) voluntarily proposed to phase out all of the existing concentrated drop formulations of the OTC, single-ingredient, oral, liquid acetaminophen drug products for pediatric use and market only the 160 mg/5 mL. At the Advisory Committee meeting, FDA took note of CHPA's voluntary transition to a single concentration of pediatric liquid acetaminophen. Among other recommendations, the Advisory Committees recommended the use of a flow restrictor or another feature designed to prevent excessive dosing, use of a safety dosing syringe to reduce accidental ingestion by children, and marking dosage delivery devices in milliliters only.[2]

In response to CHPA's voluntary transition to a single concentration of OTC liquid acetaminophen products, FDA published a Drug Safety Communication on December 22, 2011, to inform the public of the 160 mg/5 mL concentration now marketed for children ages 2 to 3 years and to recommend that end users of the product read the Drug Facts label to identify the concentration of the liquid acetaminophen, dosage, and directions for use.

FDA is issuing this guidance to address ongoing concerns about the potential for acetaminophen overdose associated with these products and to promote their safe use.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance represents the Agency's current thinking on addressing safety achieved through drug product design and labeling to minimize medication errors. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

III. Paperwork Reduction Act of 1995

This draft guidance includes information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). The collection of information referenced in this draft guidance that pertain to the format and content requirements for OTC drug product labeling (§ 201.66) have been approved under OMB control number 0910–0340. The labeling requirements in § 201.326 are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the PRA. Rather, the labeling statements are a ''public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320.3(c)(2)). In accordance with the PRA, prior to publication of any final guidance document, FDA intends to solicit public comment and obtain OMB approval for any information collections recommended in this guidance that are new or that would represent material modifications to those previously approved collections of information found in FDA regulations or guidances.

IV. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *http://www.regulations.gov*.

Dated: October 1, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–23973 Filed 10–7–14; 8:45 am]

BILLING CODE 4164–01–P

[1] ''Internal Analgesic, Antipyretic, and Antirheumatic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph,'' 53 FR 46204 (November 16, 1988). Available at *http://www.fda.gov/downloads/Drugs/DevelopmentApprovalProcess/DevelopmentResources/Over-the-CounterOTCDrugs/StatusofOTCRulemakings/UCM078460.pdf*.

[2] Summary Minutes of the Joint Meeting of the Nonprescription Drugs Advisory Committee and the Pediatric Advisory Committee, held May 17–18, 2011, are available at *http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/Drugs/NonprescriptionDrugsAdvisoryCommittee/UCM264147.pdf*.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Drug Safety and Risk Management Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Drug Safety and Risk Management (DSaRM) Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 18, 2014, from 9 a.m. to 4 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Kristina Toliver, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *DSaRM@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss the Food and Drug Administration Amendments Act of 2007 which requires FDA to bring, at least annually, one or more drugs with Risk Evaluation and Mitigation Strategies (REMS) with elements to assure safe use (ETASU) before the DSaRM Advisory Committee. The Agency plans to discuss the risk management of eculizumab (SOLIRIS). The Agency will seek public input whether the REMS with ETASU for this drug assures safe use of the drug, is not unduly burdensome on patient access to the drug, and to the extent practicable, minimizes the burden on the health care delivery system.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 3, 2014. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 24, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 27, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kristina Toliver at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 2, 2014.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2014–24002 Filed 10–7–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No: FDA–2014–N–0001]

Science Board to the Food and Drug Administration Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Science Board to the Food and Drug Administration (Science Board).

General Function of the Committee: The Science Board provides advice primarily to the Commissioner of Food and Drugs and other appropriate officials on specific complex scientific and technical issues important to the FDA and its mission, including emerging issues within the scientific community. Additionally, the Science Board provides advice to the Agency on keeping pace with technical and scientific developments including in regulatory science, input into the Agency's research agenda, and advice on upgrading its scientific and research facilities and training opportunities. It will also provide, where requested, expert review of Agency sponsored intramural and extramural scientific research programs.

Date and Time: The meeting will be held on Wednesday, November 19, 2014, from approximately 8:30 a.m. to

5:30 p.m., and Thursday, November 20, 2014, from approximately 8:30 a.m. to 12:45 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Sections B and C, Silver Spring, Maryland 20993. For those unable to attend in person, the meeting will also be Web cast. The link for the Web cast is available at *https://collaboration.fda.gov/scienceboard.* Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Martha Monser, Office of the Chief Scientist, Office of the Commissioner, Food and Drug Administration, Bldg. 32, Rm. 4286, 10903 New Hampshire Ave., Silver Spring, Maryland 20993, 301–796–4627, *martha.monser@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On November 19, 2014, the Science Board will review the existing nonclinical and clinical data related to the use and potential toxicity of anesthetics and sedation drugs in the pediatric population. The Science Board will be asked to make recommendations on steps the FDA should take to further evaluate and to mitigate the risks associated with the use of these drugs in the pediatric population and mechanisms to best communicate with the public regarding this issue.

On November 20, 2014, the Science Board will be provided with progress reports from two subcommittees, the Commissioner's Fellowship Program Evaluation subcommittee and the Science Moving Forward subcommittee. The Board will be asked to support the formation of a new subcommittee to evaluate the Office of Regulatory Affairs' current investments in the Food Emergency Response Network cooperative agreement program and funding for state laboratories to achieve International Organization for Standardization accreditation. The Board will also be asked to support the formation of a new subcommittee to evaluate the Centers of Excellence in Regulatory Science and Innovation program. A recipient of one of the fiscal year 2013 Scientific Achievement Awards (selected by the Board) will provide an overview of the activities for which the award was given.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions pertaining to issues before the Board on November 19, 2014, may be made to the contact person on or before Wednesday, November 12, 2014. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on November 19, 2014. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before Tuesday, November 4, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak at the November 19, 2014, meeting by Wednesday, November 5, 2014.

Written submissions pertaining to issues before the Board on November 20, 2014, may be made to the contact person on or before Thursday, November 13, 2014. Oral presentations from the public will be scheduled between approximately 12 p.m. and 12:30 p.m. on November 20, 2014. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before Wednesday, November 5, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak at the November 20, 2014, meeting by Thursday, November 6, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Martha Monser at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 2, 2014.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2014–24001 Filed 10–7–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0967]

Prescription Drug User Fee Act Patient-Focused Drug Development; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment related to FDA's patient-focused drug development initiative. This initiative is being conducted to fulfill FDA performance commitments made as part of the fifth authorization of the Prescription Drug User Fee Act (PDUFA V). This effort provides for a more systematic approach under PDUFA V for obtaining the patient perspective on disease severity and currently available treatments for a set of disease areas. FDA is publishing a preliminary list of nominated disease areas for consideration in patient-focused drug development meetings during fiscal years (FYs) 2016–2017. The public is invited to comment on this preliminary list through a public docket.

DATES: Submit either electronic or written comments by December 5, 2014.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Pujita Vaidya, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1144, Silver Spring, MD 20993, 301–796–7641, FAX: 301–796–0684, *Pujita.Vaidya@fda.hhs.gov;* or Christopher Joneckis, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7316, Silver Spring, MD 20993–0002, 240–402–8083, *Christopher.Joneckis@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On July 9, 2012, the President signed into law the Food and Drug Administration Safety and Innovation Act (FDASIA) of 2012. Title I of FDASIA reauthorizes the Prescription Drug User Fee Act (PDUFA) that provides FDA with the necessary user fee resources to maintain an efficient review process for human drug and biologic products. The reauthorization of PDUFA includes performance goals and procedures that represent FDA's commitments during FYs 2013–2017. These commitments are referred to in section 101 of FDASIA and are available on the FDA Web site at *http://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM270412.pdf*.

Section X of these commitments relates to enhancing benefit-risk assessment in regulatory decisionmaking. A key part of regulatory decisionmaking is establishing the context in which the particular decision is made. In drug regulation, this context includes a thorough understanding of the severity of the treated condition and the adequacy of the existing treatment options. Patients who live with a disease have a direct stake in the outcome of the review process and are in a unique position to contribute to weighing benefit-risk considerations that can occur throughout the medical product development process. Though several programs exist to facilitate patient representation, there are currently few venues in which the patient perspective is discussed outside of a specific product's marketing application review. The human drug and biologic review process could benefit from a more systematic and expansive approach to obtaining input from patients who experience a particular disease or condition.

FDA is committed to obtaining the patient perspective on 20 different disease areas during the course of PDUFA V (FY 2013–2017). For each disease area, the Agency is conducting a public meeting to discuss the disease, its impact on patients' daily lives, the types of treatment benefit that matter most to patients, and patients' perspectives on the adequacy of available therapies. These meetings include participation of FDA review divisions, the relevant patient community, and other interested stakeholders.

On April 11, 2013, FDA published a **Federal Register** notice (78 FR 21613) announcing the disease areas for meetings in FYs 2013–2015, the first 3 years of PDUFA V. In selecting the set of disease areas, FDA carefully considered the public comments received and the perspectives of review divisions at FDA. FDA is initiating a second public process for determining the disease areas for FYs 2016–2017. A preliminary list of possible disease areas and the criteria used to identify these disease areas are published in this document for public comment. FDA will consider the public comments received through the public docket and publish the set of disease areas for FYs 2016–2017 in a **Federal Register** notice.

II. Disease Area Nomination

FDA is nominating the following disease areas as potential candidates for the focus of the remaining public meetings in FYs 2016–2017 and invites public comment on this preliminary list. In your comments, please identify the disease areas that you consider to be of greatest priority and explain the rationale for your recommendation.

- Achondroplasia
- Alopecia areata
- Autism
- Autoimmune disorders treated with immune globulins
- Depression
- Diabetic foot infection
- Hereditary angiodema
- Melanoma, specifically unresectable loco-regional disease
- Neurologic disorders treated with immune globulins
- Nontuberculous mycobacterial infections
- Ovarian cancer
- Patients who have received an organ transplant
- Primary humoral immune deficiencies
- Pruritis
- Sarcopenia
- Thrombotic disorders

FDA is also interested in public comment on disease areas that are not represented on this preliminary list. The Agency used several criteria to develop the preliminary list of potential disease areas. In the series of disease area meetings, the final disease set should reflect a range of diseases with respect to disease severity (less severe to more severe) and represent a broad range in terms of the size of the affected population (e.g., including more prevalent diseases as well as rare diseases). FDA requests that when proposing additional disease areas for consideration, please describe how you applied the identified criteria in making recommendations for additional disease areas to consider. The criteria include the following:

- Disease areas that are chronic, symptomatic, or affect functioning and activities of daily living;
- disease areas for which aspects of the disease are not formally captured in clinical trials;
- disease areas for which there are currently no therapies or very few therapies, or the available therapies do not directly affect how a patient feels, functions, or survives; and
- disease areas that have a severe impact on identifiable subpopulations (such as children or the elderly).

III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

Dated: October 2, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–23965 Filed 10–7–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-day Comment Request; a Generic Submission for Theory Development and Validation (NCI)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on July 14, 2014, Vol. 79, page 40763 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: Rebecca A. Ferrer, Division of Cancer Control and Population Sciences, 9609 Medical Center Dr., Room 3E114, Bethesda, MD 20892 or call non-toll-free number 240–276–6914 or Email your request, including your address to: *ferrerra@mail.nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: A Generic Submission for Theory Development and Validation (NCI), Revision, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The National Cancer Institute is requesting approval for this revised generic clearance to conduct formative research related to behavioral science theory development and validation for the next three years. Formative research in the area of theory development and validation would provide the basis for developing effective cancer prevention and control strategies, allow for a better understanding of theoretical constructs that influence decisions and actions related to cancer, and ultimately contribute to reducing the U.S. cancer burden. Sub-studies proposed under this generic clearance would involve methodological testing and a standard set of research approaches, including surveys (internet, phone, and paper-and-pencil) and focus groups. Respondents would include individuals in the general public, recruited through established online panels or internet/newspaper advertisements. Development of each study or survey would involve consulting with NCI scientists as well as experts from the behavioral science research community.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated burden is 2,000 hours per year.

Estimated Burden Hours for Three Years

TABLE A.12–1—ESTIMATES OF ANNUAL BURDEN HOURS

Type of respondents	Number of respondents	Frequency of response	Average time per response (minutes/hour)	Total burden hours
General Public	667	1	15/60	167
Physicians	2,000	1	30/60	1,000
Health Professionals	333	1	1	333
Researchers	333	1	90/60	500

Dated: October 1, 2014.

Karla Bailey,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2014–23999 Filed 10–7–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Application Forms for Research Development and Training Grants

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collections via application forms, the National Institute on Drug Abuse (NIDA), the National Institutes of Health (NIH) will publish periodic summaries of proposed collections to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including

whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and for Further Information: To request more information on the proposed programs submit requests to: Jack Stein, Ph.D., Director, Office of Science Policy and Communications, National Institute on Drug Abuse, 6001 Executive Blvd., Room 5185, Rockville, MD 20852, or call non-toll free number 301–443–6071 or email your request, including your address to: *jack.stein@nih.gov.*

Comments Due Date: Comments regarding these programs are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Application Forms for Research Development and Training Grants, 0925–New, National Institute on Drug Abuse (NIDA), National Institutes of Health (NIH).

Need and Use of Information Collection: These programs offer grants and traineeships necessary for growing the biomedical researcher workforce, and the diversity in this workforce. The application forms will collect information of applicants for selecting those that would benefit most effectively from the programs. NIDA is requesting generic approval from OMB for application forms to be used by these programs that will recruit pre-college through post-doctoral underrepresented individuals and individuals of special populations into the research programs of the Institute for research training and research development, for forging mentor/mentee relationships and networking between newly funded underrepresented researchers and experienced investigators funded by NIDA; and for a fellowship program to train new researchers, and support experienced researchers of other nations, in research to advance the science of HIV and drug use while fostering multinational research in this disease area. The application forms will be web-based.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total annualized burden hours are 426.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response	Total annual burden hour
Summer Internship	Students	100	1	1	100
	Undergraduates	100	1	1	100
	Scientists	100	1	1	100
Research Development Seminar Series.	Scientists	75	1	1	75
HIV—Drug Use Research Fellowship:.	Scientists	45	1	1	45
	Scientist Mentors	25	1	15/60	6

Dated: October 2, 2014.

Genevieve deAlmeida,

Project Clearance Liaison, National Institute on Drug Abuse.

[FR Doc. 2014–24008 Filed 10–7–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–USCG–2014–0692]

Merchant Marine Personnel Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Merchant Marine Personnel Advisory Committee. This Committee advises the Secretary of the Department of Homeland Security on matters related to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards.

DATES: Applicants should submit a cover letter and resume in time to reach the Alternate Designated Federal Officer on or before December 8, 2014.

ADDRESSES: Applicants should send their cover letter and resume to the following address: Commandant (CG–OES–1), ATTN Merchant Marine Personnel Advisory Committee, US Coast Guard Stop 7509, 2703 Martin Luther King Jr. Ave. SE., Washington, DC 20593–7509; or by faxing (202) 372–8382; or by emailing to *davis.j.breyer@uscg.mil.* This notice is available in our online docket, USCG–2014–0692, at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Davis J. Breyer, Alternate Designated Federal Officer of the Merchant Marine Personnel Advisory Committee; telephone 202–372–1445 or email at *davis.j.breyer@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Merchant Marine Personnel Advisory Committee is an advisory committee established under the Secretary's authority in section 871 of The Homeland Security Act of 2002, (Title 6, United States Code, section 451). This Committee is established in accordance with and operates under the provisions of the *Federal Advisory Committee Act* (Title 5, United States Code, Appendix, Pub. L. 92–463, 86 Statute 770, as amended). The Merchant Marine Personnel Advisory Committee advises the Secretary of the Department of Homeland Security on matters relating to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards. The Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

The Merchant Marine Personnel Advisory Committee is expected to meet approximately twice a year as called for by its charter, once at or near Coast Guard Headquarters, Washington, DC, and once at a location outside of Washington, DC. It may also meet for extraordinary purposes. Its subcommittees and working groups may also meet to consider specific tasks as required.

We will consider applications for the following six positions that expire or

become vacant on June 1, 2015: Two positions for marine educators, one of whom will represent the viewpoint of maritime training institutions other than State or Federal Maritime Academies and also represent the viewpoint of the small vessel industry, and one representing the viewpoint of State Maritime Academies; one position for a member drawn from the general public; one position for an engineering officer who is licensed as a Chief Engineer any horsepower; and two positions for deck officers, one of whom is a licensed merchant marine deck officer of oceans any gross tons, the other licensed for inland or river route with limited or unlimited tonnage, and one of whom must have a master's license or a master of towing vessels license.

If you are selected as a member from the general public, you will be appointed and serve as a Special Government Employee as defined in section 202(a) of Title 18, United States Code. As a candidate for appointment as a Special Government Employee, applicants are required to complete a Confidential Financial Disclosure Report (OGE Form 450). A completed OGE Form 450 is not releasable to the public except under an order issued by a Federal court or as otherwise provided under the *Privacy Act* (5 U.S.C. 552a). Only the Designated Agency Ethics Official or his or her designee may release a Confidential Financial Disclosure Report. Applicants can obtain this form by going to the Web site of the Office of Government Ethics (*www.oge.gov*) or by contacting the individual listed above. Applications for a member drawn from the general public which are not accompanied by a completed OGE-Form 450 will not be considered.

Registered lobbyists are not eligible to serve on federal advisory committees. Registered lobbyists are lobbyists required to comply with provisions contained in the Lobbying Disclosure Act of 1995 (Pub. L. 104–65 as amended).

Each Merchant Marine Personnel Advisory Committee member serves a term of office of up to three years. Members may be considered to serve consecutive terms. All members serve without compensation from the Federal Government; however, upon request, they may receive travel reimbursement and per diem.

The Department of Homeland Security does not discriminate in selection of Committee members on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or any other non-merit factor. The Department of Homeland Security strives to achieve a widely diverse candidate pool for all of its recruitment actions.

If you are interested in applying to become a member of the Committee, send your cover letter and resume to Davis J. Breyer, Alternate Designated Federal Officer of the Merchant Marine Personnel Advisory Committee by mail, fax, or email according to the instructions in the **ADDRESSES** section by the deadline in the **DATES** section of this notice. Indicate the position you wish to fill and specify your area of expertise, knowledge, and experience that qualifies you to serve on the Merchant Marine Personnel Advisory Committee. Note that during the vetting process, applicants may be asked to provide date of birth and social security number.

Dated: October 3, 2014.

J. G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2014–24013 Filed 10–7–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0029]

Public Assistance Policy on Insurance, RP9530.1

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) is accepting comments on the proposed *Public Assistance Policy on Insurance.*

DATES: Comments must be received by December 8, 2014.

ADDRESSES: Comments must be identified by Docket ID FEMA–2014–0029 and may be submitted by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. Please note that this proposed policy is not a rulemaking and the Federal Rulemaking Portal is being utilized only as a mechanism for receiving comments.

Mail: Regulatory Affairs Division, Office of Chief Counsel, Federal Emergency Management Agency, Room 8NE, 500 C Street SW., Washington, DC 20472–3515.

FOR FURTHER INFORMATION CONTACT: Deana Platt, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472–3160, 202–646–3642.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Instructions: All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice, which can be viewed by clicking on the ''Privacy Notice'' link in the footer of *www.regulations.gov.*

You may submit your comments and material by the methods specified in the **ADDRESSES** section above. Please submit your comments and any supporting material by only one means to avoid the receipt and review of duplicate submissions.

Docket: The proposed policy is available in Docket ID FEMA–2014–0029. For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov* and search for the Docket ID. Submitted comments may also be inspected at FEMA, Office of Chief Counsel, Room 8NE, 500 C Street SW., Washington, DC 20472–3515.

II. Background

This policy addresses insurance under FEMA's Public Assistance program. The proposed policy does not have the force or effect of law.

FEMA seeks comment on the proposed policy, which is available online at *http://www.regulations.gov* in Docket ID FEMA–2014–0029. Based on the comments received, FEMA may make appropriate revisions to the proposed policy. FEMA will consider any comments received in the drafting of the final policy. When or if FEMA issues a final policy, FEMA will publish a notice of availability in the **Federal Register** and make the final policy available at *http://www.regulations.gov.* The final policy will not have the force or effect of law.

Authority: 42 U.S.C. 4012a, 4106, 5154, 5155, 5172, 5189, and 5189f; 44 CFR 206.250, 206.251, 206.252, 206.253.

Dated: October 2, 2014.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2014–23933 Filed 10–7–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORS00300;L63100000.EU0000.14XL; HAG–14–0142]

Notice of Realty Action: Modified Competitive Sale of Public Lands in Polk County, Oregon (OR 68032)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) proposes to offer eight tracts of public land totaling 77.35 acres through modified competitive sale procedures to assure equitable distribution among purchasers of land and to recognize equitable considerations. The eight tracts of lands will be sold to the adjacent landowners for the appraised fair market and timber value of each parcel. The BLM is proposing to use the modified competitive sale procedures consistent with the requirements of Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, and the applicable regulations.

DATES: Submit comments on or before November 24, 2014. The lands will be offered for sale at public auction beginning at 10:00 a.m. on December 8, 2014, at the address in the **ADDRESSES** section. Sealed bids must be received by the BLM's Salem District Office prior to 10:00 a.m. on December 8, 2014. Sealed bids will be opened and a high bidder will be declared at the sale.

ADDRESSES: Mail and submit written comments and sealed-bids to BLM, Marys Peak Field Manager, Richard Hatfield, Salem District Office, 1717 Fabry Road SE., Salem, OR 97306.

FOR FURTHER INFORMATION CONTACT: Phyllis E. Gregory, Realty Specialist, at the address above, or by telephone at 503–375–5623. Persons who use a Telecommunications Device for the Deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above listed 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 listed individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The following described public lands in Polk County, Oregon, have been examined and found suitable for sale under Sections 203 and 209 of FLPMA. The tracts of public land for the proposed sale are identified as follows:

Willamette Meridian, Oregon

T. 6 S., R. 7 W.,
Sec. 31, Tract 61;
T. 7 S., R. 7 W.,
Sec. 6, Tract 38.

The area described contains 40.21 acres. These two tracts of public land will be sold as one unit. The appraised fair market value of the land is $56,294, and the timber value is $66,591 totaling $122,885.00.

T. 6 S., R. 7 W.,
Sec. 33, Tract 63.

The area described contains 16.24 acres. The appraised fair market value of the land is $22,736 and the timber value is $18,130 totaling $40,866.00.

T. 6 S., R. 7 W.,
Sec. 33, Tract 64.

The area described contains 10.44 acres. The appraised fair market value of the land is 14,616 and the timber value is $5,654 totaling $20,270.00.

T. 6 S., R. 7 W.,
Sec. 28, Tract 65.

The area described contains 5.60 acres. The appraised fair market value of the land is $7,840 and the timber value is $5,654 totaling $13,494.00.

T. 6 S., R. 7 W.,
Sec. 21, Tract 66.

The area described contains 2.38 acres. The appraised fair market value of the land is $3,332 and the timber value is $2,087 totaling $5,419.00.

T. 6 S., R. 7 W.,
Sec. 21, Tract 67.

The area described contains 1.19 acres. The appraised fair market value of the land is $1,666 and the timber value is $14,784 totaling $16,450.00.

T. 6 S., R. 7 W.,
Sec. 16, Tract 68.

The area described contains 1.29 acres. The appraised fair market value of the land is $1,806 and the timber value is $810 totaling $2,616.00.

The overall property value of the land and the timber is $222,000.

These tracts of public lands meet the disposal criteria consistent with Section 203 of FLPMA and are in conformance with the BLM, Salem District Office, Resource Management Plan and Record of Decision approved May 1995.

These tracts of public lands were created by a survey error made in the mid-1800s, which mislaid the southeastern corner of the Confederated Tribes of the Grand Ronde Reservation inside the original and correct corner. The Grand Ronde Reservation Act of April 28, 1904 was passed to sell the unalloted lands within the Tribe's Reservation. These unalloted lands were sold along the incorrect boundary, leaving a small strip of land running west and north from the incorrect corner that was not purchased and eventually came under the BLM's administration. In the 1990s, this error was discovered and the lands were re-surveyed. This strip became known as the ''Thompson Strip''. Because of the survey error, several private companies innocently believed they were the owners of record. This resulted in the unauthorized cutting and removal of forest products from these tracts of public lands. These public lands are difficult to access, manage, and are surrounded by private lands.

The proposed tracts of land will be offered for sale at public auction using modified competitive bidding procedures authorized under 43 CFR 2711.3–2. Public lands offered for sale utilizing modified competitive sale bidding procedures when the authorized officer determines it is necessary in order to assure equitable distribution of land among purchasers. Bidding for these tracts will be restricted to the following adjacent landowners: Nestucca Forests, LLC; Hampton Resources, Inc.; and Little John Resources, LLC.

The lands will be offered for sale at public auction beginning at 10:00 a.m. on December 8, 2014, at the address in the **ADDRESSES** section. Sale will be by sealed bid only. All sealed bids must be received by the BLM's Salem District Office prior to 10:00 a.m. on December 8, 2014. Bid envelopes must be marked on the lower left front corner, ''Sale OR 68032''. Bids for individual tracts must be for not less than the appraised fair market and timber value specified in this notice. Sealed bids must include an amount not less than 10 percent of the total amount bid and shall be by certified check, postal money order, bank draft, or cashier's check made payable to the ''Department of the Interior-Bureau of Land Management.'' The BLM will not accept personal or company checks.

Under modified competitive sale procedures, the sealed bids will be opened and a high bidder will be declared at the sale. Notification by mail will be provided to the high bidder and the other designated bidders. In the case

of a tie of bids submitted by interested designated bidders, the tied interested designated bidders will be given an opportunity to submit a written agreement as to the division of land, or an additional sealed bid, meeting the above-stated requirements, within 30 days of written notification of eligibility. The successful bidder will be given 180 days from the date of the sale to submit the remainder of the full purchase price.

If any of the subject tracts are not sold on December 8, 2014, the tract will be re-offered on a continuing basis in accordance with the competitive sale procedures described in 43 CFR 2711.3–1. Sealed bids prepared and submitted in the manner described above will be accepted from any qualified bidder. Bids will be opened at 10:00 a.m., on the 7th day of each month thereafter, for 60 days, until a high bidder is declared.

Federal law requires that public land may be sold only to either (1) citizens of the United States, 18 years of age or over; (2) corporations subject to the laws of any State or of the United States; (3) a State, State instrumentality or political subdivision authorized to hold property; (4) an entity legally capable of conveying and holding lands or interests therein under the laws of the State within which the lands to be conveyed are located. Certifications and evidence to this effect will be required of the purchaser prior to issuance of a patent.

The following rights, reservations, and conditions will be included in the patent conveying the land:

1. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (26 Stat. 291; 43 U.S.C. 945).

2. The tracts are subject to all valid existing rights and reservations of record.

3. An appropriate indemnification clause protecting the United States from claims arising out of the lessees/patentee's use, occupancy, or occupations on the leased/patented lands.

Pursuant to the requirements established by Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620 (h) (CERCLA), as amended, notice is hereby given that the lands have been examined and no evidence was found to indicate that any hazardous substances have been stored for 1 year or more, nor had any hazardous substances been disposed of or released on the subject property.

No representation, warranty, or covenant of any kind, express or implied, is given or made by the United States as to access to or from any parcel of land, the title, whether or to what extent the land may be developed, its physical condition, present or potential uses, or any other circumstance or condition.

All persons, other than the successful bidders, claiming to own unauthorized improvements on the land are allowed 60 days from the date of sale to remove the improvements.

A successful bid for each tract will constitute an application for conveyance of the mineral estate in accordance with Section 209 of the FLPMA (43 U.S.C. 1719). Those mineral interests will be conveyed simultaneously with the sale of the land, and have been determined by BLM to have no known mineral value. At the closing, the purchaser will pay to the BLM a non-refundable fee of $50.00 in accordance with 43 CFR 2720.1–2(c).

On October 8, 2014, the above-described lands will be segregated from appropriation under the public land laws, including the mining laws, except from the sale provisions of FLPMA. Until completion of the sale, the BLM is no longer accepting land use applications affecting the identified public lands, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregative effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or October 8, 2016, unless extended by the BLM State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date.

Public Comments: On or before November 24, 2014, any person may submit written comments regarding the proposed sale to the address in the **ADDRESSES** section above. Comments received in electronic form such as email or facsimile will not be considered. Before including your address, phone number, email address, or other personal identifying information, you should be aware that your entire comment, including any 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.

Detailed information about this modified competitive land sale, including the appraisal, the Environmental Assessment, and the Decision, is available at the Salem District Office during business hours.

Any comments regarding the proposed sale will be reviewed by the BLM Oregon State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in whole or in part.

In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior.

Authority: 43 U.S.C. 1713 and 1719; 43 CFR 2711.1–2(c).

Richard Hatfield,

Marys Peak Resource Area Field Manager.

[FR Doc. 2014–24066 Filed 10–7–14; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–ACAD–16166; PPNEACADSO, PPMPSPDIZ.YM0000]

Request for Nominations for the Acadia National Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of Request for Nominations.

SUMMARY: The National Park Service, U.S. Department of the Interior, is seeking nominations for members at large to the Acadia National Park Advisory Commission (Commission). The purpose of the Commission is to advise the Secretary of the Interior (Secretary) and the National Park Service (NPS) on matters relating to management and development of Acadia National Park.

DATES: Written nominations must be postmarked by November 7, 2014.

ADDRESSES: Send nominations to David Manski, Acting Deputy Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, telephone (207) 288–8701, or email *david_manski@nps.gov*.

FOR FURTHER INFORMATION CONTACT: David Manski, Acting Deputy Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, telephone (207) 288–8701, or email *david_manski@nps.gov*.

SUPPLEMENTARY INFORMATION: The Acadia National Park Advisory Commission was established in accordance with the provisions of the Federal Advisory Committee Act (FACA) 5 U.S.C. App. 1–16; Sec. 103, Public Law 99–420, 100 Stat. 959; and Sec. 314, Public Law 110–229, 122 Stat. 775.

The Commission advises the Secretary and the NPS on matters relating to the management and development of Acadia National Park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and the termination of rights of use and occupancy.

The Commission is composed of 16 members appointed by the Secretary, as follows: (a) Three members at large; (b) three members appointed from among individuals recommended by the Governor of Maine; (c) four members appointed from among individuals recommended by each of the four towns on the island of Mount Desert; (d) three members appointed from among individuals recommended by each of the three Hancock County mainland communities of Gouldsboro, Winter Harbor, and Trenton, and; (e) three members appointed from among individuals recommended by each of the three island towns of Cranberry Isles, Swans Island, and Frenchboro.

Members of the Commission will receive no pay, allowances, or benefits by reason of their service on the Commission. However, while away from their homes or regular places of business in the performance of services for the Commission as approved by the Designated Federal Officer, members will be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed such expenses under 5 U.S.C. 5703.

Individuals who are Federally registered lobbyists are ineligible to serve on all FACA and non-FACA boards, committees, or councils in an individual capacity. The term ''individual capacity'' refers to individuals who are appointed to exercise their own individual best judgment on behalf of the government, such as when they are designated Special Government Employees, rather than being appointed to represent a particular interest.

Seeking Nominations for Membership

We are seeking nominations for commission members in the following category: Members at large. Nominations should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Commission and permit the Department to contact a potential member.

Members are appointed by the Secretary for a term not to exceed three years. The terms of the three members at large of the Commission expire on September 28, 2014. The Commission last met on June 2, 2014, and usually meets three times per year, generally in June, September, and February. Meetings may take place at such times as designated by the Designated Federal Officer. Members are expected to make every effort to attend all meetings. Members may not appoint deputies or alternates.

Dated: September 26, 2014.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2014–24044 Filed 10–7–14; 8:45 am]

BILLING CODE 4310–EE–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Fisher Clinical Services, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before November 7, 2014. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before November 7, 2014.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of importers, of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, subpart R, App.

In accordance with 21 CFR 1301.34(a), this is notice that on December 13, 2013, Fisher Clinical Services, Inc., 700A–C Nestle Way, Breinigsville, Pennsylvania 18031–1522 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Methylphenidate (1724)	II
Levorphanol (9220)	II
Noroxymorphone (9668)	II
Tapentadol (9780)	II

The company plans to import the listed substances for analytical research, testing, and clinical trials. This authorization does not extend to the import of a finished FDA approved or non-approved dosage form for commercial distribution in the United States.

The company plans to import an intermediate form of tapentadol (9780) to bulk manufacture tapentadol for distribution to its customers.

Dated: October 1, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–24081 Filed 10–7–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Alkermes Gainesville LLC

ACTION: Notice of registration.

SUMMARY: Alkermes Gainesville LLC applied to be registered as an importer of a basic class of controlled substance. The DEA grants Alkermes Gainesville LLC registration as an importer of this controlled substance.

SUPPLEMENTARY INFORMATION: By notice dated June 10, 2014, and published in the **Federal Register** on June 17, 2014, 79 FR 34551, Alkermes Gainesville LLC, 1300 Gould Drive, Gainesville, Georgia 30504, applied to be registered as an importer of a certain basic class of controlled substance. No comments or objections were submitted for this notice.

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 Alkermes Gainesville LLC to import the basic class of controlled substance 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, verifying the company's compliance with state and local laws, and reviewing 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 Noroxymorphone (9668), a basic class of controlled substance listed in schedule II.

The company plans to import the above listed controlled substance for analytical research and testing.

The import of the above listed basic class of controlled substance would be granted only for analytical testing and clinical testing. This authorization does not extend to the import of a finished FDA approved or non-approved dosage form for commercial distribution in the United States.

Dated: October 1, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–24032 Filed 10–7–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Austin Pharma, LLC

ACTION: Notice of registration.

SUMMARY: Austin Pharma, LLC applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants Austin Pharma, LLC registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated May 28, 2014, and published in the **Federal Register** on June 4, 2014, 79 FR 32322, Austin Pharma, LLC, 811 Paloma Drive, Suite C, Round Rock, Texas 78665–2402, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Austin Pharma, LLC to manufacture 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, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances:

Controlled substance	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I

The company plans to manufacture bulk synthetic active pharmaceutical ingredients (APIs) for distribution and new product development to its customers. The company plans to bulk manufacture a synthetic tetrahydrocannabinol.

In reference to drug code 7360, the company plans to manufacture a synthetic cannabinol in bulk for sale to its customers. The controlled substance will be further synthesized to bulk manufacture a synthetic tetrahydrocannabinol (7370). No other activity for this drug code is authorized for this registration.

Dated: October 2, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–24018 Filed 10–7–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Siemens Healthcare Diagnostics, Inc.

ACTION: Notice of registration.

SUMMARY: Siemens Healthcare Diagnostics, Inc., applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants Siemens Healthcare Diagnostics, Inc. registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated May 2, 2014, and published in the **Federal Register** on May 15, 2014, 79 FR 27936, Siemens Healthcare Diagnostics, Inc., Attn: RA, 100 GBC Drive, Mailstop 514, Newark, Delaware 19702, applied to be registered as a manufacturer of certain basic classes of controlled substances. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Siemens Healthcare Diagnostics, Inc., to manufacture 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, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed:

Controlled substance	Schedule
Tetrahydrocannabinols (7370)	I
Ecgonine (9180)	II
Morphine (9300)	II

The company plans to produce the listed controlled substances in bulk to be used in the manufacture of reagents and drug calibrator controls which are DEA exempt products.

In reference to drug code 7370 the company plans to bulk manufacture a synthetic tetrahydrocannabinol. No other activity for this drug code is authorized for this registration.

Dated: October 1, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–24035 Filed 10–7–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Quarterly Census of Employment and Wages

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) titled, ''Quarterly Census of Employment and Wages,'' 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 November 7, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201406-1220-001* (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–BLS, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (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 Quarterly Census of Employment and Wages (QCEW) information collection. The BLS uses QCEW data provided by State Workforce Agencies as a sampling frame for establishment surveys; for publishing accurate current estimates of employment for the U.S., States, counties, and metropolitan areas; and for publishing quarterly census totals of local establishment counts, employment, and wages. The Bureau of Economic Analysis uses the data to produce accurate personal income data in a timely matter for the U.S., States, and local areas. Finally, the data is critical to the Employment Training Administration in administrating unemployment insurance programs. This information collection is authorized by the Act establishing the BLS (codified at 29 U.S.C. 1, 2) and Wagner-Peyser Act, as Amended section 15 (*see* 29 U.S.C. 491–2).

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 1220–0012.

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 October 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 May 22, 2014 (79 FR 29455).

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 1220–0012. 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: Quarterly Census of Employment and Wages.

OMB Control Number: 1220–0012.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 212.

Total Estimated Annual Time Burden: 992,160 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: October 2, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–24010 Filed 10–7–14; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Online Outreach Training Program, FY 2014

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of Competition and Request for Proposals (RFP) for Online OSHA Outreach Training Program Providers.

SUMMARY: This notice announces, in abstract format, a request for proposals to deliver 10-hour and 30-hour Outreach Training Program courses, on behalf of OSHA, in the construction industry, general industry, maritime industry, and targeted training for young workers, in an online format.

DATES: All proposals received by December 12, 2014, 4:00 p.m. CT, the application deadline, will be considered by OSHA. Proposals must be in writing, and meet the specified requirements. Questions regarding this procurement may be made to the OSHA Directorate of Training and Education, U.S. Department of Labor, 2020 S. Arlington Heights Road, Arlington Heights, IL 60005–4102, Attention: Dr. Henry Payne, Administrative Officer. Only written inquiries will be answered.

ADDRESSES: Please submit ONE (1) signed original and THREE (3) copies of the proposal, plus ONE (1) CD–ROM or USB Flash Drive of the complete proposal identical to the hard copies, on or before December 12, 2014, 4:00 p.m. CT to: Henry Payne, Ph.D., Administrative Officer, Directorate of Training and Education, U.S. Department of Labor, OSHA, 2020 S Arlington Heights Rd, Arlington Heights, IL 60005–4102.

FOR FURTHER INFORMATION CONTACT: Questions regarding this RFP may be submitted in writing by November 26, 2014, 11:59 p.m. CT to the Administrative Officer, Dr. Henry Payne. Questions received after November 26, 2014, 11:59 p.m. CT will not receive a response. Responses to timely written questions will be posted on the OSHA Web site, *http://www.osha.gov/dte/outreach/ootpp.html.* To obtain further information on the OSHA Outreach Training Program, visit the OSHA Web site at, *http://www.osha.gov/dte/outreach/index,html.*

SUPPLEMENTARY INFORMATION: The complete version of this announcement has been published on the OSHA Web site (*http://www.osha.gov/dte/outreach/ootpp.html*). The contractor(s) selected for award will be authorized to provide online Outreach Training Program courses to members of the public. These contracts will not involve any compensation or reimbursement from the Government. The contractor(s) may charge a fee to its students. The Government may assess a fee from the contractor(s) to cover the costs of course-completion cards and other administrative expenses.

Although contracts resulting from the Solicitation will not be funded with appropriated funds, and the Federal Acquisition Regulation will not apply, the solicitation document utilizes a FAR-type format for convenience, and incorporates provisions and clauses adapted from those found in the FAR. It is anticipated that one or more awards will be made from this solicitation. OSHA may make up to two awards in each of the four identified categories. This requirement is for a base year with options for four (4) successive one-year periods.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is Section 21 of the Occupational Safety and Health Act of 1970, (29 U.S.C. 670), Public Law 111–117, and Public Law 112–10, and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on October 1, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–23974 Filed 10–7–14; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2015–004]

Freedom of Information Act Advisory Committee

AGENCY: National Archives and Records Administration (NARA).

ACTION: Correction; FOIA Advisory Committee Meeting Notice.

SUMMARY: The National Archives and Records Administration (NARA) published a notice in the **Federal Register** today, October 8, 2014, announcing a meeting of the Federal Advisory Committee. The notice was available for public inspection on October 6, 2014. However, between when the notice was submitted and published, we realized some information had been omitted. We are therefore publishing this correction notice in the **Federal Register** on the same day as the original notice to provide the missing information.

DATES: The meeting will be held on October 21, 2014, from 10:00 a.m. to 1:00 p.m. EDT.

ADDRESSES: National Archives and Records Administration (NARA), 700 Pennsylvania Avenue NW., Archivist's Reception Room (Room 105), Washington, DC 20408.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public. However, due to space limitations and access procedures, NARA requests that individuals planning to attend register for the event via Eventbrite at *http://www.eventbrite.com/e/freedom-of-information-act-foia-advisory-committee-meeting-registration-13398355843.* Eventbrite registration will go live on Tuesday, October 7, 2014 at 10:00 a.m. EDT. Members of the media who wish to register and those who are unable to register via Eventbrite should contact Christa Lemelin at the phone number, mailing address, or email address listed below. NARA's Office of Government Information Services will provide an agenda and additional instructions for participation on the FOIA Advisory Committee Web page at *https://ogis.archives.gov/foia-advisory-committee/meetings.htm.*

This notice is being issued 13 calendar days rather than 15 calendar days in advance of the October 21, 2014, FOIA Advisory Committee meeting due to technical difficulties in publishing the notice. Public inspection of the meeting notice occurred 15 calendar days in advance of the proposed meeting, and notice of the meeting was also posted publicly on the OGIS Web site at *https://ogis.archives.gov/foia-advisory-committee/meetings.htm,* allowing for 15 days' notice in those ways.

FOR FURTHER INFORMATION CONTACT: Christa Lemelin, Designated Federal Officer for this committee, at National Archives and Records Administration, Office of Government Information Services, 8601 Adelphi Road—OGIS, College Park, MD 20740–6001, by telephone at 202–741–5773; or by email at *Christa.Lemelin@nara.gov.*

Dated: October 6, 2014.

Christa Lemelin,

Designated Federal Officer, FOIA Advisory Committee.

[FR Doc. 2014–24155 Filed 10–6–14; 4:15 pm]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2015–001]

Freedom of Information Act Advisory Committee

AGENCY: National Archives and Records Administration.

ACTION: Notice of FOIA Advisory Committee Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C. App) and the second United States Open Government National Action Plan (NAP) released on December 5, 2013, NARA announces the following committee meeting to discuss improvements to the administration of the Freedom of Information Act (FOIA).

DATES: The meeting will be held on October 21, 2014, from 10:00 a.m. to 1:00 p.m. EDT.

ADDRESS: National Archives and Records Administration (NARA), 700 Pennsylvania Avenue NW., Archivist's Reception Room (Room 105), Washington, DC 20408.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public. However, due to space limitations and access procedures, NARA requests that individuals planning to attend register for the event via Eventbrite at *https://www.eventbrite.com/e/freedom-of-information-act-foia-advisory-committee-meeting-registration-13398355843.* Eventbrite registration will go live on Tuesday, October 7, 2014 at 10:00 a.m. EDT. Members of the media who wish to register and those who are unable to register via Eventbrite should contact Christa Lemelin at the phone number, mailing address, or email address listed below. NARA's Office of Government Information Services will provide an agenda and additional instructions for participation on the FOIA Advisory Committee Web page at *https://ogis.archives.gov/foia-advisory-committee/meetings.htm.*

FOR FURTHER INFORMATION CONTACT: Christa Lemelin, Designated Federal Officer for this committee, at National Archives and Records Administration, Office of Government Information Services, 8601 Adelphi Road—OGIS, College Park, MD 20740–6001, by telephone at 202–741–5773; or by email at *Christa.Lemelin@nara.gov.*

Dated: October 1, 2014.

Patrice Little Murray,

Committee Management Officer.

[FR Doc. 2014–24030 Filed 10–6–14; 1:15 pm]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2015–002]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before November 7, 2014. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR), 8601 Adelphi Road, College Park, MD 20740–6001
Email: request.schedule@nara.gov
FAX: 301–837–3698

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, Records Management Services (ACNR), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1799. Email: *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Office of the Secretary (DAA–0016–2014–0002, 1 item, 1 temporary item). Administrative wage garnishment case files.

2. Department of Army, Agency-wide (DAA–AU–2014–0025, 1 item, 1 temporary item). Master files of an electronic information system that contains oil sample information and other records related to oil analysis.

3. Department of Commerce, Census Bureau (DAA–0029–2014–0005, 3 items, 3 temporary items). Records of the Center for Administrative Records Research and Applications documenting the acquisition and processing of data files from outside providers.

4. Department of Defense, National Geospatial-Intelligence Agency (DAA–0537–2014–0004, 1 item, 1 temporary item). Files related to the health and training of agency police dogs.

5. Department of Health and Human Services, Agency for Healthcare Research and Quality (DAA–0510–2014–0001, 1 item, 1 temporary item). Guest researcher agreements.

6. Department of Health and Human Services, Indian Health Service (DAA–0513–2014–0003, 5 items, 5 temporary items). Patient medical records and related indices of the health management program.

7. Department of Homeland Security, Office of the Chief Security Officer (DAA–0563–2014–0003, 3 items, 3 temporary items). Administrative records for account access and certification.

8. Department of the Interior, Bureau of Safety and Environmental Enforcement (N1–473–12–5, 43 items, 35 temporary items). Records documenting regulatory oversight and stewardship activities for the Outer Continental Shelf. Records include plans and permits for exploration, development, and production of oil and gas; oil spill preparedness and planning; environmental monitoring; and industry safety and training initiatives. Records proposed for permanent retention include oil spill research, response and incident reviews, environmental studies and enforcement actions, and safety and environmental management and compliance program records.

9. National Archives and Records Administration, Agency-wide (DAA–0064–2014–0003, 1 item, 1 temporary item). Routine surveillance recordings of a federal facility.

10. National Archives and Records Administration, Research Services (N2–84–14–3, 1 item, 1 temporary item). Records of Foreign Service Posts of the Department of State including visa applications, registration books, and other related records. These records were accessioned to the National Archives but lack sufficient historical value to warrant continued preservation.

11. National Archives and Records Administration, Research Services (N2–166–14–2, 2 items, 2 temporary items). Records of the Foreign Agricultural Service including drafts of outgoing cables and copies of Foreign Service regulations issued by the Department of State. These records were accessioned to the National Archives but lack sufficient historical value to warrant continued preservation.

12. National Archives and Records Administration, Research Services (N2–208–14–1, 2 items, 2 temporary items). Records of the Office of War Information which duplicate records in other series. These records were accessioned to the National Archives but lack sufficient historical value to warrant continued preservation.

13. Social Security Administration, Office of Legislation and Congressional Affairs (DAA–0047–2012–0005, 15 items, 10 temporary items). Records include correspondence files, control logs, legislation files, preparation materials, and analysis files. Proposed for permanent retention are formally approved legislative packages, legislative bulletins, historical files, testimony, and questions for the record.

Dated: September 29, 2014.

Paul M. Wester, Jr.,

Chief Records Officer for the U.S. Government.

[FR Doc. 2014–24029 Filed 10–7–14; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Geosciences (1755).

DATES: October 29, 2014, 9:00 a.m.–5:00 p.m.

October 30, 2014, 8:30 a.m.–2:00 p.m.

Place: Stafford I, Room 375, National Science Foundation, 4201 Wilson Blvd., Arlington, Virginia 22230.

Type of Meeting: Open.

Contact Person: Melissa Lane, National Science Foundation, Suite 705, 4201 Wilson Blvd. Arlington, Virginia 22230. Phone 703–292–8500.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight on support for geoscience research and education including atmospheric, geospace, earth, ocean and polar sciences.

Agenda:

Wednesday, October 29, 2014

- Meeting with the Acting Director
- Directorate and NSF activities and plans
- Division Subcommittee meetings

Thursday, October 30, 2014

- Division Subcommittee meetings
- Review of Committee of Visitors Reports
- Action Items/Planning for Spring Meeting

Dated: October 1, 2014.

Suzanne Plimpton,

Acting, Committee Management Officer.

[FR Doc. 2014–23936 Filed 10–7–14; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Astronomy and Astrophysics Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Astronomy and Astrophysics Advisory Committee #13883

Date and Time:

November 17, 2014; 9:00 a.m.–5:00 p.m.
November 18, 2014; 9:00 a.m.–12:00 p.m.

Place: National Science Foundation, Room 555–II, Stafford II Building, 4121 Wilson Blvd., Arlington, VA 22230

Type of Meeting: Open.

Contact Person: Dr. Jim Ulvestad, Division Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–7165.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy (DOE) on issues within the field of astronomy and astrophysics that is of mutual interest and concern to the agencies.

Agenda: To hear presentations of current programming by representatives from NSF, NASA, DOE and other agencies relevant to astronomy and astrophysics; to discuss current and potential areas of cooperation between the agencies; to formulate recommendations for continued and new areas of cooperation and mechanisms for achieving them.

Dated: October 1, 2014.

Suzanne Plimpton,

Acting, Committee Management Officer.

[FR Doc. 2014–23941 Filed 10–7–14; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Public Forum—Awake, Alert, Alive: Overcoming the Dangers of Drowsy Driving

On Tuesday, October 21, the National Transportation Safety Board (NTSB) will convene a public forum titled *Awake, Alert, Alive: Overcoming the Dangers of Drowsy Driving.* This event is free and open to the public. No preregistration is required. NTSB Board Member Mark R. Rosekind, Ph.D., will serve as the presiding officer of the forum.

The 1-day forum will focus on the problem of drowsy driving, its prevalence, and how it affects driving safety in noncommercial vehicles. Invited panelists will examine the risk factors associated with drowsy driving and consider various countermeasures to address drowsy driving and drowsy driving crashes.

Below is the preliminary agenda:

Tuesday, October 21, 2014 (08:30 a.m.–5:00 p.m.)

1. Opening Statement by Member Mark Rosekind
2. Presentations on: *Introduction and Scope of the Problem*
3. Questions from the Technical Panel and Board Member
4. Presentations on: *Workplace Issues*
5. Questions from the Technical Panel and Board Member
6. Presentations on: *Concerns for Novice Drivers*
7. Questions from the Technical Panel and Board Member
8. Lunch Break
9. Presentations on: *Health Issues*
10. Questions from the Technical Panel and Board Member
11. Presentations on: *In-Vehicle and Roadway Factors*
12. Questions from the Technical Panel and Board Member
13. Presentations on: *Countermeasures and Future Directions*
14. Questions from the Technical Panel and Board Member
15. Closing Statement by Member Mark Rosekind

The full agenda and a list of participants can be found at the following Web address: *http://www.ntsb.gov/news/events/2014/drowsydrivingforum/.*

The forum will be held in the NTSB Board Room and Conference Center, located at 429 L'Enfant Plaza E. SW., Washington, DC. The public can view the hearing in person or by live webcast at *www.ntsb.gov.* Webcast archives are generally available by the end of the next day following the hearing, and webcasts are archived for a period of 3 months from after the date of the event.

Individuals requiring reasonable accommodation and/or wheelchair access directions should contact Ms. Rochelle Hall at (202) 314–6305 or by email at *Rochelle.Hall@ntsb.gov* byWednesday, October 15, 2014.

NTSB Media Contact: Keith Holloway—*keith.holloway@ntsb.gov.*

NTSB Forum Manager: Jana Price—*jana.price@ntsb.gov.*

Dated: October 3, 2014.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2014–24004 Filed 10–7–14; 8:45 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Reliability & PRA; Notice of Meeting

The ACRS Subcommittee on Reliability & PRA will hold a meeting on October 15, 2014, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Wednesday, October 15, 2014–8:30 a.m. Until 5:00 p.m.

The Subcommittee will discuss staff's progress of level 3 Probabilistic Risk Assessment (PRA) Project. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), John Lai (Telephone 301–415–5197 or Email: *John.Lai@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on November 8, 2013 (78 FR 67205–67206).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: September 30, 2014.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–24020 Filed 10–7–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Metallurgy & Reactor Fuels; Notice of Meeting

The ACRS Subcommittee on Metallurgy & Reactor Fuels will hold a meeting on October 16, 2014, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, October 16, 2014—1:00 p.m.–5:00 p.m.

The Subcommittee will review Draft Regulatory Guide DG–1299, ''Regulatory

Guidance on the Alternate Pressurized Thermal Shock Rule.'' The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christopher Brown (Telephone 301–415–7111 or Email: *Christopher.Brown@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on November 8, 2013 (78 FR 67205–67206).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: September 30, 2014.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–24047 Filed 10–7–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0001]

Sunshine Act Meetings

DATE: Week of October 6, 2014.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of October 6, 2014

Tuesday, October 7, 2014

8:55 a.m. Affirmation Session (Public Meeting) (Tentative)
Petitions to Suspend Reactor Licensing Decisions and Reactor License Renewal Decisions Pending Issuance of ''Waste Confidence'' Safety Findings (Tentative)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Rochelle Bavol at (301) 415–1651 or via email at *Rochelle.Bavol@nrc.gov* .

* * * * *

Additional Information

By a vote of 3–0 on October 6, 2014, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that the above referenced Affirmation Session be held with less than one week notice to the public. The meeting is scheduled on October 7, 2014.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

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, by videophone at 240–428–3217, 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: October 6, 2014.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2014–24179 Filed 10–6–14; 4:15 pm]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2015–1; Order No. 2204]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning Bilateral Agreement with Royal Mail Group, Ltd. negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 9, 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 October 1, 2014, the Postal Service filed notice, pursuant to 39 CFR 3015.5 and Order No. 546, informing the Commission that it has entered into a bilateral agreement with Royal Mail

Group, Ltd. (Agreement).[1] The Postal Service seeks to include the portion of the Agreement pertaining to returns from the United States to the United Kingdom within the larger grouping of Inbound Competitive Multi-Service Agreement with a Foreign Postal Operators product. *Id.* at 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. CP2015–1 for consideration of matters raised by the 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 October 9, 2014. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Lyudmila Y. Bzhilyanskaya to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2015–1 to consider matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Lyudmila Y. Bzhilyanskaya is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public.

3. Comments by interested persons in this proceeding are due no later than October 9, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2014–23987 Filed 10–7–14; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street, NE., Washington, DC 20549–2736.

Extension: Rule 19a–1.

OMB Control No. 3235–0216, SEC File No. 270–240.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Section 19(a) (15 U.S.C. 80a–19(a)) of the Investment Company Act of 1940 (the ''Act'') [1] makes it unlawful for any registered investment company to pay any dividend or similar distribution from any source other than the company's net income, unless the payment is accompanied by a written statement to the company's shareholders which adequately discloses the sources of the payment. Section 19(a) authorizes the Commission to prescribe the form of such statement by rule.

Rule 19a–1 (17 CFR 270.19a–1) under the Act, entitled ''Written Statement to Accompany Dividend Payments by Management Companies,'' sets forth specific requirements for the information that must be included in statements made pursuant to section 19(a) by or on behalf of management companies.[2] The rule requires that the statement indicate what portions of distribution payments are made from net income, net profits from the sale of a security or other property (''capital gains'') and paid-in capital. When any part of the payment is made from capital gains, rule 19a–1 also requires that the statement disclose certain other information relating to the appreciation or depreciation of portfolio securities. If an estimated portion is subsequently determined to be significantly inaccurate, a correction must be made on a statement made pursuant to section 19(a) or in the first report to shareholders following the discovery of the inaccuracy.

The purpose of rule 19a–1 is to afford fund shareholders adequate disclosure of the sources from which distribution payments are made. The rule is intended to prevent shareholders from confusing income dividends with distributions made from capital sources. Absent rule 19a–1, shareholders might receive a false impression of fund gains.

Based on a review of filings made with the Commission, the staff estimates that approximately 11,066 series of registered investment companies that are management companies may be subject to rule 19a–1 each year,[3] and that each portfolio on average mails two statements per year to meet the requirements of the rule.[4] The staff further estimates that the time needed to make the determinations required by the rule and to prepare the statement required under the rule is approximately 1 hour per statement. The total annual burden for all portfolios therefore is estimated to be approximately 22,132 burden hours.[5]

The staff estimates that approximately one-third of the total annual burden (7,377 hours) would be incurred by a paralegal with an average hourly wage rate of approximately $199 per hour,[6] and approximately two-thirds of the annual burden (14,755 hours) would be incurred by a compliance clerk with an average hourly wage rate of $64 per hour.[7] The staff therefore estimates that the aggregate annual cost of complying with the paperwork requirements of the rule is approximately $2,412,343 ((7,377 hours × $199 = $1,468,023) + (14,755 hours × $64 = $944,320)).

To comply with state law, many investment companies already must distinguish the different sources from which a shareholder distribution is paid and disclose that information to shareholders. Thus, many investment companies would be required to distinguish the sources of shareholder

[1] United States Postal Service Notice of Filing Functionally Equivalent Agreement with Royal Mail Group, Ltd., October 1, 2014 (Notice).

[1] 15 U.S.C. 80a.

[2] Section 4(3) of the Act (15 U.S.C. 80a–4(3)) defines ''management company'' as ''any investment company other than a face amount certificate company or a unit investment trust.''

[3] This estimate is based on statistics compiled by Commission staff as of May 31, 2014. The number of management investment company portfolios that make distributions for which compliance with rule 19a–1 is required depends on a wide range of factors and can vary greatly across years. Therefore, the calculation of estimated burden hours is based on the total number of management investment company portfolios, each of which may be subject to rule 19a–1.

[4] A few portfolios make monthly distributions from sources other than net income, so the rule requires them to send out a statement 12 times a year. Other portfolios never make such distributions.

[5] This estimate is based on the following calculation: 11,066 management investment company portfolios × 2 statements per year × 1 hour per statement = 22,132 burden hours.

[6] Hourly rates are derived from the Securities Industry and Financial Markets Association (''SIFMA''), Management and Professional Earnings in the Securities Industry 2013, modified to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead.

[7] Hourly rates are derived from SIFMA's Office Salaries in the Securities Industry 2013, modified to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

dividends whether or not the Commission required them to do so under rule 19a–1.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Compliance with the collection of information required by rule 19a–1 is mandatory for management companies that make statements to shareholders pursuant to section 19(a) of the Act. 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 control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street, NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: October 1, 2014.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–23978 Filed 10–7–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736

Extension: Rule 6e–2 and Form N–6EI–1 OMB Control No. 3235–0177, SEC File No. 270–177

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 6e–2 (17 CFR 270.6e–2) under the Investment Company Act of 1940 (''Act'') (15 U.S.C. 80a) is an exemptive rule that provides separate accounts formed by life insurance companies to fund certain variable life insurance products, exemptions from certain provisions of the Act, subject to conditions set forth in the rule. The rule sets forth several information collection requirements.

Rule 6e–2 provides a separate account with an exemption from the registration provisions of section 8(a) of the Act if the account files with the Commission Form N–6EI–1 (17 CFR 274.301), a notification of claim of exemption.

The rule also exempts a separate account from a number of other sections of the Act, provided that the separate account makes certain disclosure in its registration statements (in the case of those separate account that elect to register), reports to contractholders, proxy solicitations, and submissions to state regulatory authorities, as prescribed by the rule.

Paragraph (b)(9) of rule 6e–2 provides an exemption from the requirements of section 17(f) of the Act and imposes a reporting burden and certain other conditions. Section 17(f) requires that every registered management company meet various custody requirements for its securities and similar investments. The exemption provided in paragraph (b)(9) applies only to management accounts that offer life insurance contracts.

Since 2008, there have been no filings under paragraph (b)(9) of rule 6e–2 by management accounts. Therefore, since 2008, there has been no cost or burden to the industry regarding the information collection requirements of paragraph (b)(9) of rule 6e–2. In addition, there have been no filings of Form N–6EI–1 by separate accounts since 2008. Therefore, there has been no cost or burden to the industry since that time. The Commission requests authorization to maintain an inventory of one burden hour for administrative purposes.

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 control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: October 1, 2014.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–23977 Filed 10–7–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73290; File No. SR–CME–2014–31]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 2, Related to Clearing of Certain iTraxx Europe Index Untranched CDS Contracts on Indices Administered by Markit

October 2, 2014.

On August 11, 2014, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–CME–2014–31 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on August 18, 2014.[3] The Commission has not received comments on the proposed rule change. On September 2, 2014, CME filed Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to designate a longer period for Commission action on the proposed rule change, as modified by Amendment No. 2.

Section 19(b)(2) of the Act [5] provides that within 45 days of the publication of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–72833 (Aug. 13, 2014), 79 FR 48797 (Aug. 18, 2014) (SR–CME–2014–31).

[4] On August 18, 2014, CME filed Amendment No. 1 to the proposed rule change. CME withdrew Amendment No. 1 on August 29, 2014. CME subsequently filed Amendment No. 2 to the proposed rule change. Amendment No. 2 is currently pending **Federal Register** publication. *See* Securities Exchange Act Release No. 34–73275 (Oct. 1, 2014), 79 FR ____ (Oct. __, 2014) (SR–CME–2014–31).

[5] 15 U.S.C. 78s(b)(2).

notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day from the publication of notice of filing of this proposed rule change is October 2, 2014. The Commission is extending this 45-day time period.

CME is proposing to amend its clearing rules to enable CME to offer clearing of certain iTraxx Europe index untranched credit default swap (''CDS'') contracts on indices administered by Markit (''iTraxx Contracts''). In addition, CME has submitted to the Commission a proposed rule change to modify its risk model for broad-based index CDS products, including adding a self-referencing risk component, to enable CME to offer, among other things, clearing of additional CDS instruments that entail self-referencing risk, such as the iTraxx Contracts.[6] The clearing of iTraxx Contracts is contingent upon the approval of the proposed rule change with respect to the risk model, including the self-referencing risk component designed for clearing iTraxx Contracts, which is currently pending with the Commission. The Commission therefore finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the complex issues under the proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[7] designates November 16, 2014, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CME–2014–31).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23983 Filed 10–7–14; 8:45 am]

BILLING CODE 8011–01–P

[6] *See* Securities Exchange Act Release No. 34–72834 (Aug. 13, 2014), 79 FR 48805 (Aug. 18, 2014) (SR–CME–2014–28) and Securities Exchange Act Release No. 34–72959 (Sep. 2, 2014), 79 FR 53234 (Sep. 8, 2014) (SR–CME–2014–28).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73289; File No. SR–FINRA–2014–039]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delay the Implementation Date of the Trade Reporting Amendments Approved Pursuant to SR–FINRA–2013–050

October 2, 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 September 24, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to delay the implementation date of amendments to the trade reporting rules relating to the OTC Reporting Facility (''ORF''), the Alternative Display Facility (''ADF'') and the Trade Reporting Facilities (''TRFs'') approved pursuant to SR–FINRA–2013–050. The proposed rule change would not make any changes to FINRA rules.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA 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, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On November 12, 2013, FINRA filed proposed rule change SR–FINRA–2013–050 to amend FINRA rules governing the reporting of (i) over-the-counter (''OTC'') transactions in equity securities to the FINRA Facilities;[4] and (ii) orders in NMS stocks and OTC Equity Securities to the Order Audit Trail System (''OATS''). The proposed rule change, as amended,[5] was approved by the Commission on February 27, 2014.[6]

In SR–FINRA–2013–050, FINRA proposed that the effective date of the proposed rule changes to the trade reporting rules would be no earlier than April 15, 2014, and no later than September 30, 2014, and the effective date of the proposed rule change to the OATS rules would be no later than 45 days after Commission approval. In Amendment No. 1, FINRA clarified that it would implement the amendments to the trade reporting rules in phases, with the amendments becoming operative for the ORF first (upon migration of the ORF to FINRA's multi-product platform (''MPP'')) and for the ADF and TRFs at a subsequent date. As previously announced by FINRA, the amendments to the OATS rules became effective on April 7, 2014.[7] FINRA also announced that the amendments to the ORF rules

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] Specifically, the FINRA Facilities are the ADF and TRFs, to which members report OTC transactions in NMS stocks, as defined in SEC Rule 600(b) of Regulation NMS; and the ORF, to which members report transactions in ''OTC Equity Securities,'' as defined in FINRA Rule 6420 (i.e., non-NMS stocks such as OTC Bulletin Board and OTC Market securities), as well as transactions in Restricted Equity Securities, as defined in FINRA Rule 6420, effected pursuant to Securities Act Rule 144A.

[5] On February 14, 2014, FINRA filed Amendment No. 1 to (1) address the comments the Commission received in response to the **Federal Register** publication and propose amendments, where appropriate; and (2) propose technical amendments to update cross-references and make other non-substantive changes to the ADF rules as a result of the approval of SR–FINRA–2013–053.

[6] *See* Securities Exchange Act Release No. 71623 (February 27, 2014), 79 FR 12558 (March 5, 2014) (Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1; File No. SR–FINRA–2013–050).

[7] *See* March 21, 2014 *OATS Report*, ''Firms Capturing Time in Milliseconds Required to Report to OATS in Milliseconds Beginning April 7, 2014.''

would be effective on September 15, 2014 (the date of migration to the MPP), the amendments to the ADF and TRF rules relating to millisecond reporting would be effective on September 29, 2014, and the remaining amendments to the ADF and TRF rules would be effective in the first quarter of 2015.[8]

By letter dated August 8, 2014, the Financial Information Forum (''FIF'') formally requested a delay of migration of the ORF to the MPP and implementation of the amendments to the trade reporting rules approved pursuant to SR–FINRA–2013–050 until February 23, 2015, stating that firms need additional time to complete and test the systems changes. Firms have indicated that they do not believe they could meet a September 2014 implementation date, in light of the development efforts that the amendments will entail, as well as other development efforts currently underway.[9]

To accommodate this request and to provide additional time for firms to complete the necessary systems changes, FINRA is filing this proposed rule change to revise the time frame for implementation of the amendments to the trade reporting rules approved pursuant to SR–FINRA–2013–050.

In response to the FIF's request, FINRA believes a delay in the migration of the ORF to the MPP from September 15, 2014 to November 17, 2014 is appropriate.[10] Accordingly, FINRA is proposing that the amendments to the ORF rules (i.e., Rules 6622 and 7330) approved pursuant to SR–FINRA–2013–050 be effective on November 17, 2014.

In addition, FINRA is proposing that the amendments to the ADF and TRF rules approved pursuant to SR–FINRA–2013–050 requiring firms to report time in milliseconds if their systems capture milliseconds [11] be effective on November 10, 2014.

Finally, FINRA is proposing that the remaining amendments to the ADF and TRF trade reporting rules, as well as the technical and conforming amendments to the rules, approved pursuant to SR–FINRA–2013–050 be implemented no earlier than March 1, 2015 and no later than April 30, 2015. Specifically, the remaining amendments to the ADF and TRF rules (i) require firms to report an additional time field for Stop Stock transactions [12] and transactions that reflect an execution price that is based on a prior reference point in time,[13] and when reporting block transactions using the exception for Intermarket Sweep Orders (ISOs) (outbound) under SEC Rule 611 of Regulation NMS, if the time the firm routed the ISOs is different from the execution time; [14] (ii) require firms to identify the original trade when reporting a reversal by including the control number and report date for the original trade report; [15] (iii) require firms to report trades executed on non-business days and trades reported more than 365 days after trade date (T+365) to the ADF or a TRF (and not on ''Form T'' through FINRA's Firm Gateway) and further to report non-business day trades on an ''as/of'' basis by 8:15 a.m. the next business day with the unique trade report modifier to denote their execution outside normal market hours; [16] (iv) provide that where both sides are submitting a clearing-only report to effectuate a step-out, the member transferring out of the position must report a step-out and the member receiving the position must report a ''step-in''; [17] and (v) address the processing of trades that are submitted for clearing.[18] In addition, SR–FINRA–2013–050 made a number of non-substantive technical and conforming changes to the ADF and TRF rules that were otherwise being amended. FINRA will announce the new effective dates for the amendments to the trade reporting rules approved under SR–FINRA–2013–050 in a Notice.

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing. The operative date will be the date of filing of the proposed rule change.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[19] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes the proposed rule change is consistent with the Act in that it provides firms additional time to complete the systems changes necessary to comply with SR–FINRA–2013–050, which amendments will, among other things, ensure a more accurate and complete audit trail, enable FINRA to recreate more accurately members' market activity and enhance FINRA's ability to surveil on an automated basis for compliance with FINRA trade reporting and other rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA believes that providing adequate time for firms to make the systems changes necessary to comply with SR–FINRA–2013–050 will benefit all interested parties.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Copies of the FIF Letter and FINRA Response, which addresses the issues raised in the FIF Letter, are attached to this filing. In response to the FIF's request, as discussed above, FINRA has delayed migration of the ORF and is proposing to delay implementation of the trade reporting amendments approved under SR–FINRA–2013–050. FINRA believes that the revised implementation timeline set forth above will provide members additional time to make the necessary system changes while balancing the need to implement the amendments without undue delay.

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

[8] *See Regulatory Notice* 14–21 (May 2014).

[9] *See* letter dated August 8, 2014 from Manisha Kimmel, FIF, to Steve Joachim and Stephanie Dumont, FINRA (''FIF Letter''). By letter dated August 21, 2014, FINRA responded to the FIF Letter. *See* letter dated August 21, 2014 from Steven Joachim, FINRA, to Manisha Kimmel, FIF (''FINRA Response''). Copies of the FIF Letter and FINRA Response are attached to the proposed rule change as Exhibit 2.

[10] *See* ''Revised Migration Date for New OTC Reporting Facility Technology Platform,'' available at *www.finra.org/Industry/Compliance/MarketTransparency/ORF/Notices/P580334.*

[11] *See* Rules 6282.04, 6380A.04, 6380B.04, 7130.01, 7230A.01 and 7230B.01.

[12] *See* paragraph (F) of Rules 6282(a)(4), 6380A(a)(5) and 6380B(a)(5).

''Stop stock transaction'' means a transaction resulting from an order in which a firm and another party agree that the order will be executed at a stop stock price or better, which price is based upon the prices at which the security is trading at the time the firm receives the order. *See* Rules 6220, 6320A and 6320B.

[13] *See* paragraph (G) of Rules 6282(a)(4), 6380A(a)(5) and 6380B(a)(5).

[14] *See* Rules 6282.03, 6380A.03 and 6380B.03.

[15] *See* Rules 6282(g), 6380A(g) and 6380B(f).

[16] *See* Rules 6282(a)(2), 6380A(a)(2) and 6380B(a)(2).

[17] *See* Rules 7130(g), 7230A(i) and 7230B(h).

[18] *See* Rules 7140, 7240A and 7240B.

[19] 15 U.S.C. 78*o*–3(b)(6).

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) of the Act [20] and subparagraph (f)(6) of Rule 19b–4 thereunder.[21]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing.[22] However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[23] FINRA has requested that the Commission waive the 30-day operative delay so that FINRA can immediately delay the implementation dates, as provided in this proposal.

The Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow FINRA to extend the implementation dates of certain changes approved pursuant to SR–FINRA–2013–050 in a timely manner. Therefore, the Commission designates the proposal operative upon filing.[24]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act.[25] If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.[26]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2014–039 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2014–039. 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 FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2014–039, and should be submitted on or before October 29, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Kevin M. O'Neill,

Deputy Secretary.

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[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[22] 17 CFR 240.19b–4(f)(6)(iii).

[23] *Id.*

[24] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78s(b)(3)(C).

[26] *Id.*

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73291; File No. SR–Phlx–2014–23]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Approving Proposed Rule Change, as Modified by Amendment No. 1, Related to the Priority Afforded to In-Crowd Participants Respecting Crossing, Facilitation, and Solicited Orders in Open Outcry Trading

October 2, 2014.

I. Introduction

On April 23, 2014, NASDAQ OMX PHLX LLC (''Exchange'' or ''Phlx'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to revise the priority afforded to in-crowd participants respecting crossing, facilitation, and solicited orders in open outcry trading (''Proposal''). The proposed rule change was published for comment in the **Federal Register** on May 13, 2014.[3] On June 23, 2014, the Commission extended the time period in which to either approve the Proposal, disapprove the Proposal, or institute proceedings to determine whether to approve or disapprove the Proposal to August 11, 2014.[4] The Commission received two comment letters from one commenter regarding the Proposal [5] and one response letter from Phlx.[6] On July 30, 2014, the Exchange filed Amendment No. 1 to the Proposal (''Amendment No. 1'').[7] On August 4, 2014, the Commission instituted proceedings

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72119 (May 7, 2014), 79 FR 27351 (''Notice'').

[4] *See* Securities Exchange Act Release No. 72447 (June 23, 2014), 79 FR 36569 (June 27, 2014).

[5] *See* Letter from Michael J. Simon, Secretary and General Counsel, International Securities Exchange, LLC, dated June 3, 2014 (''ISE Letter I''); Letter from Michael J. Simon, Secretary and General Counsel, International Securities Exchange, LLC, dated July 8, 2014 (''ISE Letter II'').

[6] *See* Letter from Carla Behnfeldt, Associate General Counsel, The NASDAQ OMX Group, Inc., dated June 20, 2014 (''Phlx Response Letter'').

[7] In Amendment No. 1, the Exchange clarifies a reference to a previous Phlx filing and an example. Amendment No. 1 has been placed in the public comment file for SR–Phlx–2014–23 at *http://www.sec.gov/comments/sr-phlx-2014-23/phlx201423.shtml* (*see* letter from Carla Behnfeldt, Associate General Counsel, The NASDAQ OMX Group, Inc., to Secretary, Commission, dated July 30, 2014) and also is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/pdf/phlx-filings/2014/SR-Phlx-2014-23_Amendment_1.pdf.*

pursuant to Section 19(b)(2)(B) of the Act[8] to determine whether to approve or disapprove the proposed rule change and published Amendment No. 1 for comment.[9] The Order Instituting Proceedings was published for comment in the **Federal Register** on August 8, 2014.[10] In response to the Order Instituting Proceedings, the Commission received no comment letters on the Proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal

The Exchange proposes to amend Phlx Rule 1014, Commentary .05(c)(ii), to afford priority in open outcry trading to in-crowd participants over out-of-crowd Streaming Quote Traders (''SQTs''),[11] Remote Specialists,[12] and Remote Streaming Quote Traders (''RSQTs'')[13] and over out-of-crowd broker-dealer limit orders on the limit order book (but not over public customer orders) in crossing,[14] facilitation,[15] and solicited[16] orders, regardless of order size.

Currently, Commentary .05(c)(i) to Phlx Rule 1014 provides that, in the event that a Floor Broker[17] or specialist[18] presents a non-electronic order in which an RSQT is assigned or which is allocated to a Remote Specialist, and/or in which an SQT assigned in such option is not a crowd participant (collectively, ''Non-Crowd Participants''), such Non-Crowd Participant may not participate in trades stemming from such a non-electronic order unless the non-electronic order is executed at the price quoted by the Non-Crowd Participant at the time of execution. If the non-electronic order is executed at the price quoted by the Non-Crowd Participant, the Non-Crowd Participant may participate in the trade unless the order was a crossing, facilitation, or solicited order with a size of at least 500 contracts on each side.[19] If the order is a crossing, facilitation, or solicited order with a size of at least 500 contracts on each side, Commentary .05(c)(ii) gives priority to in-crowd participants (including, for purposes of Commentary .05(c)(ii) only, Floor Brokers) over Non-Crowd Participants and over out-of-crowd broker-dealer limit orders on the limit order book, but not over public customer orders.[20]

The Exchange proposes to eliminate the 500 contract minimum order size from Phlx Rule 1014, Commentary .05(c)(ii). As amended, the rule would afford priority to in-crowd participants over Non-Crowd Participants and out-of-crowd broker-dealer limit orders in crossing, facilitation, and solicited orders regardless of the size of those orders. The Exchange states that it initially permitted Non-Crowd Participants to participate in Floor Broker crosses to foster electronic options trading.[21] In 2006, the Exchange adopted the size requirement, which continued to permit Non-Crowd Participants to participate in smaller (under five hundred contracts) Floor Broker crosses.[22] According to the Exchange, electronic options trading is well-established and there is no longer a need for such special rules and incentives to develop electronic trading further.[23] The Exchange notes that another options exchange does not have the same differentiation of priority for orders of fewer than 500 contracts.[24] The Exchange believes that its Proposal will encourage order flow providers to send additional crossing, facilitation, and solicited orders to the Exchange without concern that the order may not be completely executed by the trading crowd.[25] The Exchange also believes that affording priority to in-crowd participants regardless of size will attract additional smaller cross orders to the Exchange and allow in-crowd market makers to compete for smaller orders.[26]

III. Comment Letters and Phlx's Response

As noted above, the Commission received two comment letters from one commenter[27] and one response letter from Phlx.[28]

In its first letter, the commenter opposes the Proposal and requests that the Commission institute proceedings to

[8] 15 U.S.C. 78s(b)(2)(B).

[9] *See* Securities Exchange Act Release No. 72751, (August 4, 2014), 79 FR 46474 (August 8, 2014) (''Order Instituting Proceedings'').

[10] *See* Order Instituting Proceedings. The comment period closed on August 29, 2014, and the rebuttal period closed on September 12, 2014.

[11] An SQT is defined in Exchange Rule 1014(b)(ii)(A) as a Registered Options Trader (''ROT'') who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. Types of ROTs include SQTs, RSQTs and non-SQTs, which by definition are neither SQTs nor RSQTs. A Registered Options Trader is defined in Exchange Rule 1014(b)(i) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. *See* Phlx Rules 1014(b)(i) and (ii).

[12] A Remote Specialist is a qualified RSQT approved by the Exchange to function as a specialist in one or more options if the Exchange determines that it cannot allocate such options to a floor based specialist. A Remote Specialist has all the rights and obligations of a specialist, unless Exchange rules provide otherwise. *See* Phlx Rules 501 and 1020.

[13] A RSQT is defined in Exchange Rule 1014(b)(ii)(B) as an ROT that is a member affiliated with a Remote Streaming Quote Trader Organization (''RSQTO'') with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A qualified RSQT may function as a Remote Specialist upon Exchange approval. An RSQT may only submit such quotations electronically from off the floor of the Exchange. An RSQT may not submit option quotations in eligible options to which such RSQT is assigned to the extent that the RSQT is also approved as a Remote Specialist in the same options. An RSQT may only trade in a market making capacity in classes of options in which he is assigned or approved as a Remote Specialist. An RSQTO is a member organization in good standing that satisfies the RSQTO readiness requirements in Phlx Rule 507(a)(i).

[14] A crossing order occurs when an options Floor Broker holds orders (except for floor qualified contingent cross orders, as defined in Exchange Rule 1064(e)) to buy and sell the same option series. Such a Floor Broker may cross such orders, provided that the trading crowd is given an opportunity to bid and offer for such option series in accordance with Exchange rules. *See* Phlx Rule 1064(a).

[15] A facilitation order occurs when an options Floor Broker holds an options order (except for floor qualified contingent cross orders, as defined in Exchange Rule 1064(e)) for a public customer and a contra-side order. Such a Floor Broker may execute such orders as a facilitation order, provided that such Floor Broker proceeds in accordance with Exchange rules concerning facilitation orders. *See* Phlx Rule 1064(b).

[16] A solicitation occurs whenever an order (except for floor qualified contingent cross orders, as defined in Exchange Rule 1064(e)), other than a cross, is presented for execution in the trading crowd resulting from an away-from-the-crowd expression of interests to trade by one broker dealer to another. *See* Phlx Rule 1064(c).

[17] A ''Floor Broker'' is an individual who is registered with the Exchange for the purpose, while on the Exchange's options floor, of accepting and handling options orders received from members and member organizations. *See* Phlx Rule 1060.

[18] A ''Specialist'' is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[19] This in-crowd priority applies only to crossing, facilitation, and solicited orders represented in open outcry, and does not apply to orders submitted electronically via the Exchange's electronic options trading platform, to which other priority rules apply. *See, e.g.,* Phlx Rules 1014(g)(vii) and (viii).

[20] According to the Exchange, public customer limit orders represented in the trading crowd and resting on the limit order book have, and will continue to have, priority over all other participants and accordingly must be executed up to the aggregate size of such orders before any in-crowd participant is entitled to priority. Public customer orders on the limit order book that are eligible for execution are required to be executed before a Floor Broker may execute its order in the crowd and/or with a contra-side order it holds. *See* Phlx Rule 1014, Commentary .05(c)(ii).

[21] *See* Amendment No. 1, *supra* note 7.

[22] *See* Notice, 79 FR at 27352. *See also* Amendment No. 1, *supra* note 7.

[23] *See* Notice, 79 FR at 27352. *See also* Amendment No. 1, *supra* note 7.

[24] *See* Notice, 79 FR at 27352–53. *See also* Chicago Board Options Exchange (''CBOE'') Rule 6.74, Crossing Orders.

[25] *See* Notice, 79 FR at 27353.

[26] *See* Notice, 79 FR at 27353–54.

[27] *See supra* note 5.

[28] *See supra* note 6.

disapprove the Proposal. The commenter argues that the Proposal unfairly denies electronic participants the ability to participate in the execution of open outcry orders along with in-crowd participants at the same price.[29] The commenter states its view that the Exchange has not provided sufficient justification for allocating smaller trades negotiated on its floor to counterparties in the trading crowd ahead of same-priced orders from electronic participants.[30] The commenter believes that the Proposal will encourage Phlx participants to bring more orders to the floor, where they may receive a higher trade allocation and may be able to internalize a trade, instead of executing those orders through electronic auction systems.[31] The commenter argues that, even with the current 500 contract minimum, Phlx's priority rules disadvantage orders being internalized to the benefit of the internalizing brokers, as these orders receive relatively little price competition.[32] The commenter suggests that giving priority to small orders on the floor will further skew participants' incentives to bring orders to the floor to achieve a frictionless ''clean cross'' and deprive customers of vigorous competition for these orders.[33] The commenter states that most electronic auctions require that orders be exposed to all other participants trading on the exchange, and orders that are not exposed, such as qualified contingent crosses, are required to be for a large size.[34]

The commenter also argues that, because no trade information is disseminated about orders executed on the floor to electronic participants, who may be willing to provide liquidity to orders executed on the Exchange floor, such orders will not benefit from potential price improvement built into electronic auctions.[35] The commenter believes that the Proposal will largely limit price competition for small orders to participants physically present in the crowd at the time a floor cross is announced and transacted.[36] The commenter further argues that the Proposal would ignore electronic orders and quotes, especially for small orders, and cause more orders to be crossed at prices that have not been sufficiently vetted by the participants most likely to offer price improvement.[37]

In response to the commenter's concerns regarding in-crowd liquidity, Phlx states that on-floor liquidity on Phlx in many issues exceeds the displayed wider electronic markets.[38] Phlx argues that the Proposal merely removes the 500 contract minimum and that another options exchange, CBOE, does not have the same differentiation of priority for orders of fewer than 500 contracts.[39] Phlx believes that attracting smaller orders to the trading floor fosters an environment for on-floor liquidity providers to continue to provide price improvement and size improvement.[40] In response to the commenter's suggestion that the Proposal will facilitate internalization, Phlx states that priority will be afforded to all in-crowd participants, including market makers, not just Floor Brokers.[41] Phlx also believes that the Proposal should encourage small participants, such as floor-based market makers, to continue to make markets, which Phlx believes will improve the quality of execution for these smaller orders.[42]

In its second letter, the commenter replies to the Phlx Response Letter and reiterates its request that the Commission institute proceedings to disapprove the Proposal. In response to Phlx's statement that, based on Phlx's experience, on-floor liquidity on Phlx in many issues exceeds the displayed wider electronic markets,[43] the commenter requests that the Commission require Phlx to provide data that would allow the Commission to gauge the level of participation of floor-based market makers against orders represented in open outcry, and price improvement provided by these participants.[44] The commenter questions whether Phlx needs to afford priority to in-crowd liquidity providers if they are offering active price improvement.[45] The commenter states its view that to the extent that in-crowd participants provide price improvement to orders represented in open outcry, their orders are already entitled to priority over other orders at a worse price, including electronic quotes.[46] The commenter asserts that the Proposal is intended to allow in-crowd participants to internalize orders without being subject to competition from active liquidity providers in the electronic markets.[47] The commenter argues that Phlx's reliance on the CBOE rule is irrelevant as the Phlx Proposal must stand on its own, and, in any event, believes that the in-crowd priority rules of Phlx and CBOE are not in the public interest.[48] The commenter argues that the proposed expansion of these rules would only foster internalization and curtail price improvement.[49]

IV. Discussion and Commission Findings

After careful review of the proposed rule change as well as the comment letters and the Phlx response letter received on the Proposal, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act.[50] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[51] which requires, among other things, that the rules of a national securities 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 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; and not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.

As noted above, the Commission received two comment letters from one commenter in response to the proposed rule change.[52] The commenter raised concerns about whether the Exchange's proposed revisions to its rules governing priority during open outcry were appropriate, as more fully described

[29] *See* ISE Letter I.

[30] *See* ISE Letter I.

[31] *See* ISE Letter I.

[32] *See* ISE Letter I at 1–2.

[33] *See* ISE Letter I at 2.

[34] *See* ISE Letter I at 2.

[35] *See* ISE Letter I at 2.

[36] *See* ISE Letter I at 2.

[37] *See* ISE Letter I at 2. The commenter expressed its view that it is inappropriate to ignore electronic quotes, especially for smaller orders where substantial capital commitment or efforts to find liquidity are not necessary. *See id.*

[38] *See* Phlx Response Letter.

[39] *See* Phlx Response Letter (citing CBOE Rule 6.74, Crossing Orders).

[40] *See* Phlx Response Letter at 2.

[41] *See* Phlx Response Letter at 2.

[42] *See* Phlx Response Letter at 2.

[43] *See* Phlx Response Letter.

[44] *See* ISE Letter II.

[45] *See* ISE Letter II.

[46] *See* ISE Letter II at 1–2.

[47] *See* ISE Letter II at 2.

[48] *See* ISE Letter II at 2.

[49] *See* ISE Letter II at 2.

[50] 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[51] 15 U.S.C. 78f(b)(5).

[52] *See supra* note 5.

above.[53] In its review of the proposal, the Commission has carefully considered all of the comments received. The Commission acknowledges the concerns raised by the commenter, as detailed above,[54] about the potential impact on competition resulting from the Proposal in the Exchange's rules governing priority and order allocation for open outcry transactions. At the same time, the Commission also acknowledges the Exchange's belief that this Proposal will encourage order flow providers to send additional crossing, facilitation, and solicited orders to the Exchange,[55] as well as its belief that today, electronic options trading is well-established and no longer requires special rules and incentives to develop further.[56]

Phlx Rule 1014, Commentary .05(c)(ii), as proposed to be revised, describes priority for crossing, facilitation, and solicited orders in open outcry transactions. The proposed rules governing open outcry during crossing, facilitation, and solicited transactions on the Exchange floor are similar to the rules governing priority in crossing transactions at other exchanges.[57] Given that other options exchanges currently have rules that provide lower priority to non-priority customer orders on the electronic book during crossing transactions on those exchanges, the Exchange's proposed revisions to its priority scheme for floor transactions will allow Phlx to compete with other floor-based exchanges that have substantially similar rules. Accordingly, the Commission believes that it would be appropriate and consistent with the Act to approve the Exchange's proposed rule change.[58]

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[59] that the proposed rule change, as modified by Amendment No. 1, (SR–Phlx–2014–23) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[60]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23984 Filed 10–7–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73287; File No. SR–CME–2014–39]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Amendments to CME ClearPort Hours for Certain Commodity Index Cleared OTC Swap Contracts

October 2, 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 September 25, 2014, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by CME. CME filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(4)(ii)[4] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME is filing proposed rules changes that are limited to its business as a derivatives clearing organization. CME proposes to amend the current CME ClearPort hours for certain enumerated commodity index cleared swap contracts. The proposed changes are as follows:

Clearing code	Cleared OTC Swap product	DCM	Rulebook chapter
CAW	AUD Chicago Soft Red Winter Swap (Cleared Only)	CBT	14G
CCS	Corn Calendar Swap (Clearing Only)	CBT	10C
CPC	USD Malaysian Crude Palm Oil Calendar Swap (Cleared Only)	CME	204A

[53] *See* ISE Letters I and II. *See also* notes 29–37 and 44–49 and accompanying text describing the issues and concerns raised by these comments.

[54] *See supra* notes 29–37 and 44–49 and accompanying text.

[55] *See* Notice, 79 FR at 27353.

[56] *See* Amendment No. 1 at 4.

[57] *See, e.g.,* CBOE Rule 6.74; NYSE MKT Rule 934NY; NYSE Arca Rule 6.47. CBOE Rule 6.74 provides that for purposes of establishing priority at the same price, bids and offers of In-Crowd Market Participants have first priority, except with respect to public customer orders resting in the electronic book; and all other bids and offers (including bids and offers of broker-dealer orders in the electronic book and electronic quotes of Market-Makers) have second priority. NYSE MKT Rule 934NY(b)(3) provides that, for a non-facilitation cross, if there are bids or offers in the Consolidated Book better than the proposed execution price or Customer Orders in the Consolidated Book priced at the proposed execution price, the Floor Broker must trade against such bids or offers in the Consolidated Book. Once bids or offers in the Book are satisfied, the Floor Broker may cross the balance of the orders, if any, to be crossed. NYSE Arca Rule 6.47 provides that, for crossing orders, the Floor Broker must trade against: (i) Customer bids or offers on the Consolidated Book priced equal or better than the proposed execution price; and (ii) better-priced non-Customer bids or offers on the Consolidated book along with any equal-priced non-Customer bids and offers that are ranked ahead of any equal-priced Customer bids and offers.

[58] As noted above, the Exchange's proposal is intended to bring its floor priority rules for crossing, facilitation, and solicited orders in line with the floor priority rules of certain other options exchanges. However, the Commission is aware of the concerns, as expressed by the commenter, that the rules of an options trading floor should allow for sufficient competition for orders. This concern is one that the Commission staff intends to continue to evaluate in the context of its ongoing empirical consideration of market structure. For example, there currently is relatively little information available about the extent and nature of floor crossing transactions. The Commission staff, however, expects that an exchange with a trading floor, as part of its regulatory obligations, will monitor the extent to which competition is maintained in floor crossing transactions. One way an exchange could do so would be to assess periodically the level of participation in such crossing transactions by market makers and other market participants, aside from the firm that initiated the cross, and review whether its rules appropriately allow for such competition. In addition, the Commission reminds broker-dealers that the duty of best execution requires them to assess periodically the quality of competing markets to assure that order flow is directed to the markets providing the most beneficial terms for their customer orders. *See, e.g.,* Order Execution Obligations, Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 at 48322–33 (September 12, 1996). Broker-dealers must examine their procedures for seeking to obtain best execution in light of market and technology changes and modify those practices if necessary to enable their customers to obtain the best reasonably available prices. *See id.* at 48323. In doing so, broker-dealers must take into account price improvement opportunities, and whether different markets may be more suitable for different types of orders or particular securities. *See id.*

[59] 15 U.S.C. 78s(b)(2).

[60] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4)(ii).

Clearing code	Cleared OTC Swap product	DCM	Rulebook chapter
DFL	DAP FOB NOLA Swaps (Clearing Only)	CBT	48
DFT	DAP FOB Tampa Swaps (Clearing Only)	CBT	47
DG2	Bloomberg Commodity Index 2-Month Forward Swaps (Cleared OTC)	CBT	29B
DG3	Bloomberg Commodity Index 3-Month Forward Swaps (Cleared OTC)	CBT	29C
DGS	Bloomberg Commodity Index Swaps (Cleared OTC)	CBT	29A
KAW	AUD KC Hard Red Winter Wheat Swap (Cleared Only)	CBT	14J
KWS	KC HRW Wheat Calendar Spread Options	CBT	14M
RRE	S&P GSCI Enhanced ER Index Swaps (Cleared OTC)	CME	415B
SE2	S&P GSCI ER Index 2 Month Forward Swaps (Cleared OTC)	CME	415E
SE3	S&P GSCI–ER Index 3 Month Forward Swaps (Cleared OTC)	CME	415F
SES	S&P GSCI ER swap	CME	415A
SNS	Soybean Calendar Swaps (Clearing Only)	CBT	11D
UFG	Urea (Granular) FOB Egypt Swaps (Clearing Only)	CBT	50
UFN	Urea (Granular) FOB US Gulf Coast Swaps (Clearing Only)	CBT	45
UFU	UAN FOB NOLA Swaps (Clearing Only)	CBT	46
UFZ	Urea (Prilled) FOB Yuzhny Swaps (Clearing Only)	CBT	49
WCS	Wheat Calendar Swaps (Clearing Only)	CBT	14C

The current hours for submission to clearing via CME ClearPort for the above-referenced contracts are 5:00 p.m. CT to 4:15 p.m. CT next day, Sunday-Friday. The new hours for the above-referenced contracts will be 6:00 p.m. CT to 5:45 p.m. CT next day, Sunday-Friday.

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 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. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CME is registered as a DCO with the Commodity Futures Trading Commission and offers clearing services for many different futures and swaps products. The proposed rule change that is the subject of this filing is limited to CME's business as a DCO offering clearing services for CFTC-regulated swaps products. The proposed rule change would amend the CME ClearPort hours for commodity index cleared swap contracts. CME ClearPort provides functionality for the acceptance of contracts for clearing. The affected contracts are listed below:

Clearing code	Cleared OTC Swap product	DCM	Rulebook chapter
CAW	AUD Chicago Soft Red Winter Swap (Cleared Only)	CBT	14G
CCS	Corn Calendar Swap (Clearing Only)	CBT	10C
CPC	USD Malaysian Crude Palm Oil Calendar Swap (Cleared Only)	CME	204A
DFL	DAP FOB NOLA Swaps (Clearing Only)	CBT	48
DFT	DAP FOB Tampa Swaps (Clearing Only)	CBT	47
DG2	Bloomberg Commodity Index 2-Month Forward Swaps (Cleared OTC)	CBT	29B
DG3	Bloomberg Commodity Index 3-Month Forward Swaps (Cleared OTC)	CBT	29C
DGS	Bloomberg Commodity Index Swaps (Cleared OTC)	CBT	29A
KAW	AUD KC Hard Red Winter Wheat Swap (Cleared Only)	CBT	14J
KWS	KC HRW Wheat Calendar Spread Options	CBT	14M
RRE	S&P GSCI Enhanced ER Index Swaps (Cleared OTC)	CME	415B
SE2	S&P GSCI ER Index 2 Month Forward Swaps (Cleared OTC)	CME	415E
SE3	S&P GSCI–ER Index 3 Month Forward Swaps (Cleared OTC)	CME	415F
SES	S&P GSCI ER swap	CME	415A
SNS	Soybean Calendar Swaps (Clearing Only)	CBT	11D
UFG	Urea (Granular) FOB Egypt Swaps (Clearing Only)	CBT	50
UFN	Urea (Granular) FOB US Gulf Coast Swaps (Clearing Only)	CBT	45
UFU	UAN FOB NOLA Swaps (Clearing Only)	CBT	46
UFZ	Urea (Prilled) FOB Yuzhny Swaps (Clearing Only)	CBT	49
WCS	Wheat Calendar Swaps (Clearing Only)	CBT	14C

The current hours for submission to clearing via CME ClearPort for these contracts are 5:00 p.m. CT to 4:15 p.m. CT next day, Sunday-Friday. Under the proposed rule change, the new hours for the affected contracts would be 6:00 p.m. CT to 5:45 p.m. CT next day, Sunday-Friday. The proposed change in hours will shorten the period in which daily trade submission is halted from 45 minutes to 15 minutes. The proposed new hours will be made known to the trading community in advance of the effective date via a Special Executive Report and will be posted in the trading specifications for the contracts on the CME Web site.

The changes that are described in this filing are limited to CME's business as a DCO clearing products under the exclusive jurisdiction of the CFTC and do not materially impact CME's security-based swap clearing business in

any way. The proposed changes would become effective immediately but would be operationalized on October 6, 2014. CME notes that it has also certified the proposed rule change that is the subject of this filing to its primary regulator, the Commodity Futures Trading Commission (''CFTC''), in a separate filing, CME Submission No. 14–382.

CME believes the proposed rule change is consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act.[5] CME is proposing revised hours for acceptance of cleared swap contracts; the proposed changes would have the effect of shortening the period in which daily trade submission is halted from 45 minutes to 15 minutes and, as such, should be seen to be 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]

Furthermore, the proposed changes are limited in their effect to products offered under CME's authority to act as a DCO. The products that are the subject of this filing are under the exclusive jurisdiction of the CFTC. As such, the proposed CME changes are limited to CME's activities as a DCO clearing swaps that are not security-based swaps, futures that are not security futures and forwards that are not security forwards. CME notes that the policies of the CFTC with respect to administering the Commodity Exchange Act are comparable to a number of the policies underlying the Exchange Act, such as promoting market transparency for over-the-counter derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest.

Because the proposed changes are limited in their effect to products offered under CME's authority to act as a DCO, the proposed changes are properly classified as effecting a change in an existing service of CME that:

(a) Primarily affects the clearing operations of CME with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps; and forwards that are not security forwards; and

(b) does not significantly affect any securities clearing operations of CME or any rights or obligations of CME with respect to securities clearing or persons using such securities-clearing service.

As such, the changes are therefore consistent with the requirements of Section 17A of the Exchange Act[7] and are properly filed under Section 19(b)(3)(A)[8] and Rule 19b–4(f)(4)(ii)[9] thereunder.

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 amendments would adopt new CME ClearPort hours for twenty commodity index cleared swap contracts. Further, the changes are limited to CME's derivatives clearing business and, as such, do not affect the security-based swap clearing activities of CME in any way and therefore would not impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed changes 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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)[10] of the Act and Rule 19b–4(f)(4)(ii)[11] 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.

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–CME–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–CME–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 filings will also 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–2014–39 and should be submitted on or before October 29, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23980 Filed 10–7–14; 8:45 am]

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[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(4)(ii).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(4)(ii).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73288; File No. SR–NYSEArca–2014–109]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services To Modify the Fees That It Charges for Routing Orders to the New York Stock Exchange LLC

October 2, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 19, 2014, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (''Fee Schedule'') to modify the fees that it charges for routing orders to the New York Stock Exchange LLC (''NYSE''). The Exchange proposes to implement the changes on October 1, 2014. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to modify the fees that it charges for routing orders to the NYSE. The Exchange proposes to implement the changes on October 1, 2014.

The NYSE introduced modifications to its transaction fee structures, including changes to the rates for taking liquidity, which became effective on September 1, 2014.[4] The Exchange's current fees for routing orders in securities with a per share price of $1.00 or more to the NYSE are closely related to the NYSE's fees for taking liquidity in such securities, and the Exchange is proposing an adjustment to its routing fees to maintain the existing relationship to the new fees in place at the NYSE.

Currently, the NYSE charges a transaction fee for certain transactions in securities with a per share price of $1.00 or more based on the characteristics of the transaction. Among other changes, the NYSE Fee Filing proposed to increase the charge for transactions that do not have a specified per share charge based on their characteristics (''all other'' transactions). The NYSE Fee Filing increased the per share charge for all other non-floor broker transactions (i.e., when taking liquidity from the Exchange) from $0.0026 to $0.0027 per transaction.

Currently, for the Exchange's Tier 1, Tier 2, Tier 3, Step Up Tier 1, and Step Up Tier 2 customers, the fee for routing orders in Tape A securities to the NYSE outside the book is equal to the previous NYSE fee of $0.0026 per share for all other non-floor broker transactions in securities with a per share price of $1.00 or more, and the fee for routing such orders to the NYSE for non-tier (i.e., Basic Rate) customers is $0.0028 per share.[5] Consequently, the Exchange is proposing to increase each of those fees by $0.0001 to $0.0027 per share and $0.0029 per share, respectively, consistent with the $0.0001 increase in the NYSE fee for all other non-floor broker transactions.

In addition, the Exchange currently charges $0.0024 per share for Primary Sweep Orders [6] in Tape A securities that are routed outside the book to the NYSE that remove liquidity from the NYSE.[7] In order to maintain the existing relationship to the other Exchange routing fees that are being adjusted upward, the Exchange is also proposing to increase this fee by $0.0001, to $0.0025 per share.

For Primary Only Plus (''PO+'') orders,[8] the current Exchange fee for orders routed to the NYSE that remove liquidity from the NYSE is $0.0026 per share, which is equal to the current NYSE fee for all other non-floor broker transactions in securities with a per share price of $1.00 or more.[9] Consequently, the Exchange is proposing to increase its fees for routing PO+ orders to the NYSE that remove liquidity by the same amount ($0.0001) as the increase in the corresponding NYSE fees. The proposed new fee for PO+ orders routed to the NYSE that remove liquidity is $0.0027 per share. This change would maintain the current relationship with the NYSE rates.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that ETP Holders would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and

[4] *See* Securities Exchange Act Release No. 72960 (September 3, 2014), 79 FR 53475 (September 9, 2014) (SR–NYSE–2014–46) (the ''NYSE Fee Filing'').

[5] The other tiers in the Fee Schedule do not specify a fee for routing orders in Tape A securities to the NYSE outside the book. However, such tiers provide that if a fee (or credit) is not included in the tier, the relevant tiered or Basic Rate applies based on a firm's qualifying levels. Accordingly, for orders in Tape A securities routed to the NYSE outside the book, ETP Holders and Market Makers that qualify for another tier would default to the Tier 1, Tier 2, Tier 3, Step Up Tier 1, Step Up Tier 2 or Basic Rate that applied to them based on their qualifying levels.

[6] A Primary Sweep Order is a Primary Only (''PO'') Order (i.e., a market or limit order that is to be routed to the primary market) that first sweeps the NYSE Arca book. *See* NYSE Arca Equities Rules 7.31(x) and (kk).

[7] This charge is included in the provisions for Tier 1, Tier 2, and the Basic Rate. The other tiers in the Fee Schedule do not specify a fee for Primary Sweep Orders in Tape A securities that are routed outside the book to the NYSE that remove liquidity from the NYSE. Accordingly, for such orders ETP Holders and Market Makers that qualify for another tier would default to the Tier 1, Tier 2 or Basic Rate that applied to them based on their qualifying levels. *See supra* note 5.

[8] A PO+ Order is a PO Order that is entered for participation in the primary market, other than for participation in the primary market opening or primary market re-opening. *See* NYSE Arca Equities Rule 7.31(x)(3).

[9] This charge is included in the provisions for Tier 1, Tier 2, and the Basic Rate. The other tiers in the Fee Schedule do not specify a fee for PO+ orders routed outside the book to the NYSE that remove liquidity. Accordingly, for such orders ETP Holders and Market Makers that qualify for another tier would default to the Tier 1, Tier 2 or Basic Rate that applied to them based on their qualifying levels. *See supra* note 4 [sic].

[10] 15 U.S.C. 78f(b).

furthers the objectives of Sections 6(b)(4) and (5) of the Act,[11] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed changes to routing fees are reasonable because the Exchange's fees for routing orders to the NYSE are closely related to the NYSE's fees for its members for taking liquidity, and the fee increases are consistent with the NYSE's recent increase for its fees for taking liquidity. The proposed changes will result in maintaining the existing relationship between the two sets of fees. In addition, the Exchange believes that the proposed rule change is reasonable, equitable, and not unfairly discriminatory because it would result in an increase in the per share fee for orders, Primary Sweep Orders, and PO+ Orders routed to the NYSE, thereby aligning the rate that the Exchange charges to ETP Holders with the rate that the Exchange is charged by the NYSE. Accordingly, the Exchange is proposing this increase so that the rate it charges to ETP Holders reflects the rate that the Exchange is charged by the NYSE. In addition, the proposed changes are equitable and not unfairly discriminatory because the fee increases apply uniformly across pricing tiers and all similarly situated ETP Holders would be subject to the same fee structure.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[12] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, the proposed routing fee changes would not place a burden on competition because the Exchange is seeking to align its fees with the fees charged by the NYSE.[13]

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change promotes a competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [14] of the Act and subparagraph (f)(2) of Rule 19b–4 [15] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [16] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2014–109 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2014–109. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2014–109, and should be submitted on or before October 29, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23981 Filed 10–7–14; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] 15 U.S.C. 78f(b)(8).

[13] *See supra* note 5 [sic].

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(2).

[16] 15 U.S.C. 78s(b)(2)(B).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73286; File No. SR–PHLX–2014–63]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rule 60

October 2, 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 September 19, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange [sic] to correct an inconsistency in the Exchange's Rulebook related to Rule 60 entitled ''Sanctions for Breach of Regulations.''

A notice of the proposed rule change for publication in the **Federal Register** is attached hereto as *Exhibit 1* [sic]. The text of the proposed rule change is set forth below. Proposed new language is italicized; deleted text is in brackets.

* * * * *

NASDAQ OMX PHLX Rules

* * * * *

Rule 60. Sanctions for Breach of Regulations

(a)(i) An Options Exchange Official may impose on members, member organizations, participants, participant organizations and their associated persons, fines for breaches of regulations that relate to administration of order, decorum, health, safety and welfare on the Exchange or an Options Exchange Official may refer the matter to the Business Conduct Committee where it shall proceed in accordance with Rules 960.1–960.12.

(ii) Exchange Staff may impose on members, member organizations, participants, participant organizations and their associated persons, fines for breaches of regulations that relate to administration of order, decorum, health, safety and welfare on the Exchange or Exchange Staff may refer the matter to the Business Conduct Committee where it shall proceed in accordance with Rules 960.1–960.12.

(b)(i) An Options Exchange Official and an officer of the Exchange may exclude a member, participant, and any associated person of member organizations and participant organizations (''member'') from the trading floor for breaches of regulations that relate to administration of order, decorum, health, safety and welfare on the Exchange that occurred on the trading floor or on the premises immediately adjacent to the trading floor. Specifically, members shall be excluded if they pose an immediate threat to the safety of persons or property, are seriously disrupting Exchange operations, or are in possession of a firearm. Members so excluded [are excluded for the remainder of the trading day.] *may be excluded for a period of up to five business days.*

(c) If a member shall be excluded for a period exceeding forty-eight hours, an expedited hearing (''Expedited Hearing'') will be held before the Chair of the Business Conduct Committee or a member of the Committee designated by the Chair (''Expedited Hearing Officer'') within forty-eight business hours after the members' exclusion from the trading floor. Written notice will be provided to the member of the date, time and place of the hearing. The member may be represented by counsel. The Expedited Hearing Officer or his or her designee shall conduct an Expedited Hearing. The Expedited Hearing Officer shall allow both the member or his or her representative and Exchange staff to present arguments. The Expedited Hearing Officer shall make a determination of whether to continue the member's exclusion from the trading floor for a period of up to five business days. The determination shall be based on the severity of the threat posed to persons on the trading floor, the disruptiveness caused by the actor and the safety and welfare of persons on the trading floor. The Expedited Hearing Officer shall make a ruling at the time of the hearing and a written decision will be provided to the member following the hearing. Members shall not be excluded from electronic trading, but will be not be permitted to be physically present on the trading floor for the duration of any exclusion.

(ii) For purposes of this Rule, an ''officer of the Exchange'' shall refer to an officer who is a vice president or higher.

(iii) For purposes of this Rule and the Regulations promulgated thereunder, the ''premises immediately adjacent to the trading floor'' shall include the following: (1) All premises other than the trading floor that are under Exchange control, and (2) premises in the building where the Exchange maintains its principal office and place of business, namely 1900 Market Street, Philadelphia, Pennsylvania.

(iv) Exclusion from the floor may not be the exclusive sanction for breaches of this Rule and the regulations thereunder. In addition to exclusion, a member may also be subject to a fine or the matter may be referred to the Business Conduct Committee where it shall proceed in accordance with Rules 960.1–960.12.

• • • *Commentary (a)*—

The procedure to be followed in cases where a pre-set fine of up to $[5]*10*,000.00 is summarily assessed is as follows:

.01 Notice of Fine. Notice of fine for breach of such regulations shall be given by the issuance of a written citation. Exchange Staff shall serve the written citations that are issued by the Options Exchange Official. The cited party may accept or contest the written citation.

.02 Time and Place of Hearing. If the written citation is contested, the Exchange shall fix a mutually convenient time and place of hearing, notice of which must be given in advance and may be given orally.

.03 Record. An appropriate record shall be kept. The costs of the making of such a transcript, including, but not limited to, the costs for the court reporter, reproduction of the transcript and producing copies thereof, shall be equally borne by the Exchange and by the cited party.

.04 Procedure. The hearing shall be conducted by a Hearing Director appointed by the Chair of the Business Conduct Committee, and will be conducted in whatever manner will permit full presentation of the evidence.

.05 Finding. The finding of the Hearing Director shall be rendered at the close of the hearing. *The Hearing Director may decide that: (i) the citation should be overturned; (ii) the citation is valid as issued; or (iii) the citation as issued should be modified to specify either a higher or lower fine than the one on the notice as issued.*

.06 Forum Fee. If a person contests a citation imposed under Rule 60 and the citation is upheld by the reviewing body, the reviewing body will impose a forum fee against the person in the amount of $100.

.0[6]*7* No Right of Appeal. The finding of the Hearing Director shall be final. There shall be no appeal from such finding.

.0[7]*8* Report to Securities and Exchange Commission (SEC). A report in appropriate form shall be made to the SEC. However, no report shall be made in the case of citations for breaches of regulations relating to order, decorum, health, safety and welfare or administration of the Exchange if a citation is not contested and the fine is $1,000 or less*, or if the Hearing Director finds in favor of the appellant.*

• • • *Commentary (b)*—

The procedure to be followed when a member is to be excluded from the trading floor is as follows:

[.01 Ruling. After an Options Exchange Official and an officer of the Exchange determine that a member shall be excluded, a member of the Exchange's security staff shall escort the member off the trading floor. The member shall remain off the trading floor for the remainder of the trading day. Exchange staff shall thereafter memorialize the exclusion in the form of a written citation.]

.0[2]*1* No Further Right of Appeal. The determination that a member shall be excluded is final. There shall be no appeal from such determination.

.0[3]*2* Report to the SEC. A report in appropriate form shall be made to the SEC. However, no report shall be made in a case where a clerical employee is excluded for a breach of regulations relating to order, decorum, health, safety and welfare or administration of the Exchange.

RULE 60—REGULATION AND FINE SCHEDULE

(ORDER AND DECORUM CODE)

In most cases, the PHLX will enforce compliance with Order and Decorum Code pursuant to Rule 60. While ordinarily a finding of a violation will result in the appropriate pre-set fine and/or sanction, an Options Exchange Official or Exchange Staff may refer the matter to the Business Conduct Committee where it shall proceed in accordance with Rules 960.1–960.12. In the case of repeat violations of a regulation by the same individual, the amount of the fine is determined by the number of such violations which have occurred within the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

year immediately preceding the current violation.

* * * * *

OPTION FLOOR PROCEDURE ADVICES AND ORDER & DECORUM REGULATIONS

* * * * *

H. REGULATIONS Pursuant to Rule 60

[Rule 60. Sanctions for Breach of Regulations

(a)(i) An Options Exchange Official may impose on members, member organizations and their associated persons, fines for breaches of regulations that relate to administration of order, decorum, health, safety and welfare on the Exchange or an Options Exchange Official may refer the matter to the Business Conduct Committee where it shall proceed in accordance with Rules 960.1–960.12.

(ii) Exchange Staff may impose on members, member organizations and their associated persons, fines for breaches of regulations that relate to administration of order, decorum, health, safety and welfare on the Exchange, or Exchange Staff may refer the matter to the Business Conduct Committee where it shall proceed in accordance with Rules 960.1–960.12.

(b)(i) An Options Exchange Official and an officer of the Exchange may exclude a member, and any associated person of member organizations (''member'') from the trading floor for breaches of regulations that relate to administration of order, decorum, health, safety and welfare on the Exchange that occurred on the trading floor or on the premises immediately adjacent to the trading floor. Specifically, members shall be excluded if they pose an immediate threat to the safety of persons or property, are seriously disrupting Exchange operations, or are in possession of a firearm. Members so excluded may be excluded for a period of up to five (5) business days.

(c) If a member shall be excluded for a period exceeding forty-eight hours, an expedited hearing (''Expedited Hearing'') will be held before the Chair of the Business Conduct Committee or a member of the Committee designated by the Chair (''Expedited Hearing Officer'') within forty-eight (48) business hours after the members' exclusion from the trading floor. Written notice will be provided to the member of the date, time and place of the hearing. The member may be represented by counsel. The Expedited Hearing Officer or his or her designee shall conduct an Expedited Hearing. The Expedited Hearing Officer shall allow both the member or his or her representative and Exchange staff to present arguments. The Expedited Hearing Officer shall make a determination of whether to continue the member's exclusion from the trading floor for a period of up to five (5) business days. The determination shall be based on the severity of the threat posed to persons on the trading floor, the disruptiveness caused by the actor and the safety and welfare of persons on the trading floor. The Expedited Hearing Officer shall make a ruling at the time of the hearing and a written decision will be provided to the member following the hearing. Members shall not be excluded from electronic trading, but will not be permitted to be physically present on the trading floor for the duration of any exclusion

(ii) For purposes of this Rule, an ''officer of the Exchange'' shall refer to an officer who is a vice president or higher.

(iii) For purposes of this Rule and the Regulations promulgated thereunder, the ''premises immediately adjacent to the trading floor'' shall include the following: (1) all premises other than the trading floor that are under Exchange control, and (2) premises in the building where the Exchange maintains its principal office and place of business, namely 1900 Market Street, Philadelphia, Pennsylvania.

(iv) Exclusion from the floor may not be the exclusive sanction for breaches of this Rule and the regulations thereunder. In addition to exclusion, a member may also be subject to a fine or the matter may be referred to the Business Conduct Committee where it shall proceed in accordance with Rules 960.1–960.12.

• • • *Commentary (a)*—

The procedure to be followed in cases where a pre-set fine of up to $10,000.00 is summarily assessed is as follows:

.01 Notice of Fine. Notice of fine for breach of such regulations shall be given by the issuance of a written citation. Exchange Staff shall serve the written citations that are issued by the Options Exchange Official. The cited party may accept or contest the written citation.

.02 Time and Place of Hearing. If the written citation is contested, the Exchange shall fix a mutually convenient time and place of hearing, notice of which must be given in advance and may be given orally.

.03 Record. An appropriate record shall be kept. The costs of the making of such a transcript, including, but not limited to, the costs for the court reporter, reproduction of the transcript and producing copies thereof, shall be equally borne by the Exchange and by the cited party.

.04 Procedure. The hearing shall be conducted by a Hearing Director appointed by the Chair of the Business Conduct Committee, and will be conducted in whatever manner will permit full presentation of the evidence.

.05 Finding. The finding of the Hearing Director shall be rendered at the close of the hearing. The Hearing Director may decide that: (i) the citation should be overturned; (ii) the citation is valid as issued; or (iii) the citation as issued should be modified to specify either a higher or lower fine than the one on the notice as issued.

.06 Forum Fee. If a person contests a citation imposed under Rule 60 and the citation is upheld by the reviewing body, the reviewing body will impose a forum fee against the person in the amount of $100.

.07 No Right of Appeal. The finding of the Hearing Director shall be final. There shall be no appeal from such finding.

.08 Report to Securities and Exchange Commission (SEC). A report in appropriate form shall be made to the SEC. However, no report shall be made in the case of citations for breaches of regulations relating to order, decorum, health, safety and welfare or administration of the Exchange if a citation is not contested and the fine is $1,000 or less, or if the Hearing Director finds in favor of the appellant.

• • • *Commentary (b)*—

The procedure to be followed when a member is to be excluded from the trading floor is as follows:

.01 No Further Right of Appeal. The determination that a member shall be excluded is final. There shall be no appeal from such determination.

.02 Report to the SEC. A report in appropriate form shall be made to the SEC. However, no report shall be made in a case where a clerical employee is excluded for a breach of regulations relating to order, decorum, health, safety and welfare or administration of the Exchange.

RULE 60—REGULATION AND FINE SCHEDULE

(ORDER AND DECORUM CODE)

In most cases, the Exchange will enforce compliance with Order and Decorum Code pursuant to Rule 60. While ordinarily a finding of a violation will result in the appropriate pre-set fine and/or sanction, an Options Exchange Official or Exchange Staff may refer the matter to the Business Conduct Committee where it shall proceed in accordance with Rules 960.1–960.12.

In the case of repeat violations of a regulation by the same individual, the amount of the fine is determined by the number of such violations which have occurred within the year immediately preceding the current violation.]

* * * * *

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's Rulebook contains Rule 60, Sanctions for Breach of Regulations, in the Rules of the Exchange. This rule is also repeated in the section of the Rulebook entitled ''Regulations'' which appears prior to the listing of the various regulations. The Exchange repeated the rule in this section for ease of reference as the regulations were adopted pursuant to

Rule 60. In 2009, the Exchange filed a rule proposal which, among other things, amended Rule 60.[3] The rule text specifically amended Rule 60 in the section of the Rulebook entitled Regulations, as evidenced from the text in Exhibit 5 of that filing. At that time, the Exchange did not also amend the rule text of Rule 60 in the main rules. The rule text was updated in both places in the Rulebook in 2009 because the error in not amending both rules was not realized at the time the filing was approved. The rule text is currently identical in both Rule 60 versions at this time. There is no inconsistency as between the two versions of Rule 60 as displayed in the Rulebook.

The Exchange is seeking to properly amend Rule 60 in the main Rules at this time by restating the amendments that were requested in 2009 in this filing. The Exchange also proposes to delete the duplicate version of Rule 60 in the Regulations section to avoid further confusion in the future. In order that members and member organizations may understand that the Regulations are adopted pursuant to Rule 60, the Exchange proposes to amend the title of the Regulations section to state, ''Regulations Pursuant to Rule 60.''

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[4] in general, and furthers the objectives of Section 6(b)(5) of the Act[5] in particular, in that 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, and, in general to protect investors and the public interest, in that the proposal will correct an error in the Exchange's Rulebook with respect to the text of Rule 60. The Exchange is seeking to correct the error so that Rule 60, as reflected in the main rules, is properly amended. An accurate and up-to-date Rulebook will avoid confusion for market participants. The proposals are not substantive, rather, the proposals seek to update the rules to reflect the current operation of the Exchange.

Also, to avoid future confusion among its marker participants, the Exchange proposes to eliminate the Rule 60 version of the rule text which appears in the Regulations section. The Regulations govern conduct on the Exchange's trading floor. The Exchange believes that noting that the Regulations are pursuant to Rule 60 will avoid confusion to members and member organizations subject to these rules because the cross-reference to Rule 60 will be apparent without the need to restate the rule within the Regulations. The Exchange believes this rule change will bring accuracy and clarity to the Rulebook.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange is merely seeking to correct an inadvertent error in the Rule text and proposes other changes to avoid confusion in the future and prevent the possibility of this error occurring again.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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) of the Act[6] and subparagraph (f)(6) of Rule 19b–4 thereunder.[7]

A proposed rule change filed under Rule 19b–4(f)(6)[8] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[9] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The proposed rule change amends Rule 60 in the Exchange's Rulebook so that the Rule properly reflects changes made in SR–Phlx–2009–84, and removes duplicate language from another section of the Exchange's Rulebook. The proposed rule change ensures that Rule 60 is accurate, and is intended to eliminate confusion that was caused by having a duplicate version of Rule 60 in another section of the Rulebook. The Commission believes it is in the interest of investors to implement these amendments immediately. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[10]

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)[11] 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–PHLX–2014–63 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–PHLX–2014–63. 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

[3] *See* Securities Exchange Act Release No. 61207 (December 18, 2009), 74 FR 69185 (December 30, 2009) (SR–Phlx–2009–84).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78s(b)(2)(B).

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 offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PHLX–2014–63, and should be submitted on or before October 29, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23979 Filed 10–7–14; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

Requirements for the Recognizing Aviation and Aerospace Innovation in Science and Engineering Awards; Deadline Extension

AGENCY: Office of the Secretary of Transportation, U.S. Department of Transportation.

ACTION: Notice.

SUMMARY: Pursuant to a recommendation by the Future of Aviation Advisory Committee, the Secretary of Transportation is announcing the third-annual competition to recognize students with the ability to demonstrate unique, innovative thinking in aerospace science and engineering. In its third year, the Secretary has decided to create two divisions within the award: A high school division and a university division (both undergraduate and graduate). The Secretary of Transportation intends to use the awards to incentivize students at high schools and universities to think creatively in developing innovative solutions to aviation and aerospace issues, and to share those innovations with the broader community. This notice extends the deadline for submitting proposals for the RAISE Award and makes other small changes to the prior notices issued in April (79 FR 19167) and May (79 FR 29476) 2014. The Department of Transportation has decided that interested students could benefit from more time to develop proposals for the 2014 competition. Thus, we are extending the dates for submitting expressions of interest to November 14, 2014, and for submitting final packages to 3:00 p.m. Eastern Standard Time on December 30, 2014.

DATES: Effective on April 01, 2014 to December 30, 2014.

FOR FURTHER INFORMATION CONTACT: Patricia Watts, Ph.D., Federal Aviation Administration, (609) 485–5043, *patricia.watts@faa.gov,* or James Brough, Federal Aviation Administration, (781) 238–7027, *james.brough@faa.gov.*

SUPPLEMENTARY INFORMATION:

Subject of Challenge Competition: The Secretary's RAISE (Recognizing Aviation & Aerospace Innovation in Science and Engineering) Award will recognize innovative scientific and engineering achievements that will have a significant impact on the future of aerospace or aviation. Following an open solicitation by the United States Department of Transportation (''the Department''), the Secretary of Transportation (''the Secretary'') will designate an Award Review Board Chair, who will submit nominations to the Secretary for final consideration. The rules for this competition are available at *http://www.challenge.gov.*

Award Approving Official: Anthony Foxx, Secretary of Transportation.

Eligibility

To be eligible to participate in the Secretary's RAISE Award competition, students must be U.S. citizens or permanent residents. For the high school division, the students must have been enrolled in at least one semester (or quarterly equivalent) at a U.S. high school (or equivalent approved home school program) in 2014. For the University division, the student must have been enrolled in a U.S.-based college or university for at least one semester (or quarterly equivalent) in 2014. Students may participate and be recognized as individuals or in teams. Each member of a team must meet the eligibility criteria. An individual may join more than one team. There is no charge to enter the competition.

The following additional rules apply:

1. Candidates shall submit a project in the competition under the rules promulgated by the Department;

2. Candidates shall agree to execute indemnifications and waivers of claims against the Federal government as provided in this Notice;

3. Candidates may not be a Federal entity or Federal employee acting within the scope of employment;

4. Candidates may not be an employee of the Department, including but not limited to the Federal Aviation Administration, or the Research and Innovative Technology Administration;

5. Candidates shall not be deemed ineligible because an individual used Federal facilities or consulted with Federal employees during a competition, if the facilities and employees are made available to all individuals participating in the competition on an equitable basis;

6. The competition is subject to all applicable Federal laws and regulations. Participation constitutes the Candidates' full and unconditional agreement to these rules and to the Secretary's decisions, which are final and binding in all matters related to this competition;

7. Submissions which in the Secretary's sole discretion are determined to be substantially similar to a prior submitted entry may be disqualified;

8. Submissions must be original, be the work of the Candidates, and must not violate the rights of other parties. All submissions remain the property of the applicants. Each Candidate represents and warrants that he, she, or the team, is the sole author and owner of the submission, that the submission is wholly original, that it does not infringe any copyright or any other rights of any third party of which the Candidate is aware, and, if submitted in electronic form, is free of malware;

9. By submitting an entry in this contest, contestants and entrants agree to assume any and all risks and waive any claims against the Federal Government and its related entities (except in the case of willful misconduct) for any injury, death, damage, or loss of property, revenue or profits, whether direct, indirect, or consequential, arising from their participation in this contest, whether the injury, death, damage, or loss arises through negligence of otherwise. Provided, however, that by registering or submitting an entry, contestants and entrants do not waive claims against the Department arising out of the

[12] 17 CFR 200.30–3(a)(12).

unauthorized use or disclosure by the agency of the intellectual property, trade secrets, or confidential information of the entrant;

10. The Secretary and the Secretary's designees have the right to request access to supporting materials from the Candidates;

11. The submissions cannot have been submitted in the same or substantially similar form in any previous Federally-sponsored promotion or Federally-sponsored contest, of any kind;

12. Each Candidate grants to the Department, as well as other Federal agencies with which it partners, the right to use names, likeness, application materials, photographs, voices, opinions, and/or hometown and state for the Department's promotional purposes in any media, in perpetuity, worldwide, without further payment or consideration; and

13. The Secretary collects personal information from Candidates when they enter this competition. The information collected is subject to the ChallengePost privacy policy located at *http://www.challengepost.com/privacy.*

Expression of Interest

Candidates are strongly encouraged to send brief expressions of interest, in advance, by November 14, 2014. The expressions of interest should be sent to the contact shown below and should include the following elements: (1) Name of Candidate(s); (2) Name of educational institution(s) with which Candidate(s) are affiliated; (2) Telephone and email addresses for Candidate(s); (3) brief high-level overview of the proposed project.

Submission Requirements

Final submission packages shall consist of the following elements:

1. Nomination letter from at least one teacher, advisor, faculty member, and others as appropriate. The nomination letter(s) must communicate accomplishments in the following areas:

a. Technical Merit of the Concept

Evidence of technical merit based upon teacher (parent or legal guardian in the case of home schooled applicants), advisor, or faculty nomination and evaluation of the submitted proposal, written paper, and/or reports.

b. Professionalism and Leadership

Evidence of professionalism and leadership may be in the form of, but not limited to:

(1) Membership and offices held in various groups

(2) Presentations made to various groups, meetings, and at symposia

(3) Leadership in student professional activities

(4) Community outreach activities

2. An overall summary of the innovation, not to exceed one page, which includes a title of the project and statement of the impact that the innovation will have on the field of aviation or aerospace;

3. A copy of the student's academic transcript or certified grade report (as applicable);

4. A copy of the paper(s) and related materials describing the innovative concept written by the student(s) being nominated (no page limit).

Once submissions have been received, the Department may request additional information, including supporting documentation, more detailed contact information, releases of liability, and statements of authenticity to guarantee the originality of the work. Failure to respond in a timely fashion may result in disqualification.

All materials should be forwarded with a cover letter to the attention of: Patricia Watts, Ph.D., Centers of Excellence Program Director, Federal Aviation Administration, L–28, FAA William J. Hughes Technical Center, Atlantic City International Airport, NJ 08405.

Hardcopy is preferred; however, the package also may be transmitted by email to *Patricia.Watts@FAA.gov.* Submissions must be sent by 3:00 p.m. Eastern Standard Time on December 30, 2014. The timeliness of submissions will be determined by the postmark (if sent in hard copy) or time stamp of the recipient (if emailed). Award administrators assume no responsibility for lost or untimely submissions for any reason.

Award

The winner will be announced as soon as possible after the submission date. A trophy with the winner's name and date of award will be displayed at the Department of Transportation and a display copy of the trophy will be sent to the winner's school/college/university. An additional plaque or trophy will be awarded to the individual or team. At the option of the Secretary, the Department will pay for invitational travel expenses to Washington, DC for up to four representatives of the winning teams to present their project to Department officials and receive the award from the Secretary.

Basis Upon Which the Winners Will Be Selected

All submissions will be initially reviewed by the FAA Centers for Excellence Program Director upon receipt to determine if the submissions meet the eligibility requirements. Registration packages meeting the eligibility requirements will be judged by advisory panels consisting of academic experts, government officials including FAA, the Department, and representatives of the private sector. The advisory panels will select the most highly qualified submissions and present them to the Secretary of the Department, who will select the winning entrant.

Submissions will be judged against other submissions from the same division on the following criteria:

Technical Merit:

- Has the submission presented a clear understanding of the associated problems?
- Has the submission developed a logical and workable solution and approach to solving the problem/s?
- What are the most significant aspects of this concept?
- Has the submission clearly described the breadth of impact of the innovation?

Originality:

- Is this concept new or a variation of an existing idea, and in what way(s)?
- How is this work unique?
- Was the concept developed independently or in cooperation with others?

Impact:

- To what extent will this project make a significant impact and/or contribution to the future of the aviation and aerospace environment?

Practicality:

- Who directly benefits from this work?
- Can this program or activity be implemented in a practical fashion?
- What are the costs anticipated to be incurred and saved by executing this concept?

Measurability:

- How has this individual/group measured the impact on the aviation environment?
- To what extent does the innovation result in measurable improvements?

Applicability:

- Can this effort be scaled?
- Is this work specific to one region, various regions, or to the entire nation?

All factors are important and will be given consideration, but the advisory panels will give the ''technical merit'' factor the most weight in the screening process. The Secretary retains sole discretion to select the winning entrant.

Additional Information

Federal grantees may not use Federal funds to develop COMPETES Act challenge applications.

Federal contractors may not use Federal funds from a contract to develop COMPETES Act challenge applications or to fund efforts in support of a COMPETES Act challenge submission.

Authority: 15 U.S.C. 3719 (America COMPETES Act).

Issued on: September 19, 2014.

Susan L. Kurland,

Assistant Secretary of Aviation and International Affairs.

[FR Doc. 2014–23008 Filed 10–7–14; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2014–0036]

Agency Information Collection Activities: Notice of Request for Reinstatement of a Previously Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for extension of currently approved information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that is summarized below under **SUPPLEMENTARY INFORMATION.** We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by December 8, 2014.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 2014–0036 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Glaze, 202 366–4053, Office of Natural Environment, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: *Title:* Congestion Mitigation and Air Quality Improvement (CMAQ) Program.

OMB Control Number: 2125–0614.

Background: Section 1113 of the Moving Ahead for Progress in the 21st Century Act (MAP–21) calls for an Evaluation and Assessment of CMAQ Projects. The statute calls for the identification and analysis of a representative sample of CMAQ projects and the development and population of a database that describes the impacts of the program both on traffic congestion levels and air quality. To establish and maintain this database, the FHWA is requesting States to submit annual reports on their CMAQ investments that cover projected air quality benefits, financial information, a brief description of projects, and several other factors outlined in the Interim Program Guidance for the CMAQ program. States are requested to provide the end of year summary reports via the automated system provided through FHWA by the first day of March of each year, covering the prior Federal fiscal year.

Respondents: 51 (each State DOT, and Washington, DC).

Frequency: Annually.

Estimated Average Burden per Response: 125 hours per annual report.

Estimated Total Annual Burden Hours: 6,375 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection of information is necessary for the U.S. DOT's performance, including whether the information will have practical utility; (2) the accuracy of the U.S. DOT's estimate of the burden of the proposed information collection; (3) ways to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: October 3, 2014.

Michael Howell,

Information Collection Officer.

[FR Doc. 2014–24042 Filed 10–7–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0196]

Agency Information Collection Activities; New Information Collection Request: FMCSA Annual Grant Program Effectiveness Survey

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The purpose of this information collection is to acquire the perspectives of FMCSA State partners who support the operation, regulation and enforcement of various mutually-beneficial safety programs. This knowledge will improve the Federal government's understanding of the effectiveness of commercial motor vehicle (CMV) safety related grant programs. The FMCSA is interested in surveying grant recipients to collect information on the strengths, weaknesses, and effectiveness of FMCSA grant programs with the intent of improving our capacity to meet the needs of our grantees. FMCSA needs this information to support program evaluation endeavors, program management, and fiscal decision making. FMCSA will use the results in various analyses conducted by FMCSA designed to assess the effectiveness of existing rules, grant programs, and safety programs.

DATES: We request your comments on or before December 8, 2014.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2014–0196 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Fax:* 1–202–493–2251.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdfE8-794.pdf.*

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval assistance and guidelines under the ''help'' section of the Federal eRulemaking Portal Web site. If you want FMCSA to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print your request on the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene Johnson, Strategic Planning, and Program Evaluation Division, Office of Policy, Strategic Planning and Regulations, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590. Telephone: (202) 366–5490; email *Eugene.Johnson@dot.gov.* Office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you have questions on viewing material in the docket, contact Docket Operations (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Background: The Federal Motor Carriers Safety Administration (FMCSA) needs a survey of its State partner-grant recipients who support the operation, regulation and enforcement of various mutually-beneficial safety programs. This knowledge will improve the Federal government's understanding of the effectiveness of commercial motor vehicle (CMV) safety related grant programs. The FMCSA is interested in surveying grant recipients to collect information on the strengths, weaknesses, and effectiveness of FMCSA grant programs.

In 2009, the Government Accountability Office (GAO) issued a final report on a FMCSA grant program called Performance Registration Information System Management PRISM. The GAO reported was entitled, ''Motor Carrier Safety: Commercial Vehicle Registration Program Has Kept Carriers from Operating, but Effectiveness Is Difficult to Measure, GAO–09–495.'' The GAO recommended FMCSA measure the PRISM program's effectiveness when the number of States that have the ability to deny, suspend, or revoke registrations of CMVs operated by OOS carriers is sufficient to make such measurements meaningful.

The authority to require Federal Agencies to monitor grants is 2 CFR Chapter I, and Chapter II Parts 200, 215, 220, 225, and 230 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. OMB Circular A–110, Reports and Records, sections 50 through 53 set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms.

The Agency proposes to collect the data for this project via electronic mail surveys and conduct clarifying interviews as appropriate. The information collection supports the DOT's Strategic Goal of Safety, and will help confirm whether the program(s) improve public health and safety by reducing transportation-related fatalities and injuries. Therefore, the purpose of this ICR is to conduct a survey using Form MCSA–5888 to evaluate the effectiveness of FMCSA's grant programs through the use of in-person interviews and electronic surveys. The survey will not be statistical in nature, as the intention is to receive the comments of all affected state partners. The survey will not exceed 30 questions and the complexity of the question structure will be Likert scale and short responses. The decision to use the Likert scale over the ordinal scale is the numbers in the ordinal level indicate the relative position of items, but not the magnitude of difference that you get from the Likert scale. For example, the survey will present a question like ''The grant funding provided in support of your program is adequate to meet all aspects of the mission.'' The response options may include:

1. Strongly disagree
2. Disagree
3. Neural
3. Agree
4. Strongly agree
5. Not Applicable

The Agency will use this information to establish a baseline of our grant programs from the grantee's perspective for use in future grant-related decision making, to include: (1) Assessing the impacts of proposed rules, (2) identifying potential improvements in its grant supported safety programs, and (3) complement future budget and resource related decisions.

Title: FMCSA Annual Grant Program Effectiveness Survey.

OMB Control Number: 2126–00XX.

Type of Request: New information collection.

Respondents: State Grant Recipients.

Estimated Number of Respondents: 50 State Respondents.

Estimated Time per Response: 45 minutes per response.

Expiration Date: N/A. This is a new ICR.

Frequency of Response: Once.

Estimated Total Annual Burden: 49 hours [(50 electronic mail-in respondents × 45 minutes/60 minutes) + (15 State personnel interviews × 45 minutes/60 minutes) = 49]. Minutes per response = 48.75 rounded to 49.]

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority delegated in 49 CFR 1.87 on: September 30, 2014.

G. Kelly Regal,

Associate Administrator, Office of Research and Information Technology and Chief Information Officer.

[FR Doc. 2014–23994 Filed 10–7–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0335]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Dealers Choice Truckaway System, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA requests public comment on an application for exemption from Dealers Choice Truckaway System, Inc. (Truckmovers) to allow the use of plastic blocks to build up the height of the front end of a towed vehicle in driveaway-towaway operations. The Federal Motor Carrier Safety Regulations (FMCSRs) permit the use of ''hardwood blocks of good quality'' for this purpose but the use of materials other than hardwood blocks is not addressed. Truckmovers believes the use of ultra-high molecular polyethylene plastic blocks will maintain a level of safety that is equivalent to the level of safety achieved without the exemption. Truckmovers is requesting the temporary exemption in advance of petitioning FMCSA to conduct a rulemaking to amend 49 CFR 393.71(k)(4) to allow the use of vehicle support blocks made of any suitable material to support the weight of vehicles when towing multiple vehicles in driveaway-towaway operations.

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

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2014–0335 using any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the Federal electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday-Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the ''Public Participation'' heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the ''Privacy Act'' heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to Room W12–140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476) or you may visit *http://www.regulations.gov.*

Public participation: The *http://www.regulations.gov* Web site is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the ''help'' section of the *http://www.regulations.gov* Web site as well as the DOT's *http://docketsinfo.dot.gov* Web site. If you would like notification that we received your comments, please include a self addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC–PSV, (202) 366–0676; Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA–21) [Pub. L. 105–178, June 9, 1998, 112 Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 2 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

Truckmovers Application for Exemption

Truckmovers applied for an exemption from 49 CFR 393.71(k)(4) to allow the use of plastic support blocks in lieu of hardwood blocks to increase the height of a towed vehicle in driveaway-towaway operations. A copy of the application is included in the docket referenced at the beginning of this notice.

In its application, Truckmovers states that without the proposed exemption it will not be able to utilize plastic support blocks because 49 CFR 393.71(k)(4) specifically identifies the use of hardwood blocks to build up the height of the front end of a towed vehicle in driveaway-towaway operations. Truckmovers provided information regarding the development of ultra-high molecular polyethylene plastic blocks with a compression rating of 3,300 psi, which can withstand extreme heat and cold. These plastic blocks are not susceptible to decomposition and erosion like wood blocks, allowing for their re-use. The high compression

strength of the plastic does not allow the blocks to be over-tightened when secured with cargo securement devices, while wood can be over-tightened, can crack and can become loose in transit. For the reasons stated above, Truckmovers requests that its operators be permitted to use the ultra-high molecular polyethylene plastic support blocks to increase the height of a towed vehicle in driveaway-towaway operations, instead of utilizing hardwood blocks as specified in the current regulation. Truckmovers believes that the use of ultra-high molecular polyurethane plastic blocks, in lieu of hardwood support blocks, will maintain a level of safety that is equivalent to the level of safety achieved without the exemption.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on Truckmovers application for an exemption from 49 CFR 393.73(k)(4). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice.

Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will continue to file relevant information in the public docket that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: October 1, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–24011 Filed 10–7–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to Cuban Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of two vessels whose property and interests in property have been unblocked pursuant to the Cuban Assets Control Regulations, 31 CFR part 515.

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons (SDN List) of the two vessels identified in this notice whose property and interests in property were blocked pursuant to Cuban Assets Control Regulations, is effective on September 30, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC is available from OFAC's Web site (*www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On September 30, 2014, the Director of OFAC removed from the SDN List the two vessels listed below, whose property and interests in property were blocked pursuant to Cuban Assets Control Regulations:

Vessels

1. EAST ISLANDS (C4QB) General Cargo 15,120DWT 8,996GRT Cyprus flag (EAST ISLAND SHIPPING CO. LTD. (SDN)) (vessel) [CUBA].

2. SOUTH ISLANDS (C4AN) General Cargo 15,147DWT 8,996GRT Cyprus flag (SOUTH ISLAND SHIPPING CO. LTD. (SDN)) (vessel) [CUBA].

Dated: September 30, 2014.

John Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2014–24055 Filed 10–7–14; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 12854

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 12854, Prior Government Service Information.

DATES: Written comments should be received on or before December 8, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Allan Hopkins, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Prior Government Service Information.

OMB Number: 1545–1919.

Form Number: Form 12854.

Abstract: Form 12854 is used to record prior government service, annuitant information and to advice on probationary periods.

Current Actions: There are currently no changes to this form.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 24,813.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 6,203.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of

information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 2, 2014.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–24078 Filed 10–7–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning information collection requirements related to arbitrage restrictions on tax-exempt bonds.

DATES: Written comments should be received on or before December 8, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Allan Hopkins, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Arbitrage Restrictions on tax-Exempt Bonds.

OMB Number: 1545–1490. Regulation Project Number: FI–28–96 (TD 8801).

Abstract: This regulation provides guidance concerning the arbitrage restrictions applicable to tax-exempt bonds issued by state and local governments and contains rules regarding the use of proceeds of state and local bonds to acquire higher yielding investments. The regulation provides safe harbors for establishing the fair market value of all investments purchased for yield restricted defeasance escrows. Further, the regulation requires that issuers must retain certain records and information with the bond documents. The recordkeeping requirements are necessary for the IRS to determine that an issuer of tax-exempt bonds has not paid more than fair market value for nonpurpose investments under section 148 of the Internal Revenue Code.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: State, local, or tribal governments, and not-for-profit institutions.

Estimated Number of Respondents: 1,400.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1,425.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 23, 2014.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–24071 Filed 10–7–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The IRS is soliciting comments concerning information collection requirements related to continuation coverage requirements application to group health plans.

DATES: Written comments should be received on or before December 8, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Continuation Coverage Requirements Application to Group Health Plans.

OMB Number: 1545–1581.

Regulation Project Number: REG–209485–86 (TD8812).

Abstract: The regulations require group health plans to provide notices to individuals who are entitled to elect COBRA (The Consolidated Omnibus Budget Reconciliation Act of 1985) continuation coverage of their election

rights. Individuals who wish to obtain the benefits provided under the statute are required to provide plans notices in the cases of divorce from the covered employee, a dependent child's ceasing to be dependent under the terms of the plan, and disability. Most plans will require that elections of COBRA continuation coverage be made in writing. In cases where qualified beneficiaries are short by an insignificant amount in a payment made to the plan, the regulations require the plan to notify the qualified beneficiary if the plan does not wish to treat the tendered payment as full payment. If a health care provider contacts a plan to confirm coverage of a qualified beneficiary, the regulations require that the plan disclose the qualified beneficiary's complete rights to coverage.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, and not-for-profit institutions.

Estimated Number of Respondents: 1,800,000.

The estimated time per respondent varies from 30 seconds to 330 hours, depending on individual circumstances, with an estimated average of 14 minutes.

Estimated Total Annual Burden Hours: 404,640.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 23, 2014.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–24070 Filed 10–7–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8924

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8924, Excise Tax on Certain Transfers of Qualifying Geothermal or Mineral Interests.

DATES: Written comments should be received on or before December 8, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Excise Tax on Certain Transfers of Qualifying Geothermal or Mineral Interests.

OMB Number: 1545–2099.

Form Number: Form 8924.

Abstract: Form 8924, Excise Tax on Certain Transfers of Qualifying Geothermal or Mineral Interests, is required by Section 403 of the Tax Relief and Health Care Act of 2006 which imposes an excise tax on certain transfers of qualifying mineral or geothermal interests.

Current Actions: There are no changes to the form previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 20.

Estimated Time per Respondent: 5 hours 33 minutes.

Estimated Total Annual Burden Hours: 111.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 2, 2014.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–24073 Filed 10–7–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning split-dollar life insurance arrangements.

DATES: Written comments should be received on or before December 8, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of regulations should be directed to Allan Hopkins, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Split-Dollar Life Insurance Arrangements.

OMB Number: 1545–1792.

Regulation Project Number: REG–164754–01 (Final).

Abstract: The regulations relate to the income, employment, and gift taxation of split-dollar life insurance arrangements. The final regulations provide needed guidance to persons who enter into split-dollar life insurance arrangements.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 115,000.

Estimated Time per Respondent: 17 minutes.

Estimated Total Annual Burden Hours: 32,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 2, 2014.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–24075 Filed 10–7–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning subchapter S subsidiaries.

DATES: Written comments should be received on or before December 8, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments Christie Preston, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Subchapter S Subsidiaries.

OMB Number: 1545–1590.

Regulation Project Number: REG–251698–96.

Abstract: This regulation relates to the treatment of corporate subsidiaries of S corporations and interprets the rules added to the Internal Revenue Code by section 1308 of the Small Business Job Protection Act of 1996. The collection of information required in the regulation is necessary for a taxpayer to obtain, retain, or terminate S corporation treatment.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, individuals, and farms.

Estimated Number of Respondents: 10,660.

Estimated Time per Respondent: 57 minutes.

Estimated Total Annual Reporting Burden Hours: 10,110.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of

information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 2, 2014.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–24072 Filed 10–7–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

VA Meds by Mail Order Form, VA Form 10–0426

ACTIVITY: Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revised collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to obtain an accurate and comprehensive assessment of satisfaction of patients who receive mental health care services and on outcomes for Veterans who seek mental health treatment from VHA. Data will allow the program office to ensure that the target audience is being reached, effective treatments are being offered, and tangible, quantitative results are being measured and tracked for continual program improvement.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before. December 8, 2014.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Audrey Revere, Office of Regulatory and Administrative Affairs, Veterans Health Administration (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email: *Audrey.revere@va.gov.* Please refer to ''OMB Control No. 2900–NEW, VA Meds by Mail Order Form, VA Form 10–0426'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Audrey Revere at (202) 461–5694.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Meds By Mail Order Form, VA Form 10–0426.

OMB Control Number: 2900–NEW.

Type of Review: New Collection (Request for a new OMB Control Number).

Abstract: VA Form 10–0426, Meds by Mail (MbM) Order Form, is used by eligible CHAMPVA and Spina Bifida beneficiaries (also referred to as patient) in accordance with 38 CFR Sections 17.270, 17.271 and 17.272 when submitting a paper prescription written by their medical provider for fulfillment through the Meds by Mail Program. Information collected on this form is necessary for proper patient identification and medical record review.

The provisions of VHA Handbook 1108.05, Outpatient Pharmacy Services, require that, as a condition for dispensing a prescription, the prescription must contain the following patient identifiers:

(1) Patient's Full Name

(2) Social Security Number

(3) Patient's Current Address

Local Meds by Mail Desk Procedure utilizes date of birth as an additional patient identifier.

The provisions of VHA Handbook 1108.05, Outpatient Pharmacy Services require pharmacists to review the patient medical record for the presence of allergy information and the potential for adverse drug events prior to the dispensing of medication to the patient.

Affected Public: Individuals or Households.

Estimated Total Annual Burden: 18,333 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Yearly.

Estimated Number of Respondents: 110,000.

Dated: October 3, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2014–23995 Filed 10–7–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 79 Wednesday,
No. 195 October 8, 2014

Part II

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology Standards; and Manufacture of Amino/Phenolic Resins; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2012–0133; FRL–9916–90–OAR]

RIN 2060–AR49

National Emission Standards for Hazardous Air Pollutants: Generic Maximum Achievable Control Technology Standards; and Manufacture of Amino/Phenolic Resins

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action finalizes the residual risk and technology review (RTR) conducted for the Acrylic and Modacrylic Fibers Production, Amino/Phenolic Resins Production and Polycarbonate Production source categories regulated under national emission standards for hazardous air pollutants (NESHAP). In addition, we are taking final action addressing emissions during periods of startup, shutdown and malfunction, and are adding standards for previously unregulated hazardous air pollutant (HAP) emissions sources for certain emission points. These changes include revisions made in response to comments received on the proposed rule. These final amendments also include clarifying provisions pertaining to open-ended valves and lines, adding monitoring requirements for pressure relief devices and adding requirements for electronic reporting of performance test results, as proposed. We estimate that these final amendments will reduce HAP emissions from these three source categories by a combined 137 tons per year.

DATES: This final action is effective on October 8, 2014.

ADDRESSES: The Environmental Protection Agency (EPA) has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2012–0133. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Mr. Nick Parsons, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards (OAQPS), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (734) 214–4479; fax number: (734) 214–4053; and email address: *parsons.nick@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. Mark Morris, Health and Environmental Impacts Division (C539–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5416; fax number: (919) 541–0840; and email address: *morris.mark@epa.gov.* For information about the applicability of these three NESHAP to a particular entity, contact Ms. Tavara Culpepper, Office of Enforcement and Compliance Assurance (OECA), U.S. Environmental Protection Agency, Washington, DC 20004; telephone number: (202) 564–0902; and email address: *culpepper.tavara@epa.gov.*

SUPPLEMENTARY INFORMATION:

Acronyms and Abbreviations. The following acronyms and abbreviations are used in this document.

AEGL acute exposure guideline levels
AMF Acrylic and Modacrylic Fibers Production
APPU amino/phenolic resin process unit
APR Amino/Phenolic Resins Production
CAA Clean Air Act
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
EJ environmental justice
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
FR **Federal Register**
gal gallon
HAP hazardous air pollutants
HI hazard index
HON National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry
HQ hazard quotient
ICR Information Collection Request
kg kilogram
LDAR leak detection and repair
MACT maximum achievable control technology
Mg megagram
MIR maximum individual risk
MTVP maximum true vapor pressure
NAICS North American Industry Classification System
NEI National Emissions Inventory
NESHAP National Emission Standards for Hazardous Air Pollutants
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OECA Office of Enforcement and Compliance Assurance
OMB Office of Management and Budget
PC Polycarbonate Production
ppm parts per million
PRD pressure relief device
psia pounds per square inch absolute
REL reference exposure level
RFA Regulatory Flexibility Act
RTR residual risk and technology review
SBA Small Business Administration
SSM startup, shutdown and malfunction
TOSHI target organ-specific hazard index
tpy tons per year
TTN Technology Transfer Network
UMRA Unfunded Mandates Reform Act
VCS voluntary consensus standards
VOC volatile organic compounds
WWW World Wide Web

Background Information. On January 9, 2014, the EPA proposed revisions to the Acrylic and Modacrylic Fibers Production, Amino/Phenolic Resins Production and Polycarbonate Production NESHAP based on our RTR. In this action, we are finalizing decisions and revisions for the rules. We summarize some of the comments we timely received regarding the proposed rule and provide our responses in this preamble. A summary of the public comments on the proposal not presented in the preamble and the EPA's responses to those comments is available in Docket ID No. EPA–HQ–OAR–2012–0133. A ''track changes'' version of the regulatory language that incorporates the changes in this action is available in the docket.

Organization of This Document. We provide the following outline to assist in locating information in the preamble.

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document and other related information?
C. Judicial Review
II. Background
A. What is the statutory authority for this action?
B. Acrylic and Modacrylic Fibers Production (AMF)
C. Amino/Phenolic Resins Production (APR)
D. Polycarbonate Production
III. What is included in this final rule?
A. Acrylic and Modacrylic Fibers Production
B. Amino/Phenolic Resins Production

C. Polycarbonate Production
D. What are the final rule amendments for all three source categories addressing emissions during periods of startup, shutdown and malfunction?
E. What other changes have been made to all three NESHAP?
F. What are the effective and compliance dates of the standards for all three source categories?
IV. What is the rationale for our final decisions and amendments for the AMF source category?
A. Residual Risk Review for the AMF Source Category
B. Technology Review for the AMF Source Category
C. Sections 112(d)(2) & (3) Amendments for the AMF Source Category
V. What is the rationale for our final decisions and amendments for the APR source category?
A. Residual Risk Review for the APR Source Category
B. Technology Review for the APR Source Category
C. Sections 112(d)(2) & (3) Amendments for the APR Source Category
VI. What is the rationale for our final decisions and amendments for the PC source category?
A. Residual Risk Review for the PC Source Category
B. Technology Review for the PC Source Category
VII. What is the rationale for our final decisions and amendments that apply to all three source categories?
A. Startup, Shutdown and Malfunction
B. Pressure Relief Devices
C. Open-Ended Valves and Lines
VIII. Summary of Cost, Environmental and Economic Impacts
A. What are the affected sources?
B. What are the air quality impacts?
C. What are the cost impacts?
D. What are the economic impacts?
E. What are the benefits?
F. What demographic groups might benefit from this regulation?
IX. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

I. General Information

A. Does this action apply to me?

Regulated Entities. Categories and entities potentially regulated by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS FINAL ACTION

NESHAP and Source Category		NAICS [a] Code
Generic Maximum Achievable Control Technology Standards ..	Acrylic and Modacrylic Fibers Production	325220 (325222)
	Polycarbonate Production	325211 (325211)
Amino/Phenolic Resins Production		325211 (325211)

[a] North American Industry Classification System 2012 (2007 in parenthesis)

Table 1 of this preamble is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by the final action for the source categories listed. To determine whether your facility is affected, you should examine the applicability criteria in the appropriate NESHAP. If you have any questions regarding the applicability of any aspect of these NESHAP, please contact the appropriate person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action will also be available through the EPA's Technology Transfer Network (TTN) Web site, a forum for information and technology exchange in various areas of air pollution control. Following signature by the EPA Administrator, we will post a copy of the final action at: *http://www.epa.gov/ttn/atw/gmact/gmactpg.html* and *http://www.epa.gov/ttn/atw/amino/aminopg.html.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the final action and key technical documents at these same Web sites.

Additional information is available on the RTR Web site at *http://www.epa.gov/ttn/atw/rrisk/rtrpg.html.* This information includes an overview of the RTR program, links to project Web sites for the RTR source categories and detailed emissions and other data we used as inputs to the risk assessments.

C. Judicial Review

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by December 8, 2014. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for the EPA to reconsider the rule ''[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for

the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

II. Background

A. What is the statutory authority for this action?

Section 112 of the CAA establishes a two-stage regulatory process to address emissions of HAP from stationary sources. In the first stage, we must identify categories of sources emitting one or more of the HAP listed in CAA section 112(b) and then promulgate technology-based NESHAP for those sources. ''Major sources'' are those that emit, or have the potential to emit, any single HAP at a rate of 10 tons per year (tpy) or more, or 25 tpy or more of any combination of HAP. For major sources, these standards are commonly referred to as maximum achievable control technology (MACT) standards and must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). In developing MACT standards, CAA section 112(d)(2) directs the EPA to consider the application of measures, processes, methods, systems or techniques that reduce the volume of or eliminate HAP emissions through process changes, substitution of materials or other modifications; enclose systems or processes to eliminate emissions; collect, capture or treat HAP when released from a process, stack, storage or fugitive emissions point; and/or are design, equipment, work practice or operational standards.

For these MACT standards, the statute specifies certain minimum stringency requirements, which are referred to as MACT floor requirements and may not be based on cost considerations. See CAA section 112(d)(3). For new sources, the MACT floor cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than floors for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources). In developing MACT standards, we must also consider control options that are more stringent than the floor, under CAA section 112(d)(2). We may establish standards more stringent than the floor, based on the consideration of the cost of achieving the emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

In the second stage of the regulatory process, the CAA requires the EPA to undertake two different analyses, which we refer to as the technology review and the residual risk review. Under the technology review, we must review the technology-based standards and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years, pursuant to CAA section 112(d)(6). Under the residual risk review, we must evaluate the risk to public health remaining after application of the technology-based standards and revise the standards, if necessary, to provide an ample margin of safety to protect public health or to prevent, taking into consideration costs, energy, safety and other relevant factors, an adverse environmental effect. The residual risk review is required within 8 years after promulgation of the technology-based standards, pursuant to CAA section 112(f). In conducting the residual risk review, if the EPA determines that the current standards provide an ample margin of safety to protect public health, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).[1] For more information on the statutory authority for this rule, see 79 FR 1676 (January 9, 2014).

B. Acrylic and Modacrylic Fibers Production (AMF)

1. What is the AMF source category and how do the MACT standards promulgated on June 29, 1999, regulate its HAP emissions?

The EPA promulgated the AMF MACT standards on June 29, 1999 (64 FR 34854). The standards are codified at 40 CFR part 63, subpart YY. The AMF industry consists of facilities that produce acrylic and modacrylic fibers, which are manufactured fibers in which the fiber-forming substance is a long-chain synthetic polymer containing acrylonitrile units. The source category covered by this NESHAP currently includes one facility. Sources of HAP emissions from the production of AMF include: (1) Storage vessels used to store acrylonitrile monomer and co-monomers; (2) process vents on reactors, vessels and storage vessels used for acrylic polymerization, monomer recovery, fiber spinning and solvent recovery operations; (3) fugitive emissions from AMF spinning lines; (4) wastewater treatment systems; and (5) equipment leaks.

2. What changes did we propose for the AMF source category in our January 9, 2014, proposal?

On January 9, 2014, the EPA published a proposed rule in the **Federal Register** for the AMF MACT standards, 40 CFR part 63, subpart YY, that took into consideration the RTR analyses. In the proposed rule, we proposed:

- Revisions to address certain emission sources not previously regulated under the standards.
- Revisions to the leak detection and repair (LDAR) program requirements.
- Revisions to requirements related to emissions during periods of startup, shutdown and malfunction (SSM).
- Revisions to requirements related to performance test electronic reporting.
- Revisions to the provisions regarding open-ended lines.
- Revisions to the requirements related to pressure relief devices (PRDs) that release HAP emissions to the atmosphere instead of routing them to a control device, process, fuel gas system or drain system.

C. Amino/Phenolic Resins Production (APR)

1. What is the APR source category and how do the MACT standards promulgated on January 20, 2000, regulate its HAP emissions?

The EPA promulgated the APR MACT standards on January 20, 2000 (65 FR 3276). The standards are codified at 40 CFR part 63, subpart OOO. The APR industry consists of facilities that manufacture amino resins or phenolic resins. The source category covered by this NESHAP currently includes 19 facilities. Sources of HAP emissions from the production of APR include: (1) Reactor batch process vents; (2) non-reactor batch process vents; (3) continuous process vents; (4) equipment leaks; (5) wastewater; (6) storage vessels; and (7) heat exchangers.

2. What changes did we propose for the APR source category in our January 9, 2014, proposal?

On January 9, 2014, the EPA published a proposed rule in the **Federal Register** for the APR MACT standards, 40 CFR part 63, subpart OOO, that took into consideration the RTR analyses. In the proposed rule, we proposed:

[1] The U.S. Court of Appeals has affirmed this approach of implementing CAA section 112(f)(2)(A): *NRDC* v. *EPA*, 529 F.3d 1077, 1083 (D.C. Cir. 2008) (''If EPA determines that the existing technology-based standards provide an 'ample margin of safety,' then the Agency is free to readopt those standards during the residual risk rulemaking.'').

- Revisions to address certain emission sources not previously regulated under the standards.
- Revisions to the storage vessel and continuous process vent standards.
- Revisions to requirements related to emissions during periods of SSM.
- Revisions to requirements related to performance test electronic reporting.
- Revisions to the provisions regarding open-ended lines.
- Revisions to the requirements related to PRDs that release HAP emissions to the atmosphere rather than routing them to a control device, process, fuel gas system or drain system.

D. Polycarbonate Production

1. What is the PC source category and how do the MACT standards promulgated on June 29, 1999, regulate its HAP emissions?

The EPA promulgated the PC MACT standards on June 29, 1999 (64 FR 34854). The standards are codified at 40 CFR part 63, subpart YY. The PC industry consists of facilities that produce polycarbonates, a process that involves a polymerization reaction using either a solution or suspension process in either a batch or continuous mode. All production of polycarbonates in the United States is currently based on the polymerization reaction of bisphenols with phosgene in the presence of catalysts, solvents (mainly methylene chloride) and other additives. The source category covered by this NESHAP currently includes four facilities. Sources of HAP emissions from the production of PC include: (1) Storage vessels used to store methylene chloride and other organic solvents; (2) process vents on polymerization, polymer solution purification and solvent recovery equipment; (3) wastewater treatment systems; and (4) equipment leaks.

2. What changes did we propose for the PC source category in our January 9, 2014, proposal?

On January 9, 2014, the EPA published a proposed rule in the **Federal Register** for the PC MACT standards, 40 CFR part 63, subpart YY, that took into consideration the RTR analyses. In the proposed rule, we proposed:

- Revisions to the LDAR program requirements.
- Revisions to requirements related to emissions during periods of SSM.
- Revisions to requirements related to performance test electronic reporting.
- Revisions to the provisions regarding open-ended lines.
- Revisions to the requirements related to PRDs that release HAP emissions to the atmosphere rather than routing them to a control device, process, fuel gas system or drain system.

III. What is included in this final rule?

This action finalizes the EPA's determinations pursuant to the RTR provisions of CAA section 112 for the AMF, APR and PC source categories and amends the AMF, APR and PC MACT standards based on those determinations. This action also finalizes other changes to the NESHAP such as setting emission standards to address certain emission sources not previously regulated; eliminating the exemption for periods of SSM, so that the emission standards in each rule apply at all times; requiring electronic reporting of performance test results; clarifying the provisions regarding open-ended lines by adding a definition for what constitutes a ''sealed'' open-ended line; requiring monitoring of PRDs in organic HAP service that release to the atmosphere rather than routing emissions to a control device, process, fuel gas system or drain system; and providing that releases of HAP emissions to the atmosphere from such PRDs are prohibited.

A. Acrylic and Modacrylic Fibers Production

1. What are the final rule amendments based on the risk review for the AMF source category?

For the AMF source category, we have determined that the current MACT standards reduce risk to an acceptable level, provide an ample margin of safety to protect public health, and prevent adverse environmental effects. Therefore, as we proposed, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).

2. What are the final rule amendments based on the technology review for the AMF source category?

We have determined that there have been developments in practices, processes and control technologies that warrant revisions to the MACT standard for this source category. Therefore, to satisfy the requirements of CAA section 112(d)(6) and as we proposed, we are revising the MACT standards to require facilities to comply with the LDAR requirements of 40 CFR part 63, subpart UU, rather than subpart TT, with the exception of connectors in gas and vapor service and in light liquid service. We are retaining the option for facilities to comply with either subpart TT or subpart UU for these components. For storage vessels, process vents, spinning line fugitive emissions and wastewater, we have determined that, as we proposed, there are no viable developments in HAP emission reduction practices, processes or control technologies to apply, considering the technical feasibility, estimated costs, energy implications, non-air environmental impacts and emission reductions of the options identified.

3. What are the final rule amendments pursuant to sections 112(d)(2) & (3) for the AMF source category?

Pursuant to CAA sections 112(d)(2) and (3) and as we proposed, we are establishing standards for previously unregulated HAP emissions from spinning lines that use a spin dope produced from a solution polymerization process at existing facilities. The standard being finalized is an emission limit of 20 kilograms (kg) of organic HAP per megagram (Mg) (40 pounds (lb) of organic HAP per ton) of acrylic and modacrylic fiber produced, which represents the MACT floor level of control.

B. Amino/Phenolic Resins Production

1. What are the final rule amendments based on the risk review for the APR source category?

For the APR source category, we have determined that the current MACT standards reduce risk to an acceptable level, provide an ample margin of safety to protect public health and prevent adverse environmental effects. Therefore, as we proposed, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).

2. What are the final rule amendments based on the technology review for the APR source category?

We have determined that there have been developments in practices, processes and control technologies that warrant revisions to the MACT standard for this source category. Therefore, to satisfy the requirements of CAA section 112(d)(6), we are revising the applicability of the APR new source MACT standards as we proposed to include smaller capacity storage vessels and/or storage vessels containing liquids with lower vapor pressures. Emissions reduction of 95 percent is now required for storage vessels of capacities greater than or equal to 20,000 gallons (gal), but less than 40,000 gal if the maximum true vapor pressure (MTVP) is 1.9 pounds per square inch absolute (psia) or greater, and for storage vessels of capacities greater than or equal to 40,000 gal, but less than 90,000 gal if the MTVP is 0.75 psia or greater. Control is also still required for storage

vessels of 90,000 gal or greater, if the MTVP is 0.15 psia or greater, as was previously required for storage vessels at new sources in the APR source category. For equipment leaks, continuous process vents, batch process vents, wastewater and heat exchange systems, we have determined that, as we proposed, there are no viable developments in HAP emission reduction practices, processes or control technologies to apply to the emission sources in these source categories, considering the technical feasibility, estimated costs, energy implications, non-air environmental impacts and emission reductions of the options identified.

3. What are the final rule amendments pursuant to sections 112(d)(2) & (3) for the APR source category?

Pursuant to CAA sections 112(d)(2) and (3), we are establishing standards for previously unregulated HAP emissions from storage vessels and continuous process vents at existing facilities. For storage vessels, the standard being finalized is the same as what we proposed and requires 95 percent emissions reduction for storage vessels of capacities greater than or equal to 20,000 gal, but less than 40,000 gal if the MTVP is 1.9 psia or greater, for storage vessels of capacities greater than or equal to 40,000 gal, but less than 90,000 gal if the MTVP is 0.75 psia or greater, and for storage vessels of 90,000 gal or greater, if the MTVP is 0.15 psia or greater, which represents a beyond-the-floor level of control. For continuous process vents, the standard being finalized establishes an emission limit of 0.95 kg of organic HAP per Mg (1.9 lb organic HAP per ton) of resin produced, which represents the MACT floor level of control. However, the calculation of the MACT floor has been revised since proposal.

C. Polycarbonate Production

1. What are the final rule amendments based on the risk review for the PC source category?

For the PC source category, we have determined that the current MACT standards reduce risk to an acceptable level, provide an ample margin of safety to protect public health and prevent adverse environmental effects. Therefore, as we proposed, it is not necessary to revise the MACT standards pursuant to CAA section 112(f).

2. What are the final rule amendments based on the technology review for the PC source category?

We have determined that there have been developments in practices, processes and control technologies that warrant revisions to the MACT standard for this source category. Therefore, to satisfy the requirements of CAA section 112(d)(6) and as we proposed, we are revising the MACT standards to require facilities to comply with the LDAR requirements of 40 CFR part 63, subpart UU, rather than subpart TT, with the exception of connectors in gas and vapor service and in light liquid service. We are retaining the option for facilities to comply with either subpart TT or subpart UU for these components. For storage vessels, process vents and wastewater treatment systems, we have determined that, as we proposed, there are no viable developments in HAP emission reduction practices, processes or control technologies to apply to the emission sources in these source categories, considering the technical feasibility, estimated costs, energy implications, non-air environmental impacts and emission reductions of the options identified.

D. What are the final rule amendments for all three source categories addressing emissions during periods of startup, shutdown and malfunction?

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), *cert. denied,* 130 S. Ct. 1735 (U.S. 2010), the United States Court of Appeals for the District of Columbia Circuit vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1) holding that under section 302(k) of the CAA, emission standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some section 112 standards apply continuously.

We have eliminated the SSM exemption in these rules. Consistent with *Sierra Club* v. *EPA,* the standards in these rules apply at all times. We are also finalizing several revisions to 40 CFR part 63, subpart YY and Table 1 to subpart OOO (the General Provisions applicability table), as is explained in more detail below. For example, we have eliminated the incorporation of the General Provisions' requirement that sources develop an SSM plan. We have also eliminated and revised certain NESHAP recordkeeping and reporting that is related to the eliminated SSM exemption, as described in detail in the proposed rule and summarized again here.

In establishing the standards in these final rule amendments, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, has not established alternate standards for these periods for the AMF, APR and PC MACT standards. Emission reductions for process vents and transfer operations are typically achieved by routing vapors to a control device such as a thermal oxidizer or carbon adsorber. It is common practice to start a control device prior to startup of the emissions source it is controlling, so the control device would be operating before emissions are routed to it. We expect control devices would be operating during startup and shutdown events in a manner consistent with normal operating periods, and that these control devices will be operated to maintain and meet the monitoring parameter operating limits set during the performance test. We do not expect startup and shutdown events to affect emissions from equipment leaks, wastewater sources (e.g., surface impoundments, oil-water separators, organic-water separators) or storage tanks. Leak detection programs associated with equipment leaks are in place to detect leaks, and, therefore, it is inconsequential whether the process is operating under normal operating conditions or is in startup or shutdown. Wastewater emissions are also not expected to be significantly affected by startup or shutdown events. Working and breathing losses from storage tanks are the same regardless of whether the process is operating under normal operating conditions or is in a startup or shutdown event.

Periods of startup, normal operations and shutdown are all predictable and routine aspects of a source's operations. However, by contrast, malfunctions are a sudden, infrequent, and not reasonably preventable failure of air pollution control and monitoring equipment, process equipment, or a process to operate in a normal or usual manner. See 40 CFR 63.2. The EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards. Under section 112, emission standards for new sources must be no less stringent than the level ''achieved'' by the best controlled similar source and, for existing sources, generally must be no less stringent than the average emission limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in section

112 that directs the EPA to consider malfunctions in determining the level ''achieved'' by the best performing sources when setting emission standards. As the United States Court of Appeals for the District of Columbia Circuit has recognized, the phrase ''average emissions limitation achieved by the best performing 12 percent of'' sources ''says nothing about how the performance of the best units is to be calculated.'' *Nat'l Ass'n of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emission standards, nothing in CAA section 112 requires the EPA to consider malfunctions as part of that analysis. A malfunction should not be treated in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a ''normal or usual manner'' and no statutory language compels the EPA to consider such events in setting CAA section 112 standards.

Further, accounting for malfunctions in setting emission standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the source categories amended with this action, and given the difficulties associated with predicting or accounting for the frequency, degree and duration of various malfunctions that might occur. As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. See, e.g., *Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) (''The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.' ''). See also, *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99 percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady state type unit that would take days to shut down, the source would go from 99 percent control to zero control until the control device was repaired. The source's emissions during the malfunction would be 100 times higher than during normal operations. As such, the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

In the event that a source fails to comply with the applicable CAA section 112 standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112 standard was, in fact, ''sudden, infrequent, not reasonably preventable'' and was not instead ''caused in part by poor maintenance or careless operation.'' 40 CFR 63.2 (definition of malfunction).

If the EPA determines in a particular case that enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In summary, the EPA interpretation of the CAA and in particular, section 112 is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

In several prior CAA section 112 rules and in the proposed rule, the EPA had included an affirmative defense to civil penalties for violations caused by malfunctions in an effort to create a system that incorporates some flexibility, recognizing that there is a tension, inherent in many types of air regulation, to ensure adequate compliance while simultaneously recognizing that despite the most diligent of efforts, emission standards may be violated under circumstances entirely beyond the control of the source. Although the EPA recognized that its case-by-case enforcement discretion provides sufficient flexibility in these circumstances, it included the affirmative defense to provide a more formalized approach and more regulatory clarity. See *Weyerhaeuser Co.* v. *Costle,* 590 F.2d 1011, 1057–58 (D.C. Cir. 1978) (holding that an informal case-by-case enforcement discretion approach is adequate); but see *Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1272–73 (9th Cir. 1977) (requiring a more formalized approach to consideration of ''upsets beyond the control of the permit holder.''). Under the EPA's regulatory affirmative defense provisions, if a source could demonstrate in a judicial or administrative proceeding that it had met the requirements of the affirmative defense in the regulation, civil penalties would not be assessed. Recently, the United States Court of Appeals for the District of Columbia Circuit vacated an affirmative defense in one of the EPA's CAA section 112 regulations. *NRDC* v. *EPA,* No. 10–1371 (D.C. Cir. April 18, 2014) 2014 U.S. App. LEXIS 7281 (vacating affirmative defense provisions in CAA section 112 rule establishing emission standards for Portland cement kilns). The court found that the EPA lacked authority to establish an affirmative defense for private civil suits and held that under the CAA, the authority to determine civil penalty amounts in such cases lies exclusively with the courts, not the EPA. Specifically, the Court found: ''As the language of the statute makes clear, the courts determine, on a case-by-case basis, whether civil penalties are 'appropriate.' '' See *NRDC,* 2014 U.S. App. LEXIS 7281 at *21 (''[U]nder this statute, deciding whether penalties are 'appropriate' in a given private civil suit is a job for the courts, not EPA.'').[2] In

[2] The court's reasoning in *NRDC* focuses on civil judicial actions. The court noted that ''EPA's ability to determine whether penalties should be assessed for Clean Air Act violations extends only to

Continued

light of *NRDC,* the EPA is not including a regulatory affirmative defense provision in the final rule. As explained above, if a source is unable to comply with emission standards as a result of a malfunction, the EPA may use its case-by-case enforcement discretion to provide flexibility, as appropriate. Further, as the United States Court of Appeals for the District of Columbia Circuit recognized, in an EPA or citizen enforcement action, the court has the discretion to consider any defense raised and determine whether penalties are appropriate. *Cf. NRDC,* 2014 U.S. App. LEXIS 7281 *at *24.* (Arguments that violations were caused by unavoidable technology failure can be made to the courts in future civil cases when the issue arises). The same is true for the presiding officer in EPA administrative enforcement actions.[3]

Refer to the explanations below and section VII of this preamble and the comment summary and response document, available in the docket for this action, for further discussion regarding SSM-related changes made to the AMF, APR and PC MACT standards.

1. General Duty

For the APR MACT standards, we are revising the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.6(e)(1)(i) by changing the explanation in column 3. 40 CFR 63.6(e)(1)(i) describes the general duty to minimize emissions. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. Similarly, for the AMF and PC source categories, we are also removing this requirement at 40 CFR 63.1108(a)(5). For the AMF, APR and PC MACT standards, we are instead adding general duty regulatory text at 40 CFR 63.1108(a)(4)(ii) and 63.1400(k)(4) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown and malfunction events in describing the general duty. Therefore, the language the EPA is promulgating for 40 CFR 63.1108(a)(4)(ii) and 63.1400(k)(4) does not include that language from 40 CFR 63.6(e)(1).

For the APR MACT standards, we are also revising the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.6(e)(1)(ii) by changing the ''yes'' in the second column to a ''no.'' 40 CFR 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.1400(k)(4).

2. SSM Plan

For the APR MACT standards, we are revising the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.6(e)(3) by changing the ''yes'' in the second column to a ''no.'' Similarly, for the AMF and PC source categories, we are also removing this requirement at 40 CFR 63.1111(a). Generally, these paragraphs require development of an SSM plan and specify SSM recordkeeping and reporting requirements related to the SSM plan. As noted, the EPA is removing the SSM exemptions. Therefore, affected units will be subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance and thus the SSM plan requirements are no longer necessary.

3. Compliance With Standards

For the APR MACT standards, we are revising the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.6(f)(1) by changing the ''yes'' in the second column to a ''no.'' The current language of 40 CFR 63.6(f)(1) exempts sources from non-opacity standards during periods of SSM. As discussed above, the court in *Sierra Club* vacated the exemptions contained in this provision and held that the CAA requires that some section 112 standard apply continuously. Consistent with *Sierra Club,* the EPA is revising standards in this rule to apply at all times.

4. Performance Testing

For the APR MACT standards, we are revising the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.7(e)(1) by changing the ''yes'' in the second column to a ''no.'' 40 CFR 63.7(e)(1) describes performance testing requirements. Similarly, for the AMF and PC source categories, we are also revising this requirement at 40 CFR 63.1108(b)(4)(ii). The EPA is instead adding a performance testing requirement at 40 CFR 63.1108(b)(4)(ii) and 63.1413(a)(2). The performance testing requirements we are adding differ from the General Provisions performance testing provisions in several respects. The regulatory text does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption and language that precluded startup and shutdown periods from being considered ''representative'' for purposes of performance testing. The revised performance testing provisions do not allow performance testing during periods of startup or shutdown. As in 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during malfunctions because conditions during malfunctions are not representative of normal operating conditions. The EPA is adding language that requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. 40 CFR 63.7(e) requires that the owner or operator make available to the Administrator such records ''as may be necessary to determine the condition of the performance test'' available to the Administrator upon request, but does not specifically require the information to be recorded. The regulatory text the EPA is adding to this provision builds on that requirement and makes explicit the requirement to record the information.

5. Monitoring

For the APR MACT standards, we are revising the General Provisions applicability table (Table 1 to Subpart OOO) entries for 40 CFR 63.8(c)(1)(i) and (iii) by changing the ''yes'' in the second column to a ''no.'' The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

6. Recordkeeping

For the AMF, APR and PC MACT standards, the EPA is adding recordkeeping requirements during a malfunction to 40 CFR 63.1111(c)(1) and

administrative penalties, not to civil penalties imposed by a court.'' *Id.*

[3] Although the *NRDC* case does not address the EPA's authority to establish an affirmative defense to penalties that is available in administrative enforcement actions, the EPA is not including such an affirmative defense in the final rule. As explained above, such an affirmative defense is not necessary. Moreover, assessment of penalties for violations caused by malfunctions in administrative proceedings and judicial proceedings should be consistent. *CF.* CAA section 113(e) (requiring both the Administrator and the court to take specified criteria into account when assessing penalties).

63.1416(b). The EPA is applying the requirement to any failure to meet an applicable standard and is requiring that the source record the date, time, and duration of the failure rather than the ''occurrence.'' The EPA is also adding to 40 CFR 63.1111(c)(1) and 63.1416(b) a requirement that sources keep records that include a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the quantity of each regulated pollutant emitted over the standard for which the source failed to meet the standard and a description of the method used to estimate the emissions. Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available or engineering judgment based on known process parameters. The EPA is requiring that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard.

7. Reporting

For the APR MACT standards, we are revising the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.10(d)(5) by changing the ''yes'' in the second column to a ''no.'' 40 CFR 63.10(d)(5) describes the reporting requirements for SSM. Similarly, for the AMF and PC source categories, we are also removing this requirement at 40 CFR 63.1111(b). To replace the General Provisions reporting requirement, the EPA is adding reporting requirements to 40 CFR 63.1111(c)(2) and 63.1417(g). The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as a stand-alone report. We are promulgating language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semi-annual periodic report already required under these rules. We are promulgating that the report must contain the number, date, time, duration and cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit and a description of the method used to estimate the emissions.

Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available or engineering judgment based on known process parameters. The EPA is promulgating this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

We will no longer require owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans will no longer be required. The final amendments therefore eliminate the cross reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule from this section. These specifications are no longer necessary because the events will be reported in otherwise required reports with similar format and submittal requirements.

For the APR MACT standards, we are revising the General Provisions applicability table (Table 1 to Subpart OOO) entry for 40 CFR 63.10(d)(5)(ii) by changing the ''yes'' in the second column to a ''no.'' 40 CFR 63.10(d)(5)(ii) describes an immediate report for startups, shutdown and malfunctions when a source failed to meet an applicable standard but did not follow the SSM plan. We will no longer require owners or operators to report when actions taken during a startup, shutdown or malfunction were not consistent with an SSM plan, because plans will no longer be required.

E. What other changes have been made to all three NESHAP?

1. Pressure Relief Devices

PRDs are designed to remain closed during normal operation and only release as the result of unplanned and/or unpredictable events. A release from a PRD usually occurs during an over pressurization of the system. In some source configurations, emissions from PRDs are captured and routed to a control device, process, fuel gas system or drain system, and, therefore, do not result in a net increase of HAP emissions from the source than would otherwise be the case if the source met all other applicable HAP emission limits. However, emissions vented to the atmosphere by PRDs in organic HAP service contain HAP that are otherwise regulated under the MACT standards that apply to these source categories, and if such releases to the atmosphere occur there will be a net increase in source HAP emissions even if the source otherwise complies with all other applicable HAP limits.

The original MACT standards for these source categories regulated PRDs through equipment leak provisions that applied only after the pressure release occurred. In addition, the rules followed the EPA's former practice of exempting SSM events from otherwise applicable emission standards. Consequently, the original MACT standards did not restrict emissions of organic HAP from PRDs to the atmosphere as a result of malfunction but instead treated them the same as all malfunctions through the SSM exemption provision.

In *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the court determined that the SSM exemption violated the CAA. See section III.D of this preamble for additional discussion. To ensure these NESHAP are consistent with that decision, the final rule revisions remove the malfunction exemptions in each of the MACT standards and provide that emissions of organic HAP may not be discharged to the atmosphere from PRDs in organic HAP service. The prohibition does not apply to PRD releases of HAP that are captured and routed to a control device, process, fuel gas system or drain system.

To ensure compliance with this amendment, we are also requiring that sources subject to these three MACT standards monitor PRDs in organic HAP service that release to the atmosphere by using a device or system that is capable of identifying and recording the time and duration of each pressure release and of notifying operators immediately that a pressure release is occurring. Owners or operators are required to keep records and report any pressure release and the amount of organic HAP released to the atmosphere with the next periodic report. As with the prohibition, this monitoring requirement does not apply to PRDs for which HAP releases are captured and routed to a control device, process, fuel gas system or drain system.

Pressure release events from PRDs in organic HAP service to the atmosphere have the potential to emit large quantities of uncontrolled and unmeasured HAP. Where a pressure release occurs, it is important to identify and mitigate it as quickly as possible. As defined in the MACT standards, PRDs are valves used only to release unplanned, nonroutine discharges. A PRD discharge results from an operator error, a malfunction such as a power failure or equipment failure, or other unexpected cause that requires immediate venting of gas from process equipment in order to avoid safety hazards or equipment damage. Even so,

to the extent that there are atmospheric HAP emissions from PRDs, we are required to follow the *Sierra Club* ruling to address those emissions in these rules, and we can no longer exempt them as permitted, uncontrolled and unmeasured malfunction emissions as we did under the previous MACT standards. This concern is not present in the case of PRDs for which HAP releases are captured and routed to a control device, process, fuel gas system or drain system, since in these situations there is no additional uncontrolled and unmeasured HAP emission occurring beyond that which is already subject to control or monitoring of the process unit. We recognize that HAP releases to the atmosphere from PRDs sometimes occur in order to protect systems from failures that could endanger worker safety and the systems that the PRDs are designed to protect. In the event that a source fails to comply with the applicable CAA section 112 standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112 standard was, in fact, ''sudden, infrequent, not reasonably preventable'' and was not instead ''caused in part by poor maintenance or careless operation.'' 40 CFR 63.1101 and 63.1402 (definition of malfunction).

If the EPA determines in a particular case that enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In summary, the EPA interpretation of the CAA and in particular, section 112 is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations.

Some sources are configured such that PRDs can be effectively used to address safety issues without consequently adding HAP emissions to the atmosphere beyond those that are otherwise allowed under applicable limits. We also recognize, however, that it is not always technically possible to route emissions from all PRDs to a control device, process, fuel gas system or drain system. With respect to these PRDs that vent to the atmosphere, instead, we have provided a balanced approach designed to minimize emissions while recognizing that these events may be unavoidable even in a well-designed and maintained (if, albeit, uncontrolled with respect to PRDs) system.

For purposes of estimating the costs of the new requirement to monitor HAP releases to the atmosphere from PRDs, we assumed that operators would install electronic indicators on each PRD in organic HAP service that vents to the atmosphere (rather than to a control device, process, fuel gas system or drain system) to identify and record the time and duration of each pressure release. However, we are allowing owners or operators to use a range of methods to satisfy these requirements, including the use of a parameter monitoring system (that may already be in place) on the process system or piping that is sufficient to notify operators immediately that a release is occurring, as well as recording the time and duration of the pressure release. Based on our cost assumptions that the most expensive approach would be used, the nationwide capital cost of installing these monitors is $37,000, $400,000 and $51,000 for the AMF, APR and PC source categories, respectively. The total annualized cost of installing and operating these monitors is $5,300, $60,000 and $7,200 per year for the AMF, APR and PC source categories, respectively.

2. Open-Ended Valves and Lines

The AMF MACT standards at 40 CFR 63.1103(b)(3) and the PC MACT standards at 40 CFR 63.1103(d)(3) require an owner or operator to control emissions from equipment leaks according to the requirements of 40 CFR part 63, subpart UU. The APR MACT standards at 40 CFR 63.1410 also require that equipment leaks be controlled according to subpart UU. For open-ended valves and lines, subpart UU requires that the open end be equipped with a cap, blind flange, plug or second valve that ''shall seal the open end at all times.'' However, neither subpart UU, nor the AMF, APR or PC MACT standards, define ''seal'' or explain in practical and enforceable terms what constitutes a sealed open-ended valve or line. This has led to uncertainty on the part of the owner or operator as to whether compliance is being achieved. Inspections under the EPA's Air Toxics LDAR initiative have provided evidence that while certain open-ended lines may be equipped with a cap, blind flange, plug or second valve, they are not operating in a ''sealed'' manner as the EPA interprets that term.

In response to this uncertainty, we are amending 40 CFR 63.1103(b)(2) (for the AMF MACT standards), 40 CFR 63.1402(b) (for the APR MACT standards) and 40 CFR 63.1103(d)(2) (for the PC MACT standards) to clarify what is meant by ''seal.'' This amendment clarifies that, for the purpose of complying with the requirements of 40 CFR 63.1033(b) of subpart UU, open-ended valves and lines are ''sealed'' by the cap, blind flange, plug or second valve when there are no detectable emissions from the open-ended valve or line at or above an instrument reading of 500 ppm.

3. Submission of Performance Test Data to the EPA

As stated in the preamble to the proposed rule, the EPA is taking a step to increase the ease and efficiency of data submittal and data accessibility. Specifically, the EPA is requiring owners and operators of AMF, APR and PC facilities to submit electronic copies of certain required performance test reports.

Data will be collected by direct computer-to-computer electronic transfer using EPA-provided software. This EPA-provided software is an electronic performance test report tool called the Electronic Reporting Tool (ERT). The ERT will generate an electronic report package which will be submitted to the Compliance and Emissions Data Reporting Interface (CEDRI) and then archived to the EPA's Central Data Exchange (CDX). A description and instructions for use of the ERT can be found at: *http://www.epa.gov/ttn/chief/ert/index.html* and CEDRI can be accessed through the CDX Web site: (*http://www.epa.gov/cdx*).

The requirement to submit performance test data electronically to the EPA does not create any additional performance testing and will apply only to those performance tests conducted using test methods that are supported by the ERT. A listing of the pollutants and test methods supported by the ERT is available at the ERT Web site. The EPA believes, through this approach, industry will save time in the performance test submittal process.

Additionally, this rulemaking benefits industry by reducing recordkeeping costs as the performance test reports that are submitted to the EPA using CEDRI are no longer required to be kept in hard copy.

State, local and tribal agencies may benefit from more streamlined and accurate review of performance test data that will become available to the public through WebFIRE. Additionally, performance test data will become available to the public through WebFIRE. Having such data publicly available enhances transparency and accountability. For a more thorough discussion of electronic reporting of performance tests using direct computer-to-computer electronic transfer and using EPA-provided software, see the discussion in the preamble of the proposal.

In summary, in addition to supporting regulation development, control strategy development and other air pollution control activities, having an electronic database populated with performance test data will save industry, state, local, tribal agencies and the EPA significant time, money and effort while improving the quality of emission inventories and, air quality regulations.

F. What are the effective and compliance dates of the standards for all three source categories?

The revisions to the MACT standards being promulgated in this action are effective on October 8, 2014.

The compliance date for existing AMF, APR and PC sources to comply with the revised SSM requirements (other than PRD monitoring) is the effective date of the standard, October 8, 2014. We are finalizing these compliance dates because these requirements should be immediately implementable by the facilities upon the next occurrence of a malfunction or a performance test that is required to be submitted to the ERT. Available information suggests that the facilities should already be able to comply with the existing standards during periods of startup and shutdown.

The compliance date for AMF, APR and PC sources that commenced construction or reconstruction on or before January 9, 2014, to comply with the PRD monitoring requirements is 3 years from the effective date of the promulgated standards, October 9, 2017. This time is needed regardless of whether an owner or operator of a facility chooses to comply with the PRD monitoring provisions by installing PRD release indicator systems and alarms, employing parameter monitoring or by routing releases to a control device, process, fuel gas system or drain system. This time period will allow facilities to research equipment and vendors, purchase, install, test and properly operate any necessary equipment by the compliance date.

The compliance date for existing AMF, APR and PC sources to comply with the operating and pressure release management requirements for PRDs, along with the other SSM-related revisions, is the effective date of the promulgated standards, October 8, 2014. We are finalizing these compliance dates because these requirements are the same as those contained in 40 CFR part 63, subpart UU, with which facilities are already complying as part of the existing MACT standards.

The compliance date for the one existing AMF source to comply with the new solution polymerization spinning line requirements is the effective date of the promulgated standards, October 8, 2014. This facility is already complying with these requirements and no additional time to come into compliance is warranted.

The compliance date for existing APR sources to comply with the new MACT standards applicable to continuous process vents and storage vessels is 3 years from the effective date of the promulgated standards, October 9, 2017. This time period will allow facilities to purchase, install and test any necessary equipment.

The compliance date for existing AMF and PC sources to comply with the revised equipment leak standards is 1 year from the effective date of the promulgated standards, October 8, 2015. Our data indicate that the one AMF facility and some of the PC facilities are currently complying with 40 CFR part 63, subpart TT requirements and will need time to purchase, install and test any necessary equipment and modify their existing LDAR programs.

New sources that commenced or commence construction or reconstruction after January 9, 2014, must comply with the all of the revised standards immediately upon the effective date of the standard, October 8, 2014, or upon startup, whichever is later.

IV. What is the rationale for our final decisions and amendments for the AMF source category?

For each issue, this section provides a description of what we proposed and finalized for the issue, the EPA's rationale for the final decisions and amendments and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Residual Risk Review for the AMF Source Category

1. What did we propose pursuant to CAA section 112(f) for the AMF source category?

For the AMF source category, the results of the inhalation risk assessment indicated the maximum lifetime individual cancer risk could be up to 20-in-1 million, the estimated maximum chronic non-cancer target organ-specific hazard index (TOSHI) value was 0.1 and the estimated maximum off-facility site acute HQ value was 0.08, based on the actual emissions level and the AEGL–1 value for acrylonitrile. The total estimated national cancer incidence from the one AMF facility based on actual emission levels was 0.006 excess cancer cases per year or one case in every 170 years. The EPA proposed that no amendments were needed for this source category based on the risk review under CAA section 112(f). See 79 FR 1697–1700 (January 9, 2014).

2. How did the risk review change for the AMF source category?

For the AMF source category, the risk review has not changed since proposal.

3. What key comments did we receive on the risk review, and what are our responses?

For the AMF source category, the comments received on the proposed risk review were generally supportive. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

4. What is the rationale for our final approach for the risk review?

The results of the risk assessment for the AMF source category did not change from proposal and, therefore, they did not affect our determinations regarding risk acceptability and ample margin of safety. The full results of the risk assessment for the AMF source category can be found in the risk assessment documentation available in the docket for this action (EPA–HQ–OAR–2012–0133).

Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for the source categories addressed in this final rule. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health-protective. A discussion of the

uncertainties in the emissions datasets, dispersion modeling, inhalation exposure estimates and dose-response relationships is provided in the preamble to the proposed rule. See 79 FR 1684 (January 9, 2014).

In accordance with the approach established in the Benzene NESHAP, the EPA weighed all health risk measures and information considered in the risk acceptability determination, along with additional factors relating to the appropriate level of control, including the costs and economic impacts of emissions controls, technological feasibility, uncertainties and other relevant factors in making our risk acceptability and ample margin of safety determination. Considering all of these factors, the EPA has determined that the risks from the AMF source category are acceptable and that the current MACT standards in 40 CFR part 63, subpart YY for the AMF source category provide an ample margin of safety to protect public health.

B. Technology Review for the AMF Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the AMF source category?

For the AMF source category, the EPA proposed to eliminate the less stringent of two currently available options for complying with LDAR program requirements, while retaining the more stringent compliance requirement. The AMF MACT standards previously required compliance with either subpart TT or subpart UU of 40 CFR part 63 to control emissions from equipment leaks. As part of the technology review for the AMF source category, we proposed to require facilities to comply with subpart UU rather than subpart TT, with the exception of connectors in gas and vapor service and in light liquid service. We proposed to retain the option to comply with either subpart TT or subpart UU for those components. See 79 FR 1700–1701.

2. How did the technology review change for the AMF source category?

For the AMF source category, the technology review has not changed since proposal.

3. What key comments did we receive on the technology review, and what are our responses?

For the AMF source category, the comments received on the proposed technology review were generally supportive. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

4. What is the rationale for our final approach for the technology review?

The results of the technology review for the AMF source category did not change from proposal. Therefore the EPA is requiring AMF facilities to comply with 40 CFR part 63, subpart UU rather than 40 CFR part 63, subpart TT, with the exception of connectors in gas and vapor service and in light liquid service. Facilities continue to have the option to comply with either subpart TT or subpart UU for those components.

C. Sections 112(d)(2) & (3) Amendments for the AMF Source Category

1. What did we propose pursuant to sections 112(d)(2) & (3) for the AMF source category?

For the AMF source category, the EPA identified the absence of an emissions limit for spinning lines that use a spin dope produced from a solution polymerization process at existing AMF facilities. Pursuant to CAA sections 112(d)(2) and (3), we proposed to establish an emissions limit of 20 kg organic HAP-Mg (40 lb organic HAP-ton) of acrylic and modacrylic fiber produced for this emission point, which represented the MACT floor emissions limit. See 79 FR 1697.

2. How do the final amendments pursuant to sections 112(d)(2) & (3) differ from the proposal for the AMF source category?

For the AMF source category, the emissions limit for spinning lines that use a spin dope produced from a solution polymerization process at existing AMF facilities has not changed since proposal.

3. What key comments did we receive on the amendments proposed pursuant to sections 112(d)(2) & (3) for the AMF source category, and what are our responses?

For the AMF source category, the comments received on the proposed emissions limit for spinning lines that use a spin dope produced from a solution polymerization process at existing AMF facilities were generally supportive. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

4. What is the rationale for our final approach for the final amendments pursuant to sections 112(d)(2) & (3) for the AMF source category?

The analysis of the emissions limit for spinning lines that use a spin dope produced from a solution polymerization process at existing AMF facilities did not change from proposal. Therefore, the EPA is establishing an emissions limit at the MACT floor for this emission point: 20 kg organic HAP-Mg (40 lb organic HAP-ton) of acrylic and modacrylic fiber produced.

V. What is the rationale for our final decisions and amendments for the APR source category?

For each issue, this section provides a description of what we proposed and finalized for the issue, the EPA's rationale for the final decisions and amendments and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Residual Risk Review for the APR Source Category

1. What did we propose pursuant to CAA section 112(f) for the APR source category?

For the APR source category, the results of the inhalation risk assessment indicated the maximum lifetime individual cancer risk could be up to 9-in-1 million, the estimated maximum chronic non-cancer TOSHI value was 0.2 and the estimated maximum off-facility site acute hazard quotient (HQ) value was 10, based on the actual emissions level and the reference exposure level (REL) value for formaldehyde. The total estimated national cancer incidence from APR facilities based on actual emission levels was 0.001 excess cancer cases per year or one case in every 1,000 years. The EPA proposed that no amendments were needed for this source category based on the risk review under CAA section 112(f). See 79 FR 1703–1706.

2. How did the risk review change for the APR source category?

For the APR source category, we received information indicating that an additional facility should have been included in the risk assessment for this source category. Using information submitted by this facility, we revised the risk assessment for this source category. The MIR increased from 9- to 20-in-1 million, the annual cancer incidence increased from 0.001 to 0.002

cases per year, the maximum chronic non-cancer TOSHI value increased from 0.2 to 0.4, and the maximum off-site acute HQ value stayed the same at 10, based on the REL value for formaldehyde. Table 2 provides an overall summary of the revised inhalation risk assessment results for the APR source category.

TABLE 2—APR INHALATION RISK ASSESSMENT RESULTS

Number of facilities [1]	Maximum individual cancer risk (in 1 million) [2]		Population at risk ≥1-in-1 million	Annual cancer incidence (cases per year)	Maximum chronic non-cancer TOSHI [3]		Maximum off-site acute non-cancer HQ [4]
	Actual emissions level	Allowable emissions level			Actual emissions level	Allowable emissions level	
19	20	20	15,000	0.002	0.4	0.4	HQ_{REL} = 10 formaldehyde. HQ_{AEGL-1} = 0.6 formaldehyde.

[1] Number of facilities evaluated in the risk analysis.
[2] Maximum individual excess lifetime cancer risk.
[3] Maximum TOSHI. The target organ with the highest TOSHI for the APR source category is the respiratory system.
[4] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of HQ values. HQ values shown use the lowest available acute threshold value, which in most cases is the REL. When HQ values exceed 1, we also show HQ values using the next lowest available acute dose-response value.

3. What key comments did we receive on the risk review, and what are our responses?

For the APR source category, the comments received on the proposed risk review were generally supportive. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

4. What is the rationale for our final approach for the risk review?

The results of the revised risk assessment did not significantly change the maximum risk levels to the most exposed individual for this source category and did not affect our determinations regarding risk acceptability and ample margin of safety. The full results of the revised risk assessment for this source category can be found in the risk assessment documentation available in the docket for this action (EPA–HQ–OAR–2012–0133).

Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for the source categories addressed in this final rule. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health-protective. A discussion of the uncertainties in the emissions datasets, dispersion modeling, inhalation exposure estimates and dose-response relationships is provided in the preamble to the proposed rule. See 79 FR 1684.

In accordance with the approach established in the Benzene NESHAP, the EPA weighed all health risk measures and information considered in the risk acceptability determination, along with additional factors relating to the appropriate level of control, including the costs and economic impacts of emissions controls, technological feasibility, uncertainties and other relevant factors in making our risk acceptability and ample margin of safety determination. Considering all of these factors, the EPA has determined that the risks from the APR source category are acceptable and that the current MACT standards in 40 CFR part 63, subpart OOO for the APR source category provide an ample margin of safety to protect public health.

B. Technology Review for the APR Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the APR source category?

For the APR source category, the EPA proposed to change the thresholds at which emission controls are required for storage vessels at new sources to be consistent with other storage vessel standards already required for the chemical industry regulated by the Hazardous Organic NESHAP for Synthetic Organic Chemical Manufacturing Industry (HON). We proposed to revise the applicability of the APR new source MACT standards to include smaller capacity storage vessels and/or storage vessels containing liquids with lower vapor pressures. An emissions reduction of 95 percent was proposed for storage vessels of capacities greater than or equal to 20,000 gal, but less than 40,000 gal if the MTVP is 1.9 psia or greater, and for storage vessels of capacities greater than or equal to 40,000 gal, but less than 90,000 gal if the MTVP is 0.75 psia or greater. Control was proposed to still be required for storage vessels of 90,000 gal or greater, if the MTVP is 0.15 psia or greater, as was previously required for storage vessels at new sources in the APR source category. See 79 FR 1706–1707.

2. How did the technology review change for the APR source category?

For the APR source category, the technology review has not changed since proposal.

3. What key comments did we receive on the technology review, and what are our responses?

For the APR source category, the comments received on the proposed technology review were generally supportive. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

4. What is the rationale for our final approach for the technology review?

The results of the technology review for the APR source category did not change from proposal. Therefore the EPA is changing the thresholds at which emission controls are required for storage vessels at new sources to be consistent with other storage vessel standards already required for the chemical industry regulated by the HON. An emissions reduction of 95 percent is now required for storage vessels of capacities greater than or equal to 20,000 gal, but less than 40,000 gal if the MTVP is 1.9 psia or greater, and for storage vessels of capacities greater than or equal to 40,000 gal, but less than 90,000 gal if the MTVP is 0.75 psia or greater. Control is still required for storage vessels of 90,000 gal or greater, if the MTVP is 0.15 psia or greater, as was previously required for

storage vessels at new sources in the APR source category.

C. Sections 112(d)(2) & (3) Amendments for the APR Source Category

1. What did we propose pursuant to sections 112(d)(2) & (3) for the APR source category?

For the APR source category, the EPA identified the absence of an emissions limit for storage vessels and continuous process vents at existing APR facilities. Pursuant to CAA sections 112(d)(2) and (3), for storage vessels, we proposed thresholds at which emission controls are required consistent with other storage vessel standards already required for the chemical industry regulated by the HON. An emissions reduction of 95 percent was proposed for storage vessels of capacities greater than or equal to 20,000 gal, but less than 40,000 gal if the MTVP is 1.9 psia or greater, for storage vessels of capacities greater than or equal to 40,000 gal, but less than 90,000 gal if the MTVP is 0.75 psia or greater, and for storage vessels of 90,000 gal or greater if the MTVP is 0.15 psia or greater. This represented a beyond-the-floor level of control for storage vessels at existing facilities.

Pursuant to CAA sections 112(d)(2) and (3), for continuous process vents, we proposed that existing facilities reduce organic HAP emissions either by 85 percent or to a concentration of 20 parts per million by volume (ppmv), when using a combustion control device, or to a concentration of 50 ppmv when using a non-combustion control device. This represented the MACT floor level of control for continuous process vents at existing facilities. See 79 FR 1701–1703.

2. How did the final amendments pursuant to sections 112(d)(2) & (3) differ from the proposal for the APR source category?

For the APR source category, the emissions limit for storage vessels at existing APR facilities has not changed since proposal. However, the emissions limit for continuous process vents at existing APR facilities has been revised to establish an emission limit of 0.95 kg organic HAP/Mg (1.9 lb organic HAP/ton) of resin produced for continuous process vents.

3. What key comments did we receive on the amendments proposed pursuant to sections 112(d)(2) & (3) for the APR source category, and what are our responses?

The following is a summary of the significant comments received on the proposed APR emissions limits and our responses to these comments. The complete list of the comments received and our responses to those comments can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

Comment: One commenter states that when the EPA developed subpart OOO, the EPA declined to require controls for spray dryer continuous process vents for existing sources based on only one of three facilities with these process vents having emissions controls. The commenter notes the EPA concluded the MACT floor and existing source standard was no control, and control was only required for continuous process vents at new sources. The commenter notes that the EPA is now proposing standards for existing continuous process vents and states that the RTR process does not allow for the EPA to reconsider aspects of previously issued MACT standards unrelated to ''development in practices, processes and control technologies.'' The commenter states that the EPA can't merely change its mind about what standards are required to comply with CAA section 112(d)(2) and (3), nor is it obligated to recalculate a MACT floor based on subsequent performance.

Response: The EPA disagrees that we lack the authority to revise improperly set MACT floors. In *Medical Waste Institute* v. *EPA,* 645 F. 3d 420, 425–27 (D.C. Cir. 2011), the United States Court of Appeals for the District of Columbia Circuit Court held that the EPA may permissibly amend improper MACT determinations, including amendments to improperly promulgated floor determinations, using its authority under section 112(d)(2) and (3). The ''no control'' floor for HAP emitted from continuous process vents at existing APR sources is not proper. *National Lime,* 233 F. 3d at 633–34; see also *Medical Waste Institute,* 645 F. 3d at 426 (resetting MACT floor, based on post-compliance data, permissible when the originally-established floor was improperly established, and permissibility of the EPA's action does not turn on whether the prior standard was remanded or vacated). Similarly, the United States Court of Appeals for the District of Columbia Circuit Court's December 9, 2011, decision in *Portland Cement Ass'n* v. *EPA* (D.C. Cir. No. 10–1358) confirms that the EPA is not constrained by CAA section 112(d)(6), and it may reassess its standards more often, including revising existing floors if need be. A full discussion of our consideration of this issue and basis for determining that the MACT floor was improperly set is contained the preamble to the proposed rule at 79 FR 1703 (January 9, 2014).

Comment: One commenter states that based on its knowledge of the industry, Georgia Pacific and Tembec are the only companies that currently manufacture APR and operate APR spray dryer continuous process vents, but it appears that the original MACT floor determination and the proposed provisions did not include two other Georgia Pacific facilities with continuous process vents. The commenter believes the EPA should revise its MACT floor analyses to include these facilities. The commenter further requests that if the EPA regulates emissions from spray dryer continuous process vents, that it establish an uncontrolled production-based emission limit. The commenter also requests that in establishing this limit, the EPA allow the calculation of uncontrolled production-based emissions rates that are based on the last 5 years of production, which would account for variability in the drying of multiple resin types.

Response: The EPA has reviewed the new data submitted by the commenter and used these data to determine the revised MACT floor for continuous process vents at existing sources. In reviewing the data, the EPA determined that a production-based emission limit of 0.95 kg organic HAP/Mg (1.9 lb organic HAP/ton) of resin produced was appropriate, as discussed in section IV.C.4.b of this preamble. In setting this limit, the EPA used emissions data from the previous 5 years submitted by all four affected facilities, which incorporates sufficient variability in the drying of multiple resin types. For further details on how the MACT floor was recalculated, see the technical memorandum titled, *MACT Floor and Beyond-the-Floor for Existing Unregulated Emission Sources in the Amino and Phenolic Resins Production Source Category,* available in the docket for this action.

4. What is the rationale for our final approach for the final amendments pursuant to sections 112(d)(2) & (3) for the APR source category?

a. Storage Vessels

The analysis of the emissions limit for storage vessels at existing APR facilities has not changed since proposal. Therefore, the EPA is establishing an emissions limit for storage vessels consistent with other storage vessel standards already required for the chemical industry regulated by the HON. An emissions reduction of 95 percent is required for storage vessels of

capacities greater than or equal to 20,000 gal, but less than 40,000 gal if the MTVP is 1.9 psia or greater, for storage vessels of capacities greater than or equal to 40,000 gal, but less than 90,000 gal if the MTVP is 0.75 psia or greater, and for storage vessels of 90,000 gal or greater if the MTVP is 0.15 psia or greater.

b. Continuous Process Vents

The analysis of the emissions limit for continuous process vents at existing APR facilities has been revised to reflect new data submitted by industry during the comment period. As part of their comments, Georgia Pacific identified two additional facilities as having continuous process vents, bringing the total to four facilities in the APR source category that have continuous process vents (Tembec in Toledo, OH, and Georgia Pacific facilities in Crossett, AR, Taylorsville, MS, and Conway, NC). All but one of the continuous process vents at these facilities come from dryers on the amino/phenolic resin process unit (APPU). Based on historical emissions and production information submitted by these facilities, we have determined that the MACT floor for continuous process vents is an emission limit of 0.95 kg organic HAP/Mg (1.9 lb organic HAP/ton) of resin produced. For further details on how the MACT floor was calculated for continuous process vents, see the technical memorandum titled, *MACT Floor and Beyond-the-Floor for Existing Unregulated Emission Sources in the Amino and Phenolic Resins Production Source Category,* available in the docket for this action.

As part of our beyond-the-floor analysis, we considered control options more stringent than the MACT floor and identified one such option. For the beyond-the-floor option, we evaluated the impact of requiring a 98-percent emissions reduction, assuming that a regenerative thermal oxidizer would be used to achieve this increased level of control.

Table 3 presents the impacts for the MACT floor and the beyond-the-floor option considered. As seen in Table 3, the MACT floor level of control is expected to reduce HAP emissions by approximately 135 tpy and have a cost effectiveness of $6,400/ton of HAP removed. For the beyond-the-floor option, we estimated the capital costs to be approximately $9 million, and the total annualized costs are estimated to be approximately $3 million. The estimated HAP emissions reduction is approximately 181 tpy, and the incremental cost effectiveness between the MACT floor and the beyond-the-floor option is approximately $74,000/ton.

For further details on the assumptions and methodologies used in this analysis, see the technical memorandum titled, *National Impacts Associated with the Final NESHAP for Existing Amino and Phenolic Resins Continuous Process Vents,* available in the docket for this action.

While, as discussed in section V.A above, the continuous process vent control options are not needed to support the EPA's finding under CAA section 112(f) that the APR MACT standards already protect public health with an ample margin of safety, and while we do not factor quantified risk reductions into CAA section 112(d)(2) beyond-the-floor analyses, for informational purposes we note that the beyond-the-floor option for continuous process vents would not reduce the MIR or the maximum chronic non-cancer TOSHI for the source category because neither the MIR nor the non-cancer TOSHI is caused by emissions from continuous process vents.

TABLE 3—NATIONWIDE EMISSIONS REDUCTION AND COST IMPACTS OF CONTROL OPTIONS FOR CONTINUOUS PROCESS VENTS AT EXISTING APR FACILITIES

Regulatory options	HAP emissions reduction (tpy)	Capital cost (million $)	Annual cost ($/yr)	Cost effectiveness ($/ton HAP removed)	Incremental cost effectiveness ($/ton HAP removed)
Baseline (MACT floor)	135	3.6 million	860,000	6,400	
Beyond-the-floor	181	8.8 million	3.1 million	17,000	74,000

Based on this analysis, we do not believe the costs of the beyond-the-floor option are reasonable, given the level of HAP emissions reduction that would be achieved with this control option. Therefore, we are revising the APR MACT standards to require the MACT floor level of control for continuous process vents at existing APR sources.

VI. What is the rationale for our final decisions and amendments for the PC source category?

For each issue, this section provides a description of what we proposed and finalized for the issue, the EPA's rationale for the final decisions and amendments and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Residual Risk Review for the PC Source Category

1. What did we propose pursuant to CAA section 112(f) for the PC source category?

For the PC source category, the results of the inhalation risk assessment indicated the maximum lifetime individual cancer risk could be up to 0.3-in-1 million, the estimated maximum chronic non-cancer TOSHI value was 0.04 and the estimated maximum off-facility site acute HQ value was 2, based on the actual emissions level and the REL value for triethylamine. The total estimated national cancer incidence from PC facilities based on actual emission levels is 0.00008 excess cancer cases per year or one case in every 13,000 years. The EPA proposed that no amendments were needed for this source category based on the risk review under CAA section 112(f). See 79 FR 1707–1709.

2. How did the risk review change for the PC source category?

For the PC source category, the risk review has not changed since proposal.

3. What key comments did we receive on the risk review, and what are our responses?

For the PC source category, the comments received on the proposed risk review were generally supportive. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

4. What is the rationale for our final approach for the risk review?

The results of the risk assessment for the PC source category did not change

from proposal and therefore they did not affect our determinations regarding risk acceptability and ample margin of safety. The full results of the risk assessment for the PC source category can be found in the risk assessment documentation available in the docket for this action (EPA–HQ–OAR–2012–0133).

Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for the source categories addressed in this final rule. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions, ensures that our decisions are health-protective. A discussion of the uncertainties in the emissions datasets, dispersion modeling, inhalation exposure estimates and dose-response relationships is provided in the preamble to the proposed rule. See 79 FR 1684.

In accordance with the approach established in the Benzene NESHAP, the EPA weighed all health risk measures and information considered in the risk acceptability determination, along with additional factors relating to the appropriate level of control, including the costs and economic impacts of emissions controls, technological feasibility, uncertainties and other relevant factors in making our risk acceptability and ample margin of safety determination. Considering all of these factors, the EPA has determined that the risks from the PC source category are acceptable and that the current MACT standards in 40 CFR part 63, subpart YY for the PC source category provide an ample margin of safety to protect public health.

B. Technology Review for the PC Source Category

1. What did we propose pursuant to CAA section 112(d)(6) for the PC source category?

For the PC source category, the EPA proposed to eliminate the less stringent of two currently available options for complying with LDAR program requirements—while retaining the more stringent compliance requirement. The PC MACT standards previously required compliance with either subpart TT or subpart UU of 40 CFR part 63 to control emissions from equipment leaks. As part of the technology review for the PC source category, we proposed to require facilities to comply with subpart UU rather than subpart TT, with the exception of connectors in gas and vapor service and in light liquid service. We proposed to retain the option to comply with either subpart TT or subpart UU for those components. See 79 FR 1709–1710.

2. How did the technology review change for the PC source category?

For the PC source category, the technology review has not changed since proposal.

3. What key comments did we receive on the technology review, and what are our responses?

For the PC source category, the comments received on the proposed technology review were generally supportive. A summary of these comments and our responses can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

4. What is the rationale for our final approach for the technology review?

The results of the technology review for the PC source category did not change from proposal. Therefore the EPA is requiring PC facilities to comply with 40 CFR part 63, subpart UU rather than 40 CFR part 63, subpart TT, with the exception of connectors in gas and vapor service and in light liquid service. Facilities continue to have the option to comply with either subpart TT or subpart UU for those components.

VII. What is the rationale for our final decisions and amendments that apply to all three source categories?

For each issue, this section provides a description of what we proposed and finalized for the issue, the EPA's rationale for the final decisions and amendments and a summary of key comments and responses. For all comments not discussed in this preamble, comment summaries and the EPA's responses can be found in the comment summary and response document available in the docket.

A. Startup, Shutdown and Malfunction

1. What did we propose for SSM?

We proposed to eliminate the SSM exemption from all three source categories and that the existing or revised standards would apply at all times. We took into account startup and shutdown periods and did not propose alternate standards for those periods because facilities in these source categories did not indicate that they would be unable to comply with the standards during these times and our assessment of the control technology used confirms that the standards can be met during periods of startup and shutdown. We also proposed to add provisions for an affirmative defense to civil penalties for violations of emission standards in these rules that are caused by malfunctions. See 79 FR 1710–1713.

2. How did the SSM provisions change?

For the SSM provisions, we are still removing the SSM exemption and requiring that the existing standards apply at all times. In addition, we have added language to the AMF and PC MACT standards to clarify that excused excursions are not allowed. However, we are not finalizing the proposed affirmative defense provisions.

3. What key comments did we receive on the SSM provisions, and what are our responses?

The following is a summary of the significant comments received on the proposed SSM provisions and our responses to these comments. The complete list of the comments received and our responses to those comments can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

Comment: Several commenters state that the proposal to eliminate the SSM provisions in the proposed subparts is not based on an accurate reading of the decision of the DC Circuit in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008). The commenters state that the EPA's proposal for the standards to apply at all times is not consistent with *Sierra Club* v. *EPA,* as the court did not hold that the EPA is prohibited from setting separate standards for periods of SSM that are different than the emission limits during normal operations but held that the standards for those periods must be developed according to the section 112(d) MACT process and must be proven to be achievable under section 112(d). The commenters add that there is ample precedent for the EPA applying a different standard during SSM events, and such a standard could include a design, equipment, work practice, or operational standard under section 112(h).

One of the commenters notes that the definitions of ''emission limitation'' and ''emission standard'' have included provisions to limit ''quantity, rate, or concentration of emissions of air pollutants on a continuous basis'' since 1977, and since that time the EPA has not required sources to meet NSPS emission limits under CAA section 111 established for normal operations during SSM events. The commenter adds that Congress enacted the ''continuous basis'' language in section 302(k) knowing the EPA's emission standards under section 111 exempted SSM periods, and there is nothing in the

legislative history of the 1977 or 1990 amendments to the CAA that suggests Congress intended to overturn that practice. The commenter noted that case law has affirmed the appropriateness of including special SSM provisions in standards issued under section 111.

Response: The EPA does not claim that the *Sierra Club* case or the CAA constrains its authority to prescribe different standards for periods of startup or shutdown or for periods of malfunction. However, as explained in the preamble to the proposed and final rules, the EPA has determined that CAA section 112 does not require that emissions that occur during periods of malfunction be factored into development of section 112 standards. The EPA's rationale for this view is explained in detail in the preamble as well.

At proposal, we explained that the DC Court had recently vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 63.6(h)(1) that are part of the CAA section 112 General Provisions. *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008) cert. denied, 130 S. Ct 1735 (2010). We further explained that, when incorporated into section 112(d) regulations for specific source categories, these two provisions exempt sources from the requirement to comply with otherwise applicable MACT standards during periods of SSM. We also explained that because these source categories rely on the General Provisions for SSM provisions, we were proposing to set standards that apply at all times, including during malfunctions. The EPA does not claim that the *Sierra Club* case constrains its authority to prescribe unique standards for SSM periods. Rather, the EPA's view is that this decision calls into question the legality of source category-specific SSM exemptions in rules promulgated pursuant to section 112.

Further, in *Medical Waste Institute* v. *EPA,* 645 F. 3d 420, 425–27 (D.C. Cir. 2011), the DC Circuit Court held that the EPA may permissibly amend improper MACT determinations, including amendments to improperly promulgated floor determinations, using its authority under section 112(d)(2) and (3). The absence of standards for HAP emitted during SSM is not proper. *National Lime,* 233 F. 3d at 633–34; see also *Medical Waste Institute,* 645 F. 3d at 426 (resetting MACT floor, based on post-compliance data, permissible when the originally-established floor was improperly established, and permissibility of the EPA's action does not turn on whether the prior standard was remanded or vacated). Similarly, the DC Circuit Court's December 9, 2011, decision in *Portland Cement Ass'n* v. *EPA* (D.C. Cir. No. 10–1358) confirms that the EPA is not constrained by CAA section 112(d)(6), and it may reassess its standards more often, including revising existing floors if need be. The commenters are, thus, incorrect that CAA section 112(d)(6) provides the exclusive authority to address standards that apply during SSM events. Here, the EPA adopted no MACT standard at all for HAP emitted during SSM, an approach soundly rejected by the DC Circuit Court in *National Lime,* 233 F. 3d at 633–34. Consequently, we have revised the standards so the emission limits of the rule apply at all times, including during periods of SSM. We believe this approach reasonably accommodates the requirements of the CAA and the Court's reasoning in *Sierra Club.*

The EPA disagrees with commenters' suggestion that the existence of an SSM exemption in rules implementing CAA section 111 in 1977 when Congress enacted the ''continuous basis'' language in the definition of ''emission standard'' is evidence that Congress approved of that regulatory SSM exemption. Commenters fail to cite legislative history or any other evidence supporting that Congress was aware or approved of that exemption and the *Sierra Club* decision makes clear that such exemptions are inconsistent with the Clean Air Act.

Comment: One commenter states that the EPA has not justified adding new ''general duty'' language to the standards and should delete the new provisions. The commenter also states that the EPA lacks the authority to replace the previous reference to the General Provisions with somewhat different language in the individual subparts because these changes are not being proposed under 112(d)(6) or 112(f).

Response: The EPA disagrees that it lacks the authority to make the changes proposed. We have eliminated the SSM exemptions in these three NESHAP, consistent with *Sierra Club* v. *EPA.* As noted previously, the EPA relies on the CAA and *Sierra Club* for the elimination of the SSM exemption. The EPA is not limited to adopting such changes by CAA sections 112(d)(6) or (f)(2), but retains ongoing authority to revise its prior adopted section 112(d)(2) and (3)-based standards whenever the agency identifies a flaw in such standards that renders them insufficient to meet the requirements of section 112(d)(2). See *Medical Waste Institute* v. *EPA.* The EPA explained in the proposal that we were adding language to this regulation to replace General Provision requirements that reference vacated SSM provisions (77 FR 1288, 1299, 1302). The General Provisions ''general duty'' language that was previously referenced by these NESHAP includes language that is no longer necessary or appropriate in light of the elimination of the SSM exemption, so the EPA has modified the general duty requirements that were contained in 40 CFR 63.6(e) and placed them, modified, in 40 CFR 63.1108(a)(4)(ii) and 63.1400(k)(4). The revised general duty requirement language reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Therefore the language the EPA is promulgating does not include that language from 40 CFR 63.6(e)(1).

Comment: One commenter states that the past history of the SSM exemption and compliance problems for these source categories demonstrates a need for strong and more frequent monitoring, testing, and reporting requirements and enforcement provisions. The commenter declares that the EPA must implement enforcement provisions that prevent and remedy emission spikes, malfunctions, and other violations in a way that will be enforceable by citizens in the Title V permits for these source categories. The commenter further states that the EPA should review the proposed monitoring requirements and ensure they are stringent enough to enable easy assessment of whether a facility is in full compliance with the standards within a short period of time of any violation.

Response: We believe that the removal of the SSM exemption will reduce compliance problems that may have been associated with the exemption and excess emission spikes, as facilities have an incentive to avoid the related violations and penalties, without the need to institute more frequent monitoring, testing, and reporting requirements. We further believe that the monitoring requirements included in these rules are sufficient to ensure compliance with the standards regardless of whether or when a violation occurs. Under the provisions of 40 CFR 63.15, the public can request access to reports submitted to the regulatory agency whenever they choose, with the exception of information protected through 40 CFR

part 2 (e.g., confidential business information). In addition, as discussed in section 4 below, we are promulgating requirements for electronic reporting of emissions test data that will improve public access to emissions information.

Comment: One commenter states that additional requirements are needed for times of malfunctions, including requirements for automatic shut-off of malfunctioning equipment, requirements to assign responsibility to the plant manager or high-up staff member which allows only that person to restart the equipment, and requirements that corrective actions be taken immediately. The commenter also states that for a facility that has had one or more malfunction, exceedance, or other violation in the prior month, the facility must obtain written authorization from the EPA to restart the equipment, and the EPA should only authorize the restart after making a public determination that the facility has instituted the corrective measures the EPA requires. The commenter further asserts that for a facility with 4 or more exceedances or malfunctions in the same quarter, the EPA must require automatic shutdown of the operation for a period of time to conduct and publish a full investigation and ensure correction of the problem(s).

Response: We disagree with the commenter that the suggested additional requirements regarding malfunctions are necessary. The EPA believes that the monitoring requirements of the final rule are sufficient to ensure compliance with the emission standards, and that it is not necessary to prescribe when or who may restart equipment that has malfunctioned. With respect to the commenter's suggested reporting requirements, the reporting requirements in the final rules already require malfunction reporting. Any such reports submitted to the EPA are publicly available subject to the requirements of CAA section 114(c).

4. What is the rationale for our final approach for SSM?

The EPA has determined not to finalize the proposed regulatory affirmative defense provisions due to a recent ruling by the United States Court of Appeals for the District of Columbia Circuit, which vacated an affirmative defense in one of the EPA's Section 112(d) regulations. *NRDC* v. *EPA,* No. 10–1371 (D.C. Cir. April 18, 2014) 2014 U.S. App. LEXIS 7281 (vacating affirmative defense provisions in Section 112(d) rule establishing emission standards for Portland cement kilns). For further discussion of the EPA's decision to not include the affirmative defense provisions in the final rule, see section III.D of this preamble.

The EPA has also clarified in the AMF and PC MACT standards that the excused excursion provisions referenced in 40 CFR part 63, subpart SS do not apply. An excursion occurs when the value for a monitored parameter falls outside the established range for that parameter. The provisions of subpart SS allow for each control device or recovery device to have one excursion for each semiannual period excused. The excused excursions were originally put in place to account for unanticipated operating parameter fluctuations. In keeping with the *Sierra Club* decision that emission standards or limitations must be continuous in nature, we have removed the provisions that would allow for one violation of the operating conditions for each control or recovery device to be excused each reporting period.

B. Pressure Relief Devices

1. What did we propose for PRDs?

For all three source categories, we proposed that a pressure release of HAP emissions from a PRD in organic HAP service, unless routed to a control device or process, would be a violation. We also proposed to require that sources monitor PRDs in organic HAP service using a device or system that is capable of identifying and recording the time and duration of each pressure release and of notifying operators that a release has occurred, unless routed to a control device, process, fuel gas system or drain system. See 79 FR 1713–1714.

2. How did the PRD requirements change?

We have clarified that a pressure release of HAP emissions to the atmosphere from a PRD in organic HAP service is prohibited, unless the PRD is designed and operated to route all pressure releases to a control device, process, fuel gas system or drain system. We also made other minor technical corrections, such as clarifying that the delay of repair provisions for PRDs after pressure releases still apply, and exempting PRDs that route to a fuel gas system or drain system from the PRD monitoring requirements and pressure release prohibition, similar to the provisions previously contained in subpart UU.

3. What key comments did we receive on the PRD requirements, and what are our responses?

The following is a summary of the significant comments received on the proposed PRD requirements and our responses to these comments. The complete list of the comments received and our responses to those comments can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

Comment: Several commenters urge the EPA to withdraw the proposed amendment that states PRD releases are violations of the standards. At a minimum, one commenter states that the word ''prohibited'' should be used rather than ''violation.'' Another commenter suggests this be rephrased to ''potential malfunction'' rather than ''violation.'' Several commenters state that at most, considering *Sierra Club* v. *EPA,* the EPA should establish work practices or emissions limits for PRDs. Several other commenters state that emissions from PRD release events should not be viewed differently than normal process emissions and that PRD releases should only be prohibited if they result in emissions that exceed the relevant standards in the rule. Another commenter adds that the provisions that claim releases are violations are inconsistent with CAA section 112(r)(7), which allows for the promulgation of release prevention, detection and correction requirements and with Occupational Safety and Health Administration (OSHA) requirements for PRDs in its Process Safety Management regulations.

Response: The EPA partially agrees with the commenter and has revised the final PRD provisions to state that emissions of organic HAP from PRDs to the atmosphere are ''prohibited,'' rather than being a ''violation.'' We disagree, however, with the commenters that the PRD provisions should be withdrawn or weakened in some way. While several commenters have suggested replacing the PRD release prohibition with a work practice standard, it is the EPA's position that separate standards for periods of malfunction are not appropriate in light of the 2008 *Sierra Club* ruling. In order for our treatment of malfunction-caused emission releases to the atmosphere from PRDs to conform with the reasoning of the court's ruling, the final rule states that HAP emission releases to the atmosphere from PRDs in organic HAP service are prohibited. In any case, no commenters have provided emissions performance information regarding organic HAP releases to the atmosphere from PRDs that would enable us to conduct MACT floor and beyond-floor determinations, even if we believed it was appropriate to do so and set new standards for these devices, whether numeric or work-practice.

Similarly, no commenters have provided us with information regarding the costs of requiring the use of control devices or other means of emissions limitation for these devices, in lieu of a prohibition of their releasing HAP to the atmosphere.

Comment: Several commenters state that there is no applicable emission limit for PRD releases that would make a pressure release a violation. One commenter states that PRD releases are specifically excluded from the process vent definition in the GMACT, and the equipment leak LDAR limit of 500 ppm that applies when a pressure release is not occurring. Similarly, another commenter states that the EPA implies that process vent standards apply to PRDs but does not provide an explanation or justification for this implication. The commenter states that the EPA has not demonstrated that emissions from PRDs were characterized or considered when the process vent standards for the subject rules were adopted. Another commenter states that since there is no applicable emission limit for PRD pressure releases, the CAA does not authorize the proposed PRD monitoring requirements. The commenter states that the CAA only allows for monitoring to demonstrate compliance with an emission limit and does not authorize monitoring for malfunctions. For PRDs in liquid service, the commenter states that there is an emission limit for PRDs during normal operation in 40 CFR 63.1029 of subpart UU, and the excess emission criterion in the malfunction definition could be met if the work practice requirements of that section were not met. The commenter states that a rulemaking is required to replace the work practice with a prohibition or emission limit, and the EPA would need to show the proper CAA authority and the required analyses for the change.

Response: The final rule language no longer states that a pressure release from a PRD is a violation, but rather that such organic HAP releases to the atmosphere are prohibited. The amendments being finalized for PRD releases do not impose new emission standards for which a MACT analysis is required by the CAA. Instead, they prohibit releases to the atmosphere from PRDs in organic HAP service that are no longer appropriate following the 2008 *Sierra Club* v. *EPA* ruling, and impose additional monitoring requirements to address potential releases. The prohibition and monitoring requirements do not apply to PRD release emissions that are captured and routed to a control device, process, fuel gas system or drain system, since such emissions are not released to the atmosphere. As stated in the preamble to the proposed rule, pressure releases from PRDs in organic HAP service occur as a result of malfunctions, and so with the removal of the SSM exemption, these releases to the atmosphere may no longer be permitted.

The commenters are correct in that there already exists an equipment leak standard for PRDs after a pressure release event, but there previously existed no provision that prevented a facility from a having such a pressure release to the atmosphere, nor was there a provision in place addressing these malfunction-related periods other than immediately after a pressure release event. The commenter is correct that there was previously no applicable emission limit in place for malfunction-caused emissions to the atmosphere from PRDs. As stated above, however, this does not allow the EPA to permit such malfunction emissions to remain unaddressed by the final rules. We also disagree with the commenter that the EPA is not authorized to monitor for emissions caused by such malfunctions, as there is nothing in the CAA that prohibits the agency from doing so. The EPA's authority under CAA section 114(a)(1) to require monitoring of emissions is not limited to the purpose of determining whether such emissions meet numeric emissions limits or work-practice standards.

Comment: Several commenters state that the EPA added the PRD requirements without regard to the CAA section 112 MACT development process and without providing the legal justification, adequate record basis or technical justification. One commenter added that they did not believe that the EPA has a legal obligation nor the discretion to promulgate the proposed PRD provisions because the PRD monitoring and reporting requirements were not derived from the technology reviews, in response to any residual risks detected, or the United States Court of Appeals for the District of Columbia Circuit's invalidation of the SSM provisions in the 40 CFR part 63 General Provisions. The commenters suggest that these revisions should be evaluated as part of the technology review, and the EPA should analyze the technical feasibility, potential emissions reductions and cost effectiveness of the revisions. Two commenters argue that the EPA provided no data to support the claim that a large number of releases occur and may emit large quantities of HAP, or to support the contention that releases are not being identified. Another commenter states that its PRD management system indicates releases from ruptured disks are not frequent and occur for a short period of time, and that the EPA's concern about venting to the atmosphere is unwarranted. Another commenter states that the EPA fails to provide any factual data to back up its assertion that HAP releases to the atmosphere from PRDs in these MACT source categories pose a significant potential environmental harm. The commenter notes that the EPA concluded there is no residual environmental risk from these MACT categories, and that PRDs play an important role in the safety and health of facility employees and surrounding communities.

Response: Under CAA section 112(d)(2), the EPA must promulgate technology-based standards that reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts), and such standards must contain compliance assurance provisions to make sure that they are practicably enforceable. Nothing in the CAA or its legislative history suggests that the EPA is prohibited from reviewing and revising MACT standards and their compliance assurance provisions, except as part of the CAA section 112(d)(6) or CAA section 112(f) reviews or an action taken in response to a ruling by a court. The amendments being finalized for PRD releases do not impose new emission standards for which a MACT analysis is required by the CAA. Instead, they prohibit previously allowed malfunction-related releases to the atmosphere from PRDs in organic HAP service that are no longer appropriate following the 2008 *Sierra Club* v. *EPA* ruling, and impose additional monitoring requirements to address potential releases.

As noted in a report prepared by the South Coast Air Quality Management District (SCAQMD), releases from PRDs occur randomly and the emissions can only be approximated. Based on their analysis of refinery PRD reports of PRD releases from nine facilities in their district, there were eight PRD releases from 2003 to 2006 that were estimated to release greater than 2,000 lbs of emissions to the atmosphere, and eight PRD releases from 2003 to 2006 that were estimated to release between 500 and 2,000 lbs of emissions to the atmosphere.[4] The SCAQMD analysis

[4] See ''Final Staff Report for Proposed Amended Rule 1173—Control of Volatile Organic Compound Leaks and Releases from Components at Petroleum Facilities and Chemical Plants.'' Planning, Rule

Continued

focuses on volatile organic compound (VOC) emissions (which would also include organic HAP emissions). Additionally, the Texas Commission on Environmental Quality Emission Event Reporting Database is populated with Emission Event Reports from both the refinery and chemical sectors where the reason for the report was due to a PRD release.[5] These final amendments simply prohibit HAP emissions to the atmosphere and require that these devices now be monitored to indicate when these releases occur and be reported, so that HAP emissions that may potentially occur from releases can be mitigated as soon as possible. Additionally, the final rule requirement to report PRD releases to the atmosphere ensures that these releases will be reported nationally and not just in some states.

An agency generally remains free to revise previously promulgated rules to correct newly identified problems, even in the absence of a remand from a court. *United Gas Improvement Co.* v. *Callery Props, Inc.,* 382 U.S. 223, 229 (1966). In light of, and consistent with, the 2008 *Sierra Club* v. *EPA* ruling, the EPA is eliminating the SSM exemption in the AMF, APR and PC MACT standards and requiring that the standards in these rules apply at all times, including during periods of SSM. In addition, in order for our treatment of malfunction-caused emission releases to the atmosphere from PRDs to conform with the reasoning of the Court's ruling, the final rule states that HAP emission releases to the atmosphere from PRDs in organic HAP service are prohibited. To prohibit these malfunction-caused releases, it is not necessary for us to set an emission standard that is based on a MACT floor or beyond-the-floor analysis; indeed, the EPA has consistently explained that we are not required to take malfunctions into account in setting standards or to devise standards that apply specifically to malfunction-caused emissions, such as PRD releases that cause HAP emissions only during malfunctions.

The final rule includes detection and pressure release management requirements that can be used by facilities to mitigate emissions during pressure release events from PRDs while allowing owners or operators flexibility based on their current equipment and operations. The final rule requires that sources monitor PRDs that release to the atmosphere using a system that is capable of identifying and recording the time and duration of each pressure release and of immediately notifying operators that a release is occurring.

4. What is the rationale for our final approach for the PRD requirements?

In the proposal, we proposed to eliminate the SSM exemption from the standards. As part of removing this exemption, we stated that under the proposed revised rule releases to the atmosphere from PRDs would constitute violations of the revised rule. However, although we proposed revised regulatory text to add PRD monitoring requirements and eliminate the SSM exemptions from the rules, we omitted a proposed regulatory provision that would have given effect to the proposed intended prohibition of such PRD releases to the atmosphere. In order to give effect to the proposed prohibition, which we are finalizing in this action, we are adding express regulatory language in the final rule revisions that clarifies our intent that pressure releases from PRDs in organic HAP service to the atmosphere are prohibited. This is a necessary additional revision to give full effect to our elimination of the general exemption for malfunctions, in light of the Court's reasoning in *Sierra Club,* and is similar to revisions that we have made in other rules in which the SSM exemption has been eliminated (see, e.g., NESHAP for Polyvinyl Chloride and Copolymers Production (77 FR 22848, April 17, 2012); and NESHAP: Group IV Polymers and Resins, Pesticide Active Ingredient Production, and Polyether Polyols Production (79 FR 17340, March 27, 2014)). This prohibition does not, however, apply to PRD releases of HAP that are captured and routed to a control device, process, fuel gas system or drain system, since in these situations there is no additional uncontrolled and unmeasured HAP emission occurring beyond that which is already subject to control or monitoring of the process unit. For additional discussion on our rationale for this approach, see section III.E.1 of this preamble.

C. Open-Ended Valves and Lines

1. What did we propose for open-ended valves and lines?

For all three source categories, we proposed to add a definition of ''seal,'' which clarified that, for the purpose of complying with the requirements of 40 CFR 63.1033(b) of subpart UU, open-ended valves and lines are ''sealed'' by the cap, blind flange, plug or second valve when there are no detectable emissions from the open-ended valve or line at or above an instrument reading of 500 ppm. See 79 FR 1715.

2. How did the definition of ''seal'' change?

For the definition of ''seal'', we have added provisions that clarify that the revised definition does not take effect until the effective date of the final rule.

3. What key comments did we receive on the definition of ''seal'', and what are our responses?

The following is a summary of the significant comments received on the proposed definition of ''seal'' and our responses to these comments. The complete list of the comments received and our responses to those comments can be found in the comment summary and response document available in the docket for this action (EPA–HQ–OAR–2012–0133).

Comment: Several commenters believe the EPA must show that imposing a new emissions limits for open-ended lines is justified according to the criteria of CAA section 112(d)(6), including the technical feasibility, potential emission reductions and cost effectiveness. One commenter adds that the proposed open-ended lines change fails to satisfy the obligation under CAA section 307(d)(3) to present a summary of the legal basis, factual data and analysis methods on which the proposal is based. Similarly, two other commenters state that the EPA failed to provide new data or rationale showing that the definition of ''seal'' is needed for compliance assurance or to relieve regulatory uncertainty, relying only on enforcement inspections referenced in the 2007 40 CFR part 60, subpart VV rulemaking in which monitoring open-ended lines was determined not to be the best demonstrated technology. Another commenter states that such a change must be supported by a CAA authorization and a record that complies with the CAA, Administrative Procedures Act (APA), Paperwork Reduction Act (PRA) and Regulatory Flexibility Act (RFA) requirements.

In contrast, another commenter states that the EPA's proposed definition for a ''seal'' is actually a new loophole that would exempt leaks from open-ended valves or lines below 500 ppm from the standards. The commenter contends this definition is another type of exemption similar to the SSM exemption the United States Court of Appeals for the District of Columbia Circuit found unlawful, and the EPA should not finalize the definition as proposed.

Response: The EPA disagrees with the commenters that we are imposing a new emissions limit for open-ended lines. As

Development and Area Sources, South Coast Air Quality Management District. May 15, 2007.

[5] See *http://www11.tceq.texas.gov/oce/eer/index.cfm.*

stated in the preamble for the proposed rule, the definition of ''seal'' was intended to clarify an existing requirement that open-ended lines be sealed with no detectable emissions (500 ppm above background). This is consistent with how OECA has interpreted the term ''seal'' during their inspections and is not, as asserted by the commenters, a new requirement. By creating a formal definition for ''seal,'' the EPA is removing any ambiguity regarding what constitutes a ''sealed'' open-ended line.

The EPA also disagrees with the commenter that adding a definition of ''seal'' creates a new loophole for open-ended lines. As discussed in the preamble to the proposed rule and elsewhere in this preamble, this revision clarifies an existing requirement that open-ended lines be sealed with no detectable emissions, which is defined to be 500 ppm.

Comment: One commenter states that by claiming that the new definition of ''seal'' is only a clarification of the current requirements, this would make the interpretation applicable retroactively. The commenter claims this would affect not only the industries addressed in the current rulemaking, but all industries subject to subpart UU and any similar open-ended lines equipment leak requirements, including 40 CFR part 60, subparts VV, VVa, GGG, GGGa, and 40 CFR part 63, subparts H and TT. This commenter and another commenter state that such a change must be made in the individual equipment leak rules and only apply prospectively.

Response: The EPA disagrees that the definition of ''seal'' proposed in the AMF, APR and PC MACT standards would affect all industries subject to subpart UU and other similar equipment leak requirements. The proposed definition of ''seal'' was clear that it only applied to facilities subject to the AMF, APR and PC MACT standards who are complying with the LDAR provisions of subpart UU. It is incorrect to assert that this would imply that any other rules referencing subpart UU (or similar LDAR provisions) would also be affected by this clarification. However, to address concerns from the commenters on retroactive compliance, we have added in the final rules that the clarification of the definition of ''seal'' does not apply until the effective date of the final rules, and therefore will not apply retroactively.

4. What is the rationale for our final approach for the definition of ''seal''?

In the proposal, we proposed a definition of ''seal'' that clarified what constituted a sealed open-ended line. However, we did not include an effective date for this revised definition. In order to address concerns about potential retroactive compliance issues, we have added language to the final definition that clarifies that the definition of ''seal'' does not take effect until the effective date of the final rule.

VIII. Summary of Cost, Environmental and Economic Impacts

A. What are the affected sources?

We anticipate that each facility in these three source categories will be affected by these final amendments. We estimate there is one existing facility subject to the AMF MACT standards, 19 existing facilities subject to the APR MACT standards and four existing facilities subject to the PC MACT standards. We do not know of any new facilities that are expected to be constructed in the foreseeable future in any of these source categories. Therefore, our impact analysis is focused on the existing sources affected by the revised MACT standards for these three source categories.

B. What are the air quality impacts?

1. AMF Source Category

For equipment leaks, we are eliminating the option of complying with 40 CFR part 63, subpart TT and requiring facilities to comply with only 40 CFR part 63, subpart UU, except for connectors in gas and vapor service and in light liquid service. We are retaining the option to comply with subpart TT or subpart UU for these components. We estimate the HAP emission reductions for the one facility in the AMF source category to be 0.2 tpy.

We are finalizing an emission rate for spinning lines that use spin dope produced from a solution polymerization process equal to the MACT floor for this facility, which will not result in any quantifiable emission reductions.

For the revisions to the MACT standards regarding SSM, including monitoring of PRDs in organic HAP service, we expect that these changes will result in fewer emissions during these periods or less frequent periods of startup, shutdown or malfunction, but these possible emission reductions are difficult to quantify and are not included in our assessment of air quality impacts.

Therefore, the total HAP emission reductions for the final standards for the AMF source category are 0.2 tpy.

2. APR Source Category

Four facilities in the APR source category have uncontrolled continuous process vents. We are finalizing standards that establish an emission limit of 0.95 kg organic HAP/Mg (1.9 lb organic HAP/ton) of resin produced, which represents the MACT floor level of control. The estimated HAP emission reductions for these four facilities are 135 tpy.

We are establishing emission standards for storage vessels at existing facilities. However, our data indicate that all storage vessels subject to the final standards are already in compliance, and no quantifiable emission reductions are expected.

For the revisions to the MACT standards regarding SSM, including monitoring of PRDs in organic HAP service, we expect that these changes will result in fewer emissions during these periods or less frequent periods of startup, shutdown or malfunction, but these possible emission reductions are difficult to quantify and are not included in our assessment of air quality impacts.

Therefore, the total HAP emission reductions for the final standards for the APR source category are 135 tpy.

3. PC Source Category

For equipment leaks, we are eliminating the option of complying with 40 CFR part 63, subpart TT and requiring facilities to comply with only 40 CFR part 63, subpart UU, except for connectors in gas and vapor service and in light liquid service. We are retaining the option to comply with subpart TT or subpart UU for these components. We estimate the HAP emission reductions for the four facilities in the PC source category to be 2.1 tpy.

For the revisions to the MACT standards regarding SSM, including installation and operation of monitors on PRDs, we expect that these changes will result in fewer emissions during these periods or less frequent periods of startup, shutdown or malfunction, but these possible emission reductions are difficult to quantify and are not included in our assessment of air quality impacts.

Therefore, the total HAP emission reductions for the final standards for the PC source category are 2.1 tpy.

C. What are the cost impacts?

Though the cost savings cannot be monetized, consistent with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' issued on January 18, 2011, the electronic reporting requirements being finalized

in this action for performance test reports are expected to reduce the burden for the AMF, APR and PC facilities in the future by cutting back on the recordkeeping costs and the costs that would be associated with fewer or less-substantial data collection requests (due to performance test information being readily available on the EPA's WebFIRE database). Although the use of electric reporting may reduce the recordkeeping and reporting burden for facilities in the future, facilities will still incur annualized costs, on net, due to these final amendments.

1. AMF Source Category

For equipment leaks, we are eliminating the option of complying with 40 CFR part 63, subpart TT and requiring facilities to comply with only 40 CFR part 63, subpart UU, except for connectors in gas and vapor service and in light liquid service. We are retaining the option to comply with subpart TT or subpart UU for these components. We estimate the capital costs for the one facility in the AMF source category to be $1,400 and the annualized costs to be $220.

We are finalizing an emission rate for spinning lines that use spin dope produced from a solution polymerization process equal to the MACT floor for this facility. Thus, we do not expect any quantifiable capital or annual costs for the final standard.

For the requirement to install and operate monitors on PRDs, we estimate the capital costs to be $37,000 and the annualized costs to be $5,300.

Therefore, the total capital costs for the AMF source category are approximately $38,000, and the total annualized costs are approximately $6,000.

2. APR Source Category

Four facilities in the APR source category have uncontrolled continuous process vents. We are finalizing standards that establish an emission limit of 0.95 kg organic HAP/Mg (1.9 lb organic HAP/ton) of resin produced for continuous process vents. The estimated capital costs for these four facilities are $3.6 million and the annualized costs are $860,000.

We are establishing emission standards for storage vessels at existing facilities. However, our data indicate that all storage vessels subject to the final standards are already in compliance, and no capital or annual costs are expected.

For the requirement to install and operate monitors on PRDs, we estimate the capital costs to be $400,000 and the annualized costs to be $60,000.

Therefore, the total capital costs for the APR source category are approximately $4.0 million, and the total annualized costs are approximately $920,000.

3. PC Source Category

For equipment leaks, we are eliminating the option of complying with 40 CFR part 63, subpart TT and requiring facilities to comply with only 40 CFR part 63, subpart UU, except for connectors in gas and vapor service and in light liquid service. We are retaining the option to comply with subpart TT or subpart UU for these components. We estimated the capital costs to be $16,000 and the annualized costs to be $2,200.

For the requirement to install and operate monitors on PRDs, we estimate the capital costs to be $51,000 and the annualized costs to be $7,200.

Therefore, the total capital costs for the PC source category are approximately $67,000, and the total annualized costs are approximately $9,400.

D. What are the economic impacts?

We estimate that there will be no more than a 0.5 percent price change and a similar reduction in output associated with the final amendments. This is based on the costs of the rules and responsiveness of producers and consumers based on supply and demand elasticities for the industries affected by this final rule. The impacts to affected firms will be low because the annual compliance costs are quite small when compared to the annual revenues for the affected parent firms (much less than 1 percent for each). The impacts to affected consumers should also be quite small. Thus, there will not be any significant impacts on affected firms and their consumers as a result of this final rule.

E. What are the benefits?

Because this rulemaking is not likely to have an annual effect on the economy of $100 million or more, we have not conducted a regulatory impact analysis or a benefits analysis. However, the estimated reductions in HAP emissions that will be achieved by this final rule will provide benefits to public health. The final standards will result in significant reductions in the actual and allowable emissions of HAP and will reduce the actual and potential cancer risks and non-cancer health effects due to emissions of HAP from these source categories. Regarding SSM and PRDs, these changes will result in fewer emissions during SSM periods and PRD releases or less frequent SSM periods or PRD releases. However, the emission reductions, while tangible, are difficult to quantify and are not included in our assessment of health benefits. We have not quantified the monetary benefits associated with these reductions.

F. What demographic groups might benefit from this regulation?

1. AMF Source Category

To examine the potential for any environmental justice (EJ) issues that might be associated with the AMF source category, we performed a demographic analysis of the population close to the one AMF facility. In this analysis, we evaluated the distribution of HAP-related cancer and non-cancer risks from the AMF source category across different social, demographic and economic groups within the populations living near facilities identified as having the highest risks. The results of the risk assessment for the AMF source category have not changed since proposal, and we did not conduct a new demographics analysis. Therefore the results of our original demographics analysis have not changed since proposal. The full results of the demographic analysis are summarized in the preamble to the proposed rule (79 FR 1699), and the methodology and the results of the demographic analyses are included in a technical report, *Analysis of Socio-Economic Factors for Populations Living Near Acrylic and Modacrylic Fiber Facilities,* available in the docket for this action.

2. APR Source Category

To gain a better understanding of the source categories and near-source populations, prior to proposal, the EPA conducted a proximity analysis of the facilities in the APR source category to identify any overrepresentation of minority, low income or indigenous populations. As part of the risk modeling effort conducted after proposal to include the additional APR facility, to examine the potential for any EJ issues that might be associated with the APR source category, we performed a demographic analysis of the population close to the 19 APR facilities. In this analysis, we evaluated the distribution of HAP-related cancer and non-cancer risks from the APR source category across different social, demographic and economic groups within the populations living near facilities identified as having the highest risks. The methodology and the results of the demographic analyses are included in a technical report, *Analysis of Socio-Economic Factors for Populations Living Near Polymers and Resins III Facilities,* available in the

docket for this action. The results of the demographic analysis are summarized in Table 4 below. These results, for various demographic groups, are based on the estimated risks from actual emissions levels for the population living within 50 km of the facilities.

TABLE 4—APR DEMOGRAPHIC RISK ANALYSIS RESULTS

	Nationwide	Population with cancer risk at or above 1-in-1 million	Population with chronic hazard index above 1
Total Population	312,861,256	14,857	0
Race by Percent			
White	72%	23%	0%
All Other Races	28%	77%	0%
Race by Percent			
White	72%	23%	0%
African American	13%	71%	0%
Native American	1.1%	1.7%	0%
Other and Multiracial	14%	4%	0%
Ethnicity by Percent			
Hispanic	17%	3%	0%
Non-Hispanic	83%	97%	0%
Income by Percent			
Below Poverty Level	14%	27%	0%
Above Poverty Level	86%	73%	0%
Education by Percent			
Over 25 and without High School Diploma	15%	21%	0%
Over 25 and with a High School Diploma	85%	79%	0%

The results of the APR source category demographic analysis indicate that emissions from the APR source category expose approximately 15,000 people to a cancer risk at or above 1-in-1 million and zero people to a chronic non-cancer TOSHI greater than 1. The specific demographic results indicate that the percentage of the population potentially impacted by APR emissions is significantly greater than its corresponding national percentage for the minority population (77 percent for the source category compared to 28 percent nationwide) and for the African American population (71 percent for the source category compared to 13 percent nationwide). Furthermore, the population below the poverty level that is potentially impacted by APR emissions is twice its corresponding national percentage (27 percent for the source category compared to 14 percent nationwide). Other demographic groups with source category percentages greater than the corresponding national percentage include the population over 25 without a high school diploma (21 percent compared to 15 percent), the Native American population (1.7 percent compared to 1.1 percent), and the population younger than 18 years old (27 percent compared to 24 percent). All other demographic categories potentially impacted by APR emissions are less than or equal to the corresponding national percentage. However, as noted previously, risks from this source category were found to be acceptable for all populations. Additionally, the final changes to the APR MACT standards increase the level of environmental protection for all affected populations by reducing emissions from continuous process vents, reducing emissions during periods of SSM and having less frequent releases of organic HAP to the atmosphere from PRDs.

3. PC Source Category

To determine whether or not to conduct a demographics analysis, we look at a combination of factors including the MIR, non-cancer TOSHI, population around the facilities in the source category, and other relevant factors. For the PC source category, our analyses showed that actual emissions from the PC source category result in no individuals being exposed to cancer risk greater than 1-in-1 million or a noncancer TOSHI greater than 1. Therefore, we did not conduct an assessment of risks to individual demographic groups for this rulemaking. However, we did conduct a proximity analysis, which identifies any overrepresentation of minority, low income or indigenous populations near facilities in the source category. The results of the risk assessment for the PC source category have not changed since proposal and we did not conduct a new proximity analysis. The results of this analysis are presented in the section of this preamble entitled ''Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.''

IX. Statutory and Executive Order Reviews

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

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735,

October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

The information collection requirements in the final rule have been submitted for approval to OMB under the PRA, 44 U.S.C. 3501, *et seq.* The information collection requirements are not enforceable until OMB approves them. The information requirements in this rulemaking are based on the notification, recordkeeping and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to agency policies set forth in 40 CFR part 2, subpart B.

The OMB previously approved the information collection requirements contained in the existing regulations being amended with this final rule (i.e., 40 CFR part 63, subparts YY and OOO) under the provisions of the PRA, 44 U.S.C. 3501, *et seq.* The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. Burden is defined at 5 CFR 1320.3(b).

1. Acrylic and Modacrylic Fibers Production

The information collection request (ICR) document prepared by the EPA for the amendments to the AMF MACT standards we are promulgating today has been assigned EPA ICR number 1871.08. Burden changes associated with these final amendments result from new recordkeeping and reporting requirements associated with requirements for spinning lines that use spin dope produced from a solution polymerization process and the PRD monitoring requirements for all facilities subject to the AMF MACT standards.

We estimate one regulated facility is currently subject to the AMF requirements in 40 CFR part 63, subpart YY. The annual monitoring, reporting and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) for these amendments to subpart YY is estimated to be 82 labor hours at a cost of $4,500 per year. There is no estimated change in annual burden to the federal government for these amendments.

2. Amino/Phenolic Resins Production

The ICR document prepared by the EPA for the amendments to the APR MACT standards we are promulgating today has been assigned EPA ICR number 1869.09. Burden changes associated with these final amendments result from new recordkeeping and reporting requirements associated with the PRD monitoring requirements for all facilities subject to the APR MACT standards. In addition, we estimate that 3 regulated facilities will be subject to recordkeeping, reporting and monitoring requirements associated with the new requirements that apply to continuous process vents at existing APR facilities.

We estimate 19 regulated facilities are currently subject to 40 CFR part 63, subpart OOO. The annual monitoring, reporting and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) for these amendments to subpart OOO is estimated to be 1,243 labor hours at a cost of $69,500 per year. There is no estimated change in annual burden to the federal government for these amendments.

3. Polycarbonate Production

The ICR document prepared by the EPA for the amendments to the PC MACT standards we are promulgating today has been assigned EPA ICR number 1871.08. Burden changes associated with these final amendments result from new recordkeeping and reporting requirements associated with the PRD monitoring requirements for all facilities subject to the MACT standards.

We estimate four regulated facilities are currently subject to the PC requirements in 40 CFR part 63, subpart YY. The annual monitoring, reporting and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) for these amendments to subpart YY is estimated to be 216 labor hours at a cost of $12,000 per year. There is no estimated change in annual burden to the federal government for these amendments.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When these ICR are approved by OMB, the agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control numbers for the approved information collection requirements contained in this final rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the RFA or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impacts of this final rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. According to the SBA small business standards definitions, for the APR source category, which has the NAICS code of 325211 (i.e., Plastics Material and Resin Manufacturing), the SBA small business size standard is 750 employees. For the PC source category, which has the NAICS code of 325211 (i.e., Plastics Material and Resin Manufacturing), the SBA small business size standard is 750 employees. For the AMF source category, which has the NAICS code of 325222 (i.e., Noncellulosic Organic Fiber Manufacturing), the SBA small business size standard is 1,000 employees.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. There are no affected small businesses in the APR, AMF and PC source categories. All of the companies affected by this rule are generally large integrated corporations that are not considered to be small entities per the definitions provided in this section.

Although this final rule will not have a significant economic impact on a substantial number of small entities, the EPA nonetheless has tried to reduce the impact of this rule on small entities that could potentially be impacted by this rule in the future. The final requirements for PRD monitoring provide facilities with greater flexibility based on their current equipment and operations.

D. Unfunded Mandates Reform Act

This rule does not contain a federal mandate that may result in expenditures of $100 million or more for state, local or tribal governments, in the aggregate, or the private sector in any one year. The total annualized cost of this rule is estimated to be no more than $1,050,000 in any one year. Thus, this rule is not subject to the requirements of sections 202 or 205 of the Unfunded Mandates Reform Act (UMRA).

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The rule contains no requirements that apply to such governments nor does it impose obligations upon them.

E. Executive Order 13132: Federalism

This final rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. None of the affected facilities are owned or operated by state governments, and the requirements discussed in this document will not supersede state regulations that are more stringent. Thus, Executive Order 13132 does not apply to this action.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It will not have substantial direct effect on tribal governments, on the relationship between the federal government and Indian tribes or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action. Although Executive Order 13175 does not apply to this action, the EPA solicited comments on this action from tribal officials, but received none.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action increases the level of environmental protection for all affected populations and would not cause increases in emissions or emissions-related health risks. The EPA's risk assessments (included in the docket for this final rule) demonstrate that the existing regulations are associated with an acceptable level of risk and provide an ample margin of safety to protect public health and prevent adverse environmental effects.

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

This action is not subject to Executive Order 13211, (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable VCS.

This action does not involve new technical standards. Therefore, the EPA did not consider the use of any VCS.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority, low income or indigenous populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low income or indigenous populations. The EPA has determined that the current health risks posed by emissions from these source categories are acceptable and provide an ample margin of safety to protect public health and prevent adverse environmental effects.

To gain a better understanding of the source categories and near source populations, the EPA conducted a proximity analysis of the facilities in the AMF, APR and PC source categories to identify any overrepresentation of minority, low income or indigenous populations. This analysis only gives some indication of the prevalence of sub-populations that may be exposed to air pollution from the sources; it does not identify the demographic characteristics of the most highly affected individuals or communities, nor does it quantify the level of risk faced by those individuals or communities. The complete proximity analysis results and the details concerning their development are presented in the memorandum titled, *Environmental Justice Review: Amino/Phenolic Resins, Acrylic and Modacrylic Fibers Production, and Polycarbonate Production,* available in the docket for this action. For the AMF and APR source categories, we also performed demographic analyses of the populations close to AMF and APR facilities. In these analyses, we evaluated the distribution of HAP-related cancer and non-cancer risks from the AMF and APR source categories across different social, demographic and economic groups within the populations living near facilities identified as having the highest risks. The complete demographic analyses results and the details concerning their development are presented in the technical reports titled, *Analysis of Socio-Economic Factors for Populations Living Near Acrylic and Modacrylic Fiber Facilities* and *Analysis of Socio-Economic Factors for Populations Living Near Polymers and Resins III Facilities,* available in the docket for this action.

K. Congressional Review Act

The Congressional Review Act, U.S.C. 801, *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides

that, before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this final rule and other required information to the United States Senate, the United States House of Representatives and the Comptroller General of the United States prior to publication of the final rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). The final rule will be effective on October 8, 2014.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 16, 2014.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency (EPA) is amending Title 40, chapter I, of the Code of Federal Regulations (CFR) as follows:

PART 63–NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart YY—National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards

■ 2. Section 63.1100 is amended by revising the last sentence of paragraph (d) introductory text to read as follows:

§ 63.1100 Applicability.

* * * * *

(d) * * * Paragraphs (d)(3), (4), and (5) of this section discuss compliance for those process units operated as flexible operation units.

* * * * *

■ 3. Section 63.1101 is amended by adding in alphabetical order the terms ''Pressure release'' and ''Pressure relief device or valve'' to read as follows:

§ 63.1101 Definitions.

* * * * *

Pressure release means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device. This release can be one release or a series of releases over a short time period.

Pressure relief device or valve means a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment. A common pressure relief device is a spring-loaded pressure relief valve. Devices that are actuated either by a pressure of less than or equal to 2.5 pounds per square inch gauge or by a vacuum are not pressure relief devices.

* * * * *

■ 4. Section 63.1102 is amended by revising the first sentence of paragraph (a) introductory text and adding paragraph (b) to read as follows:

§ 63.1102 Compliance schedule.

(a) * * * Affected sources, as defined in § 63.1103(a)(1)(i) for acetyl resins production, § 63.1103(b)(1)(i) for acrylic and modacrylic fiber production, § 63.1103(c)(1)(i) for hydrogen fluoride production, § 63.1103(d)(1)(i) for polycarbonate production, § 63.1103(e)(1)(i) for ethylene production, § 63.1103(f)(1)(i) for carbon black production, § 63.1103(g)(1)(i) for cyanide chemicals manufacturing, or § 63.1103(h)(1)(i) for spandex production shall comply with the appropriate provisions of this subpart and the subparts referenced by this subpart according to the schedule in paragraphs (a)(1) or (2) of this section, as appropriate, except as provided in paragraph (b) of this section. * * *

* * * * *

(b) All acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources that commenced construction or reconstruction on or before January 9, 2014, shall be in compliance with the pressure relief device monitoring requirements of § 63.1107(e)(3) upon initial startup or October 9, 2017, whichever is later, and the equipment leaks requirements of 40 CFR part 63, subpart UU upon initial startup or October 8, 2015, whichever is later. New acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources that commence construction or reconstruction after January 9, 2014, shall be in compliance with the pressure relief device monitoring requirements of § 63.1107(e)(3) upon initial startup or by October 8, 2014, whichever is later.

* * * * *

■ 5. Section 63.1103 is amended by:

■ a. Revising paragraph (b)(1)(ii);

■ b. In paragraph (b)(2), adding in alphabetical order the terms ''In organic hazardous air pollutant or in organic HAP service'' and ''Seal'';

■ c. In paragraph (b)(3)(i), in Table 2, revising entries 1, 2, 3, 4, 5, 6, and 7 and adding entry 11;

■ d. Revising the second sentence of paragraph (b)(3)(ii);

■ e. In paragraph (b)(3)(ii), revising Table 3;

■ f. Revising paragraph (b)(5);

■ g. Revising paragraph (d)(1)(ii);

■ h. In paragraph (d)(2), adding in alphabetical order the terms ''In organic hazardous air pollutant or in organic HAP service'' and ''Seal''; and

■ i. In paragraph (d)(3), in Table 5, revising entries 4, 5, 6, 7, 8, and 9, and adding entries 10 and 11, and in Table 6, revising entries 4 and 5 and adding entries 6 and 7.

The revisions and additions read as follows:

§ 63.1103 Source category-specific applicability, definitions, and requirements.

* * * * *

(b) * * *

(1) * * *

(ii) *Compliance schedule.* The compliance schedule, for affected sources as defined in paragraph (b)(1)(i) of this section, is specified in § 63.1102.

(2) *Definitions.*

* * * * *

In organic hazardous air pollutant or in organic HAP service means, for acrylic and modacrylic fiber production affected sources, that a piece of equipment either contains or contracts a fluid (liquid or gas) that is at least 10 percent by weight of total organic HAP as determined according to the provisions of § 63.180(d). The provisions of § 63.180(d) also specify how to determine that a piece of equipment is not in organic HAP service.

* * * * *

Seal means, for acrylic and modacrylic fiber production affected sources complying with the requirements of § 63.1033(b) or § 63.167(a) on or after October 8, 2014, that instrument monitoring of the open-ended valve or line conducted according to the method specified in § 63.1023(b) and, as applicable, § 63.1023(c), or § 63.180(b) and, as applicable, § 63.180(c), indicates no readings of 500 parts per million or greater.

* * * * *

(3) * * *

(i) * * *

TABLE 2 TO § 63.1103(b)(3)(i)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACRYLIC AND MODACRYLIC FIBER PRODUCTION EXISTING OR NEW AFFECTED SOURCE AND AM COMPLYING WITH PARAGRAPH (b)(3)(i) OF THIS SECTION?

If you own or operate . . .	And if . . .	Then you must . . .
1. A storage vessel	The stored material contains organic HAP.	a. Reduce emissions of organic HAP by 98 weight-percent by venting emissions through a closed vent system to any combination of control device meeting the requirements of subpart SS of this part, as specified in § 63.982(a)(1) (storage vessel requirements), or 95 weight-percent or greater by venting through a closed vent system to a recovery device meeting the requirements of subpart SS, § 63.993 (recovery device requirements); or b. Comply with the requirements of subpart WW of this part.
2. A process vent from continuous unit operations (halogenated).	The vent steam has a mass emission rate of halogen atoms contained in organic compounds ≥0.45 kilograms per hour,[a] and an organic HAP concentration ≥50 parts per million by volume[b] and an average flow rate ≥0.005 cubic meters per minute.	a. Reduce emissions of organic HAP or TOC as specified for non-halogenated process vents from continuous unit operations (other than by using a flare) by venting emissions through a closed vent system to a halogen reduction device meeting the requirements of subpart SS of this part, § 63.994 (halogen reduction devices requirements) that reduces hydrogen halides and halogens by 99 weight-percent or to less than 0.45 kilograms per year, whichever is less stringent; or b. Reduce the process vent halogen atom mass emission rate to less than 0.45 kilograms per hour by venting emissions through a closed vent system to a halogen reduction device meeting the requirements of subpart SS of this part, § 63.994 (halogen reduction devices requirements) and then complying with the requirements specified for process vents from continuous unit operations (non-halogenated).
3. A process vent from continuous unit operations (nonhalogenated).	The vent steam has a mass emission rate of halogen atoms contained in organic compounds <0.45 kilograms per hour,[a] and an organic HAP concentration ≥50 parts per million by volume[b] and an average flow rate ≥0.005 cubic meters per minute.	a. Reduce emissions of organic HAP by using a flare meeting the requirements of subpart SS of this part, § 63.987 (flare requirements); or b. Reduce emissions of organic HAP by 98 weight-percent, or reduce TOC to a concentration of 20 parts per million by volume, whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS of this part, as specified in § 63.982(a)(2) (process vent requirements).
4. A fiber spinning line that is a new or reconstructed source.	The lines use a spin dope produced from either a suspension polymerization process or solution polymerization process.	a. Reduce organic HAP emissions by 85 weight-percent or more. (For example, you may enclose the spinning and washing areas of the spinning line (as specified in paragraph (b)(4) of this section) and vent through a closed vent system and use any combination of control devices meeting the requirements of subpart SS of this part, as specified in § 63.982(a).); or b. Reduce organic HAP emissions from the spinning line to less than or equal to 0.25 kilograms of organic HAP per megagram (0.5 pounds of organic HAP per ton) of acrylic and modacrylic fiber produced; or c. Reduce the organic HAP concentration of the spin dope to less than 100 ppmw.
5. A fiber spinning line that is an existing source.	The spinning line uses a spin dope produced from a solution polymerization process.	Reduce organic HAP emissions from the spinning line to less than or equal to 20 kilograms of organic HAP per megagram (40 pounds of organic HAP per ton) of acrylic and modacrylic fiber produced.
6. A fiber spinning line that is an existing source.	The spinning line uses a spin dope produced from a suspension polymerization process.	a. Reduce the organic HAP concentration of the spin dope to less than 100 ppmw;[b] or b. Reduce organic HAP emissions from the spinning line to less than or equal to 0.25 kilograms of organic HAP per megagram of acrylic and modacrylic fiber produced.
7. Equipment as defined under § 63.1101 (with the differences for pressure relief devices described in item 11 below).	It contains or contacts ≥10 weight-percent organic HAP,[c] and operates ≥300 hours per year.	a. Comply with either § 63.1008 or § 63.1027 for connectors in gas and vapor service and in light liquid service, and comply with the requirements of subpart UU of this part, except § 63.1030, for all other applicable equipment; or b. Comply with the requirements in subpart H of this part, except § 63.165, as provided by the regulatory overlap provisions in § 63.1100(g)(4)(ii).
* *	* *	* * *
11. Pressure relief devices	The pressure relief device is in organic HAP service.	Comply with § 63.1107(e).

* * * * *

(ii) * * * The owner or operator must determine the facility organic HAP emission rate using the procedures specified in paragraph (b)(5) of this section. * * *

TABLE 3 TO § 63.1103(b)(3)(ii)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE AN ACRYLIC AND MODACRYLIC FIBER PRODUCTION EXISTING OR NEW AFFECTED SOURCE AND AM COMPLYING WITH PARAGRAPH (b)(3)(ii) OF THIS SECTION?

If you own or operate . . .	Then you must control total organic HAP emissions from the affected source by . . .
1. An acrylic and modacrylic fibers production affected source and your facility is an existing source.	Meeting all of following requirements: a. Reduce total organic HAP emissions from all affected storage vessels, process vents, wastewater streams associated with the acrylic and modacrylic fibers production process unit as defined in paragraph (b)(2) of this section, and fiber spinning lines operated in your acrylic and modacrylic fibers production facility to less than or equal to 0.5 kilograms (kg) of organic HAP per megagram (Mg) of fiber produced. b. Determine the facility organic HAP emission rate in accordance with the requirements specified in paragraph (b)(5) of this section.
2. An acrylic and modacrylic fibers production affected source and your facility is a new source.	Meeting all of following requirements: a. Reduce total organic HAP emissions from all affected storage vessels, process vents, wastewater streams associated with the acrylic and modacrylic fibers production process unit as defined in paragraph (b)(2) of this section, and fiber spinning lines operated in your acrylic and modacrylic fibers production facility to less than or equal to 0.25 kilograms (kg) of organic HAP per megagram (Mg) of fiber produced. b. Determine the facility organic HAP emission rate in accordance with the requirements specified in paragraph (b)(5) of this section.
3. Equipment as defined under § 63.1101 and it contains or contacts > 10 weight-percent organic HAP,[a] and operates > 300 hours per year (with the differences for pressure relief devices described in item 4 below).	a. Comply with either § 63.1008 or § 63.1027 for connectors in gas and vapor service and in light liquid service, and comply with subpart UU of this part, except § 63.1030, for all other applicable equipment; or b. Comply with the requirements in subpart H of this part, except § 63.165, as provided by the regulatory overlap provisions in § 63.1100(g)(4)(ii).
4. A pressure relief device in organic HAP service.	Complying with § 63.1107(e).

* * * * *

(5) *Facility organic HAP emission rate determination.* For an owner or operator electing to comply with paragraph (b)(3)(ii) of this section, the facility organic HAP emission rate must be determined using the requirements specified in paragraphs (b)(5)(i) through (iii) of this section.

(i) The owner or operator must prepare an initial determination of the facility organic HAP emission rate.

(ii) Whenever changes to the acrylic or modacrylic fiber production operations at the facility could potentially cause the facility organic HAP emission rate to exceed the applicable limit of kilogram of organic HAP per Megagram of fiber produced, the owner or operator must prepare a new determination of the facility organic HAP emission rate.

(iii) For each determination, the owner or operator must prepare and maintain at the facility site sufficient process data, emissions data, and any other documentation necessary to support the facility organic HAP emission rate calculation.

* * * * *

(d) * * *

(1) * * *

(ii) *Compliance schedule.* The compliance schedule, for affected sources as defined in paragraph (d)(1)(i) of this section, is specified in § 63.1102.

(2) *Definitions.*

In organic hazardous air pollutant or in organic HAP service means, for polycarbonate production affected sources, that a piece of equipment either contains or contracts a fluid (liquid or gas) that is at least 5 percent by weight of total organic HAP as determined according to the provisions of § 63.180(d). The provisions of § 63.180(d) also specify how to determine that a piece of equipment is not in organic HAP service.

* * * * *

Seal means, for polycarbonate production affected sources complying with the requirements of § 63.1033(b) or § 63.167(a) or after October 8, 2014, that instrument monitoring of the open-ended valve or line conducted according to the method specified in § 63.1023(b) and, as applicable, § 63.1023(c), or § 63.180(b) and, as applicable, § 63.180(c), indicates no readings of 500 parts per million or greater.

(3) * * *

TABLE 5 TO § 63.1103(d)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION EXISTING AFFECTED SOURCE?

If you own or operate . . .	And if . . .	Then you must . . .
*	*	*
4. A process vent from continuous unit operations or a combined vent stream[a] (halogenated).	The vent stream has a TRE[bc] ≤ 2.7.	a. Reduce emissions of total organic HAP by 98 weight-percent, or reduce total organic HAP to a concentration of 20 parts per million by volume, whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS of this part, as specified in § 63.982(c)(2) and (e); and then vent emissions from those control device(s) through a closed vent system to a halogen reduction device meeting the requirements of subpart SS, § 63.994, that reduces hydrogen halides and halogens by 99 weight-percent or to less than 0.45 kilograms per hour,[d] whichever is less stringent; or

TABLE 5 TO § 63.1103(d)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION EXISTING AFFECTED SOURCE?—Continued

If you own or operate . . .	And if . . .	Then you must . . .
		b. Reduce the process vent halogen atom mass emission rate to less than 0.45 kilograms per hour by venting emissions through a closed vent system to a halogen reduction device meeting the requirements of subpart SS of this part, § 63.994; and then vent emissions from those control device(s) through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(c)(2) and (e), that reduces emissions of total organic HAP by 98 weight-percent, or reduce total organic HAP or TOC to a concentration of 20 parts per million by volume, whichever is less stringent; or c. Achieve and maintain a TRE index value greater than 2.7.
5. A process vent from continuous unit operations or a combined vent stream [a] (nonhalogenated).	The vent stream has a TRE [b c] ≤ 2.7.	a. Reduce emissions of total organic HAP by 98 weight-percent; or reduce total organic HAP to a concentration of 20 parts per million by volume; whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS of this part, as specified in § 63.982(a)(2) (process vent requirements); or b. Achieve and maintain a TRE index value greater than 2.7.
6. A process vent from continuous unit operations or a combined vent stream [a].	2.7 < TRE [b c] ≤ 4.0	Monitor and keep records of equipment operating parameters specified to be monitored under subpart SS of this part, §§ 63.982(e) and 63.993(c) (absorbers, condensers, carbon adsorbers and other recovery devices used as final recovery devices).
7. Equipment as defined under § 63.1101 (with the differences for pressure relief devices described in item 11 below).	The equipment contains or contacts ≥5 weight-percent total organic HAP, [e] and operates ≥300 hours per year.	a. Comply with either § 63.1008 or § 63.1027 for connectors in gas and vapor service and in light liquid service, and comply with the requirements of subpart UU of this part, except § 63.1030, for all other applicable equipment; or b. Comply with the requirements in subpart H of this part, except § 63.165, as provided by the regulatory overlap provisions in § 63.1100(g)(4)(ii).
8. A polycarbonate production process unit that generates process wastewater.	The process wastewater stream is a Group 1 or a Group 2 wastewater stream.	Comply with the requirements of § 63.1106(a).
9. A polycarbonate production process unit that generates maintenance wastewater.	The maintenance wastewater contains organic HAP.	Comply with the requirements of § 63.1106(b).
10. An item of equipment listed in § 63.1106(c)(1).	The item of equipment meets the criteria specified in § 63.1106(c)(1) through (3) and either (c)(4)(i) or (ii).	Comply with the requirements in Table 35 of subpart G of this part.
11. Pressure relief devices	The pressure relief device is in organic HAP service.	Comply with § 63.1107(e).

* * * * *

TABLE 6 TO § 63.1103(d)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION NEW AFFECTED SOURCE?

If you own or operate . . .	And if . . .	Then you must . . .
* *	* *	* * *
4. A process vent from continuous unit operations or a combined vent stream [a] (halogenated).	The vent stream has a TRE [b c] ≤ 9.6.	a. Reduce emissions of total organic HAP by 98 weight-percent, or reduce total organic HAP to a concentration of 20 parts per million by volume, whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS of this part, as specified in § 63.982(c)(2) and (e); and then vent emissions from those control device(s) through a closed vent system to a halogen reduction device meeting the requirements of subpart SS, § 63.994, that reduces hydrogen halides and halogens by 99 weight-percent or to less than 0.45 kilograms per hour, [d] whichever is less stringent; or

TABLE 6 TO § 63.1103(d)—WHAT ARE MY REQUIREMENTS IF I OWN OR OPERATE A POLYCARBONATE PRODUCTION NEW AFFECTED SOURCE?—Continued

If you own or operate . . .	And if . . .	Then you must . . .
		b. Reduce the process vent halogen atom mass emission rate to less than 0.45 kilograms per hour by venting emissions through a closed vent system to a halogen reduction device meeting the requirements of subpart SS of this part, § 63.994; and then vent emissions from those control device(s) through a closed vent system to any combination of control devices meeting the requirements of subpart SS, as specified in § 63.982(c)(2) and (e), that reduces emissions of total organic HAP by 98 weight-percent, or reduce total organic HAP or TOC to a concentration of 20 parts per million by volume, whichever is less stringent; or
		c. Achieve and maintain a TRE index value greater than 9.6.
5. A process vent from continuous unit operations or a combined vent stream [a] (nonhalogenated).	The vent stream has a TRE [b c] ≤ 9.6.	a. Reduce emissions of total organic HAP by 98 weight-percent; or reduce total organic HAP to a concentration of 20 parts per million by volume; whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS of this part, as specified in § 63.982(a)(2) (process vent requirements); or
		b. Achieve and maintain a TRE index value greater than 9.6.
6. Equipment as defined under § 63.1101 (with the differences for pressure relief devices described in item 6 below).	The equipment contains or contacts ≥5 weight-percent total organic HAP [e], and operates ≥300 hours per year.	a. Comply with either § 63.1008 or § 63.1027 for connectors in gas and vapor service and in light liquid service, and comply with the requirements of subpart UU of this part, except § 63.1030, for all other applicable equipment; or
		b. Comply with the requirements in subpart H of this part, except § 63.165, as provided by the regulatory overlap provisions in § 63.1100(g)(4)(ii).
7. Pressure relief devices	The pressure relief device is in organic HAP service.	Comply with § 63.1107(e).

* * * * *

■ 6. Section 63.1104 is amended by revising paragraph (c) to read as follows:

§ 63.1104 Process vents from continuous unit operations: applicability assessment procedures and methods.

* * * * *

(c) *Applicability assessment requirement.* The TOC or organic HAP concentrations, process vent volumetric flow rates, process vent heating values, process vent TOC or organic HAP emission rates, halogenated process vent determinations, process vent TRE index values, and engineering assessments for process vent control applicability assessment requirements are to be determined during maximum representative operating conditions for the process, except as provided in paragraph (d) of this section, or unless the Administrator specifies or approves alternate operating conditions. For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, operations during periods of malfunction shall not constitute representative conditions for the purpose of an applicability test. For all other affected sources, operations during periods of startup, shutdown, and malfunction shall not constitute representative conditions for the purpose of an applicability test.

* * * * *

■ 7. Section 63.1106 is amended by revising paragraphs (a)(11) and (12), the first sentence of (a)(13) introductory text, and (c)(6) to read as follows:

§ 63.1106 Wastewater provisions.

* * * * *

(a) * * *

(11) Where § 63.152(b) and/or the Notification of Compliance Status is referred to in §§ 63.132 through 63.148, the Notification of Compliance Status requirements contained in § 63.1110(a)(4) shall apply, for purposes of this subpart.

(12) Where § 63.152(c) and/or the Periodic Report requirements are referred to §§ 63.132 through 63.148, the Periodic Report requirements contained in § 63.1110(a)(5) shall apply, for purposes of this subpart.

(13) When Method 18 of Appendix A to part 60 of this chapter is specified in § 63.139(c)(1)(ii), § 63.145(d)(4), or § 63.145(i)(2), either Method 18 or Method 25A may be used. * * *

* * * * *

(c) * * *

(6) When Table 35 of subpart G of this part refers to 40 CFR 63.119(e)(1) or (e)(2) in the requirements for tanks, the owner or operator shall reduce emissions of total organic HAP by 95 weight-percent by venting emissions through a closed vent system to any combination of control devices meeting the requirements in § 63.982(a)(1), for the purposes of this subpart.

* * * * *

■ 8. Section 63.1107 is amended by revising the section heading and adding paragraphs (e), (f), and (g) to read as follows:

§ 63.1107 Equipment leaks.

* * * * *

(e) *Requirements for pressure relief devices.* For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, except as specified in paragraph (e)(4) of this section, the owner or operator must comply with the requirements specified in paragraphs (e)(1) and (2) of this section for pressure relief devices in organic HAP gas or vapor service. Except as specified in paragraph (e)(4) of this section, the owner or operator of an acrylic and modacrylic fiber production affected source or polycarbonate production affected source must also comply with the requirements specified in paragraph (e)(3) of this section for all pressure relief devices in organic HAP service.

(1) *Operating requirements.* Except during a pressure release event, operate each pressure relief device in organic HAP gas or vapor service with an instrument reading of less than 500 ppm above background as described in Method 21 of 40 CFR part 60, Appendix A.

(2) *Pressure release requirements.* For pressure relief devices in organic HAP gas or vapor service, the owner or operator must comply with either paragraph (e)(2)(i) or (ii) of this section following a pressure release, as applicable.

(i) If the pressure relief device does not consist of or include a rupture disk, conduct instrument monitoring, as described in Method 21 of 40 CFR part 60, Appendix A, no later than 5 calendar days after the pressure relief device returns to organic HAP service following a pressure release to verify that the pressure relief device is operating with an instrument reading of less than 500 ppm above background, except as provided in § 63.171 or § 63.1024(d), as applicable.

(ii) If the pressure relief device consists of or includes a rupture disk, install a replacement disk as soon as practicable after a pressure release, but no later than 5 calendar days after the pressure release, except as provided in § 63.171 or § 63.1024(d), as applicable.

(3) *Pressure release management.* Except as specified in paragraph (e)(4) of this section, emissions of organic HAP to the atmosphere from pressure relief devices in organic HAP service are prohibited, and the owner or operator must comply with the requirements specified in paragraphs (e)(3)(i) and (ii) of this section for all pressure relief devices in organic HAP service.

(i) The owner or operator must equip each pressure relief device in organic HAP service with a device(s) or parameter monitoring system that is capable of:

(A) Identifying the pressure release;

(B) Recording the time and duration of each pressure release; and

(C) Notifying operators immediately that a pressure release is occurring. The device or monitoring system may be either specific to the pressure relief device itself or may be associated with the process system or piping, sufficient to indicate a pressure release to the atmosphere. Examples of these types of devices and systems include, but are not limited to, a rupture disk indicator, magnetic sensor, motion detector on the pressure relief valve stem, flow monitor, or pressure monitor.

(ii) If any pressure relief device in organic HAP service releases to atmosphere as a result of a pressure release event, the owner or operator must calculate the quantity of organic HAP released during each pressure release event and report this quantity as required in paragraph (g) of this section. Calculations may be based on data from the pressure relief device monitoring alone or in combination with process parameter monitoring data and process knowledge.

(4) *Pressure relief devices routed to a control device, process, fuel gas system, or drain system.* If a pressure relief device in organic HAP service is designed and operated to route all HAP emissions from pressure releases through a closed vent system to a control device or to a process, fuel gas system, or drain system, the owner or operator is not required to comply with paragraphs (e)(1), (2), or (3) (if applicable) of this section for that pressure relief device. The fuel gas system or closed vent system and control device (if applicable) must meet the requirements of § 63.172 or § 63.1034, as applicable (except that the term ''pressure relief devices'' shall apply instead of the term ''equipment leaks'' in § 63.1034). The drain system (if applicable) must meet the requirements of § 63.136.

(f) *Recordkeeping requirements.* For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, for pressure relief devices in organic HAP service, keep records of the information specified in paragraphs (f)(1) through (5) of this section, as applicable.

(1) A list of identification numbers for pressure relief devices that vent to a fuel gas system, process, drain system, or closed-vent system and control device, under the provisions in paragraph (e)(4) of this section.

(2) A list of identification numbers for pressure relief devices subject to the provisions in paragraph (e)(1) of this section.

(3) A list of identification numbers for pressure relief devices equipped with rupture disks, under the provisions in paragraph (e)(2)(ii) of this section.

(4) The dates and results of the monitoring following a pressure release for each pressure relief device subject to the provisions in paragraphs (e)(1) and (2) of this section. The results shall include:

(i) The background level measured during each compliance test.

(ii) The maximum instrument reading measured at each piece of equipment during each compliance test.

(5) For pressure relief devices in organic HAP service subject to paragraph (e)(3) of this section, keep records of each pressure release to the atmosphere, including the following information:

(i) The source, nature, and cause of the pressure release.

(ii) The date, time, and duration of the pressure release.

(iii) An estimate of the quantity of total HAP emitted during the pressure release and the calculations used for determining this quantity.

(iv) The actions taken to prevent this pressure release.

(v) The measures adopted to prevent future such pressure releases.

(g) *Periodic reports.* For owners or operators of an acrylic and modacrylic fiber production affected source or polycarbonate production affected source subject to paragraph (e) of this section, Periodic Reports must include the information specified in paragraphs (g)(1) through (3) of this section for pressure relief devices in organic HAP service.

(1) For pressure relief devices in organic HAP service subject to paragraph (e) of this section, report confirmation that all monitoring to show compliance was conducted within the reporting period.

(2) For pressure relief devices in organic HAP gas or vapor service subject to paragraph (e)(2) of this section, report any instrument reading of 500 ppm above background or greater, more than 5 days after the relief device returns to organic HAP gas or vapor service after a pressure release.

(3) For pressure relief devices in organic HAP service subject to paragraph (e)(3) of this section, report each pressure release to the atmosphere, including the following information:

(i) The source, nature, and cause of the pressure release.

(ii) The date, time, and duration of the pressure release.

(iii) An estimate of the quantity of total HAP emitted during the pressure release and the method used for determining this quantity.

(iv) The actions taken to prevent this pressure release.

(v) The measures adopted to prevent future such pressure releases.

■ 9. Section 63.1108 is amended by:

■ a. Adding paragraph (a) introductory text;

■ b. Adding paragraph (a)(4);

■ c. Revising the first sentence of paragraph (a)(5); and

■ d. Revising paragraphs (b)(1), the first sentence of (b)(2) introductory text, and (b)(4)(ii).

The revisions and additions read as follows:

§ 63.1108 Compliance with standards and operation and maintenance requirements.

(a) *Requirements.* The requirements of paragraphs (a)(1), (2), and (5) of this section apply to all affected sources except acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources. The requirements of paragraph (a)(4) of this section apply only to

acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources. The requirements of paragraphs (a)(3), (6), and (7) of this section apply to all affected sources.

* * * * *

(4)(i) For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, the emission limitations and established parameter ranges of this part shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies. Equipment leak requirements shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) in which the lines are drained and depressurized resulting in cessation of the emissions to which the equipment leak requirements apply.

(ii) *General duty.* At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

(5) During startups, shutdowns, and malfunctions when the emission standards of this subpart and the subparts referenced by this subpart do not apply pursuant to paragraphs (a)(1) through (3) of this section, the owner or operator shall implement, to the extent reasonably available, measures to prevent or minimize excess emissions.

* * *

* * * * *

(b) * * *

(1) *Parameter monitoring: compliance with operating conditions.* Compliance with the required operating conditions for the monitored control devices or recovery devices may be determined by, but is not limited to, the parameter monitoring data for emission points that are required to perform continuous monitoring. For each excursion, except as provided for in paragraphs (b)(1)(i) and (ii) of this section, the owner or operator shall be deemed to have failed to have applied the control in a manner that achieves the required operating conditions.

(i) An excursion that meets the requirements of paragraph (b)(2) of this section is not a violation.

(ii) Excused excursions are not allowed for acrylic and modacrylic fiber production affected sources or polycarbonate production affected sources. For all other affected sources, an excused excursion, as described in § 63.998(b)(6)(ii), is not a violation.

(2) *Parameter monitoring: Excursions.* An excursion is not a violation in cases where continuous monitoring is required and the excursion does not count toward the number of excused excursions (as described in § 63.998(b)(6)(ii)), if the conditions of paragraphs (b)(2)(i) or (ii) of this section are met, except that the conditions of paragraph (b)(2)(i) of this section do not apply for acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources. * * *

* * * * *

(4) * * *

(ii) *Performance test.* (A) The Administrator may determine compliance with emission limitations of this subpart based on, but not limited to, the results of performance tests conducted according to the procedures specified in § 63.997, unless otherwise specified in this subpart or a subpart referenced by this subpart.

(B) For acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources, performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested. Representative conditions exclude periods of startup and shutdown unless specified by the Administrator or an applicable subpart. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

* * * * *

■ 10. Section 63.1110 is amended by:
■ a. Adding a sentence to the end of paragraph (a) introductory text;
■ b. Revising paragraph (a)(7);
■ c. Adding paragraph (a)(9);
■ d. Adding a sentence to the end of paragraph (d)(1) introductory text; and
■ e. Adding paragraph (d)(1)(iii).

The revisions and additions read as follows:

§ 63.1110 Reporting requirements.

(a) * * * Each owner or operator of an acrylic and modacrylic fiber production affected source or polycarbonate production affected source subject to this subpart shall also submit the reports listed in paragraph (a)(9) of this section in addition to the reports listed in paragraphs (a)(1) through (8) of this section, as applicable.

* * * * *

(7) Startup, Shutdown, and Malfunction Reports described in § 63.1111 (except for acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources).

* * * * *

(9) *Electronic reporting.* Within 60 days after the date of completing each performance test (as defined in § 63.2), the owner or operator must submit the results of the performance tests, including any associated fuel analyses, required by this subpart according to the methods specified in paragraphs (a)(9)(i) or (ii) of this section.

(i) For data collected using test methods supported by the EPA-provided software, the owner or operator shall submit the results of the performance test to the EPA by direct computer-to-computer electronic transfer via EPA-provided software, unless otherwise approved by the Administrator. Owners or operators, who claim that some of the information being submitted for performance tests is confidential business information (CBI), must submit a complete file using EPA-provided software that includes information claimed to be CBI on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA by direct computer-to-computer electronic transfer via EPA-provided software.

(ii) For any performance test conducted using test methods that are not compatible with the EPA-provided

software, the owner or operator shall submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

* * * * *

(d) * * *

(1) * * * For pressure relief devices subject to the requirements of § 63.1107(e)(3), the owner or operator of an acrylic and modacrylic fiber production affected source or polycarbonate production affected source shall also submit the information listed in paragraph (d)(1)(iii) of this section in a supplement to the Notification of Compliance Status within 150 days after the first applicable compliance date for pressure relief device monitoring.

* * * * *

(iii) For pressure relief devices in organic HAP service, a description of the device or monitoring system to be implemented, including the pressure relief devices and process parameters to be monitored (if applicable), and a description of the alarms or other methods by which operators will be notified of a pressure release.

* * * * *

■ 11. Section 63.1111 is amended by:

■ a. Adding paragraphs (a) introductory text and (b) introductory text;

■ b. Removing paragraph (b)(3); and

■ c. Adding paragraph (c).

The revisions and additions read as follows:

§ 63.1111 Startup, shutdown, and malfunction.

(a) *Startup, shutdown, and malfunction plan.* The requirements of this paragraph (a) apply to all affected sources except for acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources.

* * * * *

(b) *Startup, shutdown, and malfunction reporting requirements.* The requirements of this paragraph (b) apply to all affected sources except for acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources.

* * * * *

(c) *Malfunction recordkeeping and reporting.* The requirements of this paragraph (c) apply only to acrylic and modacrylic fiber production affected sources and polycarbonate production affected sources.

(1) *Records of malfunctions.* The owner or operator shall keep the records specified in paragraphs (c)(1)(i) through (iii) of this section.

(i) In the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure record the date, time, and duration of each failure.

(ii) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(iii) Record actions taken to minimize emissions in accordance with § 63.1108(a)(4)(ii), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(2) *Reports of malfunctions.* If a source fails to meet an applicable standard, report such events in the Periodic Report. Report the number of failures to meet an applicable standard. For each instance, report the date, time and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

Subpart OOO—National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins

■ 12. Section 63.1400 is amended by revising paragraph (k) to read as follows:

§ 63.1400 Applicability and designation of affected sources.

* * * * *

(k) *Applicability of this subpart.* (1) The emission limitations set forth in this subpart and the emission limitations referred to in this subpart shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) resulting in cessation of the emissions to which this subpart applies.

(2) The emission limitations set forth in 40 CFR part 63, subpart UU, as referred to in § 63.1410, shall apply at all times except during periods of non-operation of the affected source (or specific portion thereof) in which the lines are drained and depressurized resulting in cessation of the emissions to which § 63.1410 applies.

(3) The owner or operator shall not shut down items of equipment that are required or utilized for compliance with this subpart during times when emissions are being routed to such items of equipment if the shutdown would contravene requirements of this subpart applicable to such items of equipment.

(4) *General duty.* At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require the owner or operator to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator, which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

■ 13. Section 63.1401 is amended by revising paragraphs (a) and (b) to read as follows:

§ 63.1401 Compliance schedule.

(a) New affected sources that commence construction or reconstruction after December 14, 1998, shall be in compliance with this subpart (except § 63.1411(c)) upon initial start-up or January 20, 2000, whichever is later. New affected sources that commenced construction or reconstruction after December 14, 1998, but on or before January 9, 2014, shall be in compliance with the pressure relief device monitoring requirements of § 63.1411(c) by October 9, 2017. New affected sources that commence construction or reconstruction after January 9, 2014, shall be in compliance with the pressure relief device monitoring requirements of § 63.1411(c) upon initial startup or by October 8, 2014.

(b) Existing affected sources shall be in compliance with this subpart (except §§ 63.1404, 63.1405, and 63.1411(c)) no later than 3 years after January 20, 2000. Existing affected sources shall be in compliance with the storage vessel requirements of § 63.1404, the continuous process vent requirements of § 63.1405, and the pressure relief device monitoring requirements of § 63.1411(c) by October 9, 2017.

* * * * *

■ 14. Section 63.1402 is amended by:

■ a. In paragraph (a):

■ i. Adding in alphabetical order the term ''Pressure relief device or valve (§ 63.161)'';

■ ii. Removing the term ''Start-up, shutdown, and malfunction plan (§ 63.101)''; and

■ iii. Revising the term ''Inorganic hazardous air pollutant service

(§ 63.161)'' to read ''In organic hazardous air pollutant service (§ 63.161)''; and

■ b. In paragraph (b):

■ i. Adding in alphabetical order the terms ''Pressure release'' and ''Seal''; and

■ ii. Revising the term ''Amino/phenolic. Resin process unit (APPU)'' to read ''Amino/phenolic resin process unit (APPU)''.

The revisions and additions read as follows:

§ 63.1402 Definitions.

* * * * *

(b) * * *

* * * * *

Pressure release means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device. This release can be one release or a series of releases over a short time period.

* * * * *

Seal means, for the purpose of complying with the requirements of § 63.1033(b), that instrument monitoring of the open-ended valve or line conducted according to the method specified in § 63.1023(b) and, as applicable, § 63.1023(c), indicates no readings of 500 parts per million or greater.

* * * * *

■ 15. Section 63.1404 is amended by revising the first sentence of paragraph (a) introductory text to read as follows:

§ 63.1404 Storage vessel provisions.

(a) *Emission standards.* For each storage vessel located at a new or existing affected source that has a capacity of greater than or equal to 20,000 gallons, but less than 40,000 gallons, and vapor pressure of 1.9 pounds per square inch absolute (psia) or greater; has a capacity of greater than or equal to 40,000 gallons, but less than 90,000 gallons, and vapor pressure of 0.75 psia or greater; or has a capacity of 90,000 gallons or greater and vapor pressure of 0.15 psia or greater, the owner or operator shall comply with either paragraph (a)(1) or (2) of this section. * * *

* * * * *

■ 16. Section 63.1405 is amended by:

■ a. Revising the first sentence of paragraph (a) introductory text;

■ b. Adding paragraph (a)(3); and

■ c. Revising the last sentence of paragraph (b).

The revisions and additions read as follows:

§ 63.1405 Continuous process vent provisions.

(a) *Emission standards.* For each continuous process vent with a Total Resource Effectiveness (TRE) index value, as determined following the procedures specified in § 63.1412(j), less than or equal to 1.2, the owner or operator shall comply with either paragraph (a)(1) or (2) of this section for continuous process vents located at a new affected source, and with either paragraph (a)(1) or (3) of this section for continuous process vents located at an existing affected source. * * *

* * * * *

(3) Reduce emissions to less than or equal to 0.95 kg of total organic HAP per megagram (1.9 pounds of total organic HAP per ton) of resin produced, or to a concentration of 20 ppmv when using a combustion control device or to a concentration of 50 ppmv when using a non-combustion control device, whichever is less stringent.

(b) *Alternative standard.* * * * Any continuous process vents that are not vented to a control device meeting these conditions shall be controlled in accordance with the provisions of paragraphs (a)(1), (2), or (3) of this section, as appropriate.

■ 17. Section 63.1410 is amended by revising the first sentence of the introductory text to read as follows:

§ 63.1410 Equipment leak provisions.

The owner or operator of each affected source shall comply with the requirements of 40 CFR part 63, subpart UU for all equipment, as defined under § 63.1402, that contains or contacts 5 weight-percent HAP or greater and operates 300 hours per year or more, except § 63.1030. * * *

■ 18. Add § 63.1411 to read as follows:

§ 63.1411 Requirements for pressure relief devices.

Except as specified in paragraph (d) of this section, the owner or operator must comply with the requirements specified in paragraphs (a) and (b) of this section for pressure relief devices in organic HAP gas or vapor service. Except as specified in paragraph (d) of this section, the owner or operator must also comply with the requirements specified in paragraph (c) of this section for all pressure relief devices in organic HAP service.

(a) *Operating requirements.* Except during a pressure release event, operate each pressure relief device in organic HAP gas or vapor service with an instrument reading of less than 500 ppm above background as described in Method 21 of 40 CFR part 60, Appendix A.

(b) *Pressure release requirements.* For pressure relief devices in organic HAP gas or vapor service, the owner or operator must comply with either paragraph (b)(1) or (2) of this section following a pressure release, as applicable.

(1) If the pressure relief device does not consist of or include a rupture disk, conduct instrument monitoring, as described in Method 21 of 40 CFR part 60, Appendix A, no later than 5 calendar days after the pressure relief device returns to organic HAP service following a pressure release to verify that the pressure relief device is operating with an instrument reading of less than 500 ppm above background, except as provided in § 63.1024(d).

(2) If the pressure relief device consists of or includes a rupture disk, install a replacement disk as soon as practicable after a pressure release, but no later than 5 calendar days after the pressure release, except as provided in § 63.1024(d).

(c) *Pressure release management.* Except as specified in paragraph (d) of this section, emissions of organic HAP to the atmosphere from pressure relief devices in organic HAP service are prohibited, and the owner or operator must comply with the requirements specified in paragraphs (c)(1) and (2) of this section for all pressure relief devices in organic HAP service.

(1) The owner or operator must equip each pressure relief device in organic HAP service with a device(s) or parameter monitoring system that is capable of:

(i) Identifying the pressure release;

(ii) Recording the time and duration of each pressure release; and

(iii) Notifying operators immediately that a pressure release is occurring. The device or monitoring system may be either specific to the pressure relief device itself or may be associated with the process system or piping sufficient to indicate a pressure release to the atmosphere. Examples of these types of devices and systems include, but are not limited to, a rupture disk indicator, magnetic sensor, motion detector on the pressure relief valve stem, flow monitor, or pressure monitor.

(2) If any pressure relief device in organic HAP service releases to atmosphere as a result of a pressure release event, the owner or operator must calculate the quantity of organic HAP released during each pressure release event and report this quantity as required in § 63.1417(f)(13)(iii). Calculations may be based on data from the pressure relief device monitoring alone or in combination with process

parameter monitoring data and process knowledge.

(d) *Pressure relief devices routed to a control device, process, fuel gas system, or drain system.* If a pressure relief device in organic HAP service is designed and operated to route all HAP emissions from pressure releases through a closed vent system to a control device or to a process, fuel gas system, or drain system, the owner or operator is not required to comply with paragraphs (a), (b), or (c) (if applicable) of this section for that pressure relief device. The fuel gas system or closed vent system and control device (if applicable) must meet the requirements of § 63.1034, as applicable (except that the term ''pressure relief devices'' shall apply instead of the term ''equipment leaks'' in § 63.1034). The drain system (if applicable) must meet the requirements of § 63.136.

■ 19. Section 63.1412 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 63.1412 Continuous process vent applicability assessment procedures and methods.

* * * * *

(c) *Applicability assessment requirement.* * * * Operations during periods of malfunction shall not constitute representative conditions for the purpose of an applicability test.

* * * * *

■ 20. Section 63.1413 is amended by:
■ a. Revising paragraph (a)(2) introductory text;
■ b. Redesignating paragraph (c)(5) as paragraph (c)(6);
■ c. Adding paragraph (c)(5);
■ d. Redesignating paragraph (h) as paragraph (i);
■ e. Adding paragraph (h);
■ f. Revising newly redesignated paragraphs (i) introductory text and (i)(4) introductory text;
■ g. Revising newly redesignated paragraphs (i)(4)(i), the first sentence of (i)(4)(iii), and (i)(5) and (6).

The revisions and additions read as follows:

§ 63.1413 Compliance demonstration procedures.

(a)* * *

(2) *Performance tests.* Performance tests shall be conducted under such conditions as the Administrator specifies to the owner or operator based on representative performance of the affected source for the period being tested and in accordance with the General Provisions at § 63.7(a)(1), (a)(3), (d), (e)(2), (e)(4), (g), and (h), with the exceptions specified in paragraph (a)(1) of this section. Representative conditions exclude periods of startup and shutdown unless specified by the Administrator or an applicable subpart. The owner or operator may not conduct performance tests during periods of malfunction. The owner or operator must record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Upon request, the owner or operator shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests. Data shall be reduced in accordance with the EPA approved methods specified in this subpart or, if other test methods are used, the data and methods shall be validated according to the protocol in Method 301 of Appendix A of this part.

* * * * *

(c) * * *

(5) Initial and continuous compliance with the emission limit specified in § 63.1405(a)(3) shall be demonstrated following the procedures in paragraph (h) of this section.

* * * * *

(h) *Continuous process vent compliance at existing sources.* (1) Each owner or operator complying with the mass emission limit specified in § 63.1405(a)(3) shall determine initial compliance as specified in paragraph (h)(1)(i) of this section and continuous compliance as specified in paragraph (h)(1)(ii) of this section.

(i) *Initial compliance.* Initial compliance shall be based on the average of the first 6 monthly average emission rate data points. The 6-month average shall be compared to the mass emission limit specified in § 63.1405(a)(3).

(ii) *Continuous compliance.* For the first year of compliance, continuous compliance shall be based on a cumulative average monthly emission rate calculated each month based on the available monthly emission rate data points (e.g., 7 data points after 7 months of operation, 8 data points after 8 months of operation) beginning the first month after initial compliance is demonstrated. The first continuous compliance cumulative average monthly emission rate shall be calculated using the first 7 monthly average emission rate data points. After the first year of compliance, a 12-month rolling average monthly emission rate shall be calculated each month based on the previous 12 monthly emission rate data points. Continuous compliance shall be determined by comparing the cumulative average monthly emission rate or the 12-month rolling average monthly emission rate to the mass emission limit specified in § 63.1405(a)(3).

(2) *Procedures to determine the monthly emission rate.* (i) The monthly emission rate, kilograms of organic HAP per megagram of product, shall be determined at the end of each month using Equation 5 of this section:

$$ER = \frac{E_i}{RP_m} \qquad [Eq.5]$$

Where:

ER = Emission rate of organic HAP from continuous process vent, kg of HAP/Mg product.

E_i = Emission rate of organic HAP from continuous process vent i as determined using the procedures specified in paragraph (h)(2)(ii) of this section, kg/month.

RP_m = Amount of resin produced in one month as determined using the procedures specified in paragraph (h)(2)(iii) of this section, Mg/month.

(ii) The monthly emission rate of organic HAP, in kilograms per month, from an individual continuous process vent (E_i) shall be determined. Once organic HAP emissions have been estimated, as specified in paragraph (h)(2)(ii)(A) of this section for uncontrolled continuous process vents or paragraphs (h)(2)(ii)(A) and (B) of this section for continuous process vents vented to a control device or control technology, the owner or operator may use the estimated organic HAP emissions (E_i) until the estimated organic HAP emissions are no longer representative due to a process change or other reason known to the owner or operator. If organic HAP emissions (E_i) are determined to no longer be representative, the owner or operator shall redetermine organic HAP emissions for the continuous process vent following the procedures in paragraph (h)(2)(ii)(A) of this section for uncontrolled continuous process vents or paragraphs (h)(2)(ii)(A) and (B) of this section for continuous process vents vented to a control device or control technology.

(A) For continuous process vents estimated through engineering assessment, as described in § 63.1414(d)(10), to emit less than 10 tons per year of uncontrolled organic HAP emissions, the owner or operator may use the emissions determined using engineering assessment in Equation 5 of this section or may determine organic HAP emissions using the procedures specified in paragraph (a)(1)(i) of this section. For continuous process vents estimated through engineering assessment, as described in

§ 63.1414(d)(10), to emit 10 tons per year or greater of uncontrolled organic HAP emissions, uncontrolled organic HAP emissions shall be estimated following the procedures specified in paragraph (a)(1)(i) of this section.

(B) For continuous process vents vented to a control device or control technology, controlled organic HAP emissions shall be determined as follows:

(*1*) Uncontrolled organic HAP emissions shall be determined following the procedures in paragraph (h)(2)(ii)(A) of this section.

(*2*) Control device or control technology efficiency shall be determined using the procedures in paragraph (a)(1)(i) of this section for large control devices or the procedures in paragraph (a)(1)(ii) of this section for small control devices.

(*3*) Controlled organic HAP emissions shall be determined by applying the control device or control technology efficiency, determined in paragraph (h)(2)(ii)(B)(*2*) of this section, to the uncontrolled organic HAP emissions, determined in paragraph (h)(2)(ii)(B)(*1*) of this section.

(iii) The rate of resin produced, RP_M (Mg/month), shall be determined based on production records certified by the owner or operator to represent actual production for the month. A sample of the records selected by the owner or operator for this purpose shall be provided to the Administrator in the Precompliance Report as required by § 63.1417(d).

(i) *Deviations.* Paragraphs (i)(1) through (4) of this section describe deviations from the emission limits, the operating limits, the work practice standards, and the emission standard, respectively. Paragraph (i)(5) of this section describes situations that are not deviations. Paragraph (i)(6) of this section describes periods that are excluded from compliance determinations.

* * * * *

(4) *Deviation from the emission standard.* If monitoring data are insufficient, as described in paragraphs (i)(4)(i) through (iii) of this section, there has been a deviation from the emission standard.

(i) The period of control device or control technology operation is 4 hours or greater in an operating day, and monitoring data are insufficient to constitute a valid hour of data, as defined in paragraph (i)(4)(iii) of this section, for at least 75 percent of the operating hours;

* * * * *

(iii) Monitoring data are insufficient to constitute a valid hour of data, as used in paragraphs (i)(4)(i) and (ii) of this section, if measured values are unavailable for any of the 15-minute periods within the hour. * * *

(5) *Situations that are not deviations.* If any of the situations listed in paragraphs (i)(5)(i) or (ii) of this section occur, such situations shall not be considered to be deviations.

(i) Monitoring data cannot be collected during monitoring device calibration check or monitoring device malfunction; or

(ii) Monitoring data are not collected during periods of nonoperation of the affected source or portion thereof (resulting in cessation of the emissions to which the monitoring applies).

(6) *Periods not considered to be part of the period of control or recovery device operation.* The periods listed in paragraphs (i)(6)(i) and (ii) of this section are not considered to be part of the period of control or recovery device operation for purposes of determining averages or periods of control device or control technology operation.

(i) Monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments; or

(ii) Periods of nonoperation of the affected source (or portion thereof), resulting in cessation of the emissions to which the monitoring applies.

■ 21. Section 63.1414 is amended by adding paragraph (d)(10) to read as follows:

§ 63.1414 Test methods and emission estimation equations.

* * * * *

(d) * * *

(10) For continuous process vent emissions determined by engineering assessment, the engineering assessment includes, but is not limited to, the examples provided in § 63.1412(k)(3).

■ 22. Section 63.1415 is amended by revising the second sentence of paragraph (b)(1)(ii)(C) to read as follows:

§ 63.1415 Monitoring requirements.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(C) * * * The plan shall require determination of gas stream flow by a method which will at least provide a value for either a representative or the highest gas stream flow anticipated in the scrubber during representative operating conditions other than malfunctions. * * *

* * * * *

■ 23. Section 63.1416 is amended by:

■ a. Revising paragraphs (b), (c)(4), (d)(3)(iv)(B), and (e)(3)(iv)(B);

■ b. Adding paragraphs (f)(5), (f)(6), and (g)(5);

■ c. Revising the first sentence of paragraph (h)(1)(i);

■ d. Revising paragraph (h)(1)(ii);

■ e. Revising the first sentence of paragraph (h)(1)(iii);

■ f. Revising the last sentence of paragraph (h)(2)(iii); and

■ g. Revising paragraph (h)(2)(iv).

The revisions and additions read as follows:

§ 63.1416 Recordkeeping requirements.

* * * * *

(b) *Malfunction records.* Records shall be kept as specified in paragraphs (b)(1) through (3) of this section.

(1) In the event that an affected unit fails to meet an applicable standard, record the number of failures. For each failure record the date, time, and duration of each failure.

(2) For each failure to meet an applicable standard, record and retain a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(3) Record actions taken to minimize emissions in accordance with § 63.1420(h)(4), and any corrective actions taken to return the affected unit to its normal or usual manner of operation.

(c) * * *

(4) Monitoring data recorded during periods identified in paragraphs (c)(4)(i) and (ii) of this section shall not be included in any average computed under this subpart. Records shall be kept of the times and durations of all such periods and any other periods during process or control device or recovery device or control technology operation when monitors are not operating:

(i) Monitoring system breakdowns, repairs, calibration checks, and zero (low-level) and high-level adjustments; and

(ii) Periods of non-operation of the affected source (or portion thereof) resulting in cessation of the emissions to which the monitoring applies.

* * * * *

(d) * * *

(3) * * *

(iv) * * *

(B) If there is a deviation from the mass emission limit, as specified in § 63.1413(i), the individual monthly emission rate data points making up the cumulative average monthly emission rate or the 12-month rolling average monthly emission rate, as appropriate.

* * * * *

(e) * * *

(3) * * *

(iv) * * *

(B) If there is a deviation from the emission limit, as specified in § 63.1413(i)(1), the individual monthly emission rate data points making up the rolling average monthly emission rate or the 12-month rolling average monthly emission rate, as appropriate.

* * * * *

(f) * * *

(5) If a continuous process vent is seeking to demonstrate compliance with the mass emission limit specified in § 63.1405(a)(3), keep records specified in paragraphs (f)(5)(i) and (ii) of this section.

(i) The results of the initial compliance demonstration specified in § 63.1413(h)(1)(i).

(ii) The monthly organic HAP emissions from the continuous process vent determined as specified in § 63.1413(h)(2).

(6) When using a flare to comply with § 63.1405(a), keep the records specified in paragraphs (f)(6)(i) through (f)(6)(iii) of this section.

(i) The flare design (i.e., steam-assisted, air-assisted or non-assisted);

(ii) All visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the compliance determination required by § 63.1413(g); and

(iii) Periods when all pilot flames were absent during the compliance determination required by § 63.1413(g).

(g) * * *

(5) For pressure relief devices in organic HAP service, keep records of the information specified in paragraphs (g)(5)(i) through (v) of this section, as applicable.

(i) A list of identification numbers for pressure relief devices that vent to a fuel gas system, process, drain system, or closed-vent system and control device, under the provisions in § 63.1411(d).

(ii) A list of identification numbers for pressure relief devices subject to the provisions in § 63.1411(a).

(iii) A list of identification numbers for pressure relief devices equipped with rupture disks, under the provisions in § 63.1411(b)(2).

(iv) The dates and results of the monitoring following a pressure release for each pressure relief device subject to the provisions in § 63.1411(a) and (b). The results shall include:

(A) The background level measured during each compliance test.

(B) The maximum instrument reading measured at each piece of equipment during each compliance test.

(v) For pressure relief devices in organic HAP service subject to § 63.1411(c), keep records of each pressure release to the atmosphere, including the following information:

(A) The source, nature, and cause of the pressure release.

(B) The date, time, and duration of the pressure release.

(C) An estimate of the quantity of total HAP emitted during the pressure release and the calculations used for determining this quantity.

(D) The actions taken to prevent this pressure release.

(E) The measures adopted to prevent future such pressure releases.

(h) * * *

(1) * * *

(i) The monitoring system is capable of detecting unrealistic or impossible data during periods of operation (e.g., a temperature reading of −200 °C on a boiler) and will alert the operator by alarm or other means. * * *

(ii) The monitoring system generates, updated at least hourly throughout each operating day, a running average of the parameter values that have been obtained during that operating day or block, and the capability to observe this running average is readily available on-site to the Administrator during the operating day. The owner or operator shall record the occurrence of any period meeting the criteria in paragraphs (h)(1)(ii)(A) and (B) of this section. All instances in an operating day or block constitute a single occurrence:

(A) The running average is above the maximum or below the minimum established limits; and

(B) The running average is based on at least six 1-hour average values.

(iii) The monitoring system is capable of detecting unchanging data during periods of operation, except in circumstances where the presence of unchanging data is the expected operating condition based on past experience (e.g., pH in some scrubbers) and will alert the operator by alarm or other means. * * *

* * * * *

(2) * * *

(iii) * * * For any calendar week, if compliance with paragraphs (h)(1)(i) through (iv) of this section does not result in retention of a record of at least one occurrence or measured parameter value, the owner or operator shall record and retain at least one value during a period of operation.

(iv) For purposes of paragraph (h)(2) of this section, a deviation means that the daily average, batch cycle daily average, or block average value of monitoring data for a parameter is greater than the maximum, or less than the minimum established value.

■ 24. Section 63.1417 is amended by:

■ a. Revising the first sentence of paragraph (d);

■ b. Revising paragraphs (d)(8), (d)(9), and (d)(11)(ii);

■ d. Revising paragraph (e) introductory text;

■ e. Adding paragraph (e)(10);

■ f. Revising the first sentence of paragraph (f)(1);

■ g. Revising paragraphs (f)(3)(i) and (ii) and (f)(5) introductory text;

■ h. Adding paragraph (f)(13);

■ i. Revising paragraph (g);

■ j. Revising paragraphs (h) introductory text and the first sentence of (h)(7) introductory text;

■ k. Adding paragraph (h)(8); and

■ l. Revising paragraph (k)(3)(i)(F).

The revisions and additions read as follows:

§ 63.1417 Reporting requirements.

* * * * *

(d) *Precompliance Report.* Owners or operators of affected sources requesting an extension for compliance; requesting approval to use alternative monitoring parameters, alternative continuous monitoring and recordkeeping, or alternative controls; requesting approval to use engineering assessment to estimate organic HAP emissions from a batch emissions episode as described in § 63.1414(d)(6)(i)(C); wishing to establish parameter monitoring levels according to the procedures contained in § 63.1413(a)(4)(ii); establishing parameter monitoring levels based on a design evaluation as specified in § 63.1413(a)(3); or following the procedures in § 63.1413(e)(2); or following the procedures in § 63.1413(h)(2), shall submit a Precompliance Report according to the schedule described in paragraph (d)(1) of this section. * * *

* * * * *

(8) If an owner or operator is complying with the mass emission limit specified in § 63.1405(a)(3), the sample of production records specified in § 63.1413(h)(2) shall be submitted in the Precompliance Report.

(9) If an owner or operator is complying with the mass emission limit specified in § 63.1406(a)(1)(iii) or (a)(2)(iii), § 63.1407(b)(2), or § 63.1408(b)(2), the sample of production records specified in § 63.1413(e)(2) shall be submitted in the Precompliance Report.

* * * * *

(11) * * *

(ii) Supplements to the Precompliance Report may be submitted to request

approval to use alternative monitoring parameters, as specified in paragraph (j) of this section; to use alternative continuous monitoring and recordkeeping, as specified in paragraph (k) of this section; to use alternative controls, as specified in paragraph (d)(5) of this section; to use engineering assessment to estimate organic HAP emissions from a batch emissions episode, as specified in paragraph (d)(6) of this section; or to establish parameter monitoring levels according to the procedures contained in § 63.1413(a)(4)(ii) or (a)(3), as specified in paragraph (d)(7) of this section.

(e) *Notification of Compliance Status.* For existing and new affected sources, a Notification of Compliance Status shall be submitted within 150 days after the compliance dates specified in § 63.1401. For equipment leaks, the Notification of Compliance Status shall contain the information specified in 40 CFR part 63, subpart UU. For storage vessels, continuous process vents, batch process vents, and aggregate batch vent streams, the Notification of Compliance Status shall contain the information listed in paragraphs (e)(1) through (9) of this section. For pressure relief devices subject to the requirements of § 63.1411(c), the owner or operator shall also submit the information listed in paragraph (e)(10) of this section in a supplement to the Notification of Compliance Status within 150 days after the first applicable compliance date for pressure relief device monitoring.

* * * * *

(10) For pressure relief devices in organic HAP service, a description of the device or monitoring system to be implemented, including the pressure relief devices and process parameters to be monitored (if applicable), and a description of the alarms or other methods by which operators will be notified of a pressure release.

(f) * * *

(1) Except as specified in paragraph (f)(12) of this section, a report containing the information in paragraph (f)(2) of this section or containing the information in paragraphs (f)(3) through (11) and (13) of this section, as appropriate, shall be submitted semiannually no later than 60 days after the end of each 180 day period. * * *

* * * * *

(3) * * *

(i) All information specified in 40 CFR part 63, subpart WW and subpart SS for storage vessels; 40 CFR part 63, subpart SS for continuous process vents required to comply with subpart SS; § 63.1416(d)(3)(ii) for batch process vents; and § 63.1416(e) for aggregate batch vent stream.

(ii) The daily average values, batch cycle daily average values, or block average values of monitored parameters for deviations, as specified in § 63.1413(i), of operating parameters. In addition, the periods and duration of periods when monitoring data were not collected shall be specified.

* * * * *

(5) If there is a deviation from the mass emission limit specified in § 63.1405(a)(3), § 63.1406(a)(1)(iii) or (a)(2)(iii), § 63.1407(b)(2), or § 63.1408(b)(2), the following information, as appropriate, shall be included:

* * * * *

(13) For pressure relief devices, Periodic Reports must include the information specified in paragraphs (f)(13)(i) through (iii) of this section.

(i) For pressure relief devices in organic HAP service subject to § 63.1411, report confirmation that all monitoring to show compliance was conducted within the reporting period.

(ii) For pressure relief devices in organic HAP gas or vapor service subject to § 63.1411(b), report any instrument reading of 500 ppm above background or greater, more than 5 days after the relief device returns to organic HAP gas or vapor service after a pressure release.

(iii) For pressure relief devices in organic HAP service subject to § 63.1411(c), report each pressure release to the atmosphere, including the following information:

(A) The source, nature, and cause of the pressure release.

(B) The date, time, and duration of the pressure release.

(C) An estimate of the quantity of total HAP emitted during the pressure release and the method used for determining this quantity.

(D) The actions taken to prevent this pressure release.

(E) The measures adopted to prevent future such pressure releases.

(g) *Reports of Malfunctions.* If a source fails to meet an applicable standard, report such events in the Periodic Report. Report the number of failures to meet an applicable standard. For each instance, report the date, time and duration of each failure. For each failure the report must include a list of the affected sources or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(h) *Other reports.* Other reports shall be submitted as specified in paragraphs (h)(1) through (8) of this section.

* * * * *

(7) Whenever a continuous process vent becomes subject to control requirements under § 63.1405(a), as a result of a process change, the owner or operator shall submit a report within 60 days after the performance test or applicability assessment, whichever is sooner. * * *

* * * * *

(8) *Electronic reporting.* Within 60 days after the date of completing each performance test (as defined in § 63.2), the owner or operator must submit the results of the performance tests, including any associated fuel analyses, required by this subpart according to the methods specified in paragraphs (h)(8)(i) or (ii) of this section.

(i) For data collected using test methods supported by the EPA-provided software, the owner or operator shall submit the results of the performance test to the EPA by direct computer-to-computer electronic transfer via EPA-provided software, unless otherwise approved by the Administrator. Owners or operators, who claim that some of the information being submitted for performance tests is confidential business information (CBI), must submit a complete file using EPA-provided software that includes information claimed to be CBI on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: WebFIRE Administrator, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same file with the CBI omitted must be submitted to the EPA by direct computer-to-computer electronic transfer via EPA-provided software.

(ii) For any performance test conducted using test methods that are not compatible with the EPA-provided software, the owner or operator shall submit the results of the performance test to the Administrator at the appropriate address listed in § 60.4.

* * * * *

(k) * * *

(3) * * *

(i) * * *

(F) If the daily average is not a deviation, as defined in § 63.1413(i), from the operating parameter, the data for that operating day may be converted to hourly average values, and the four or more individual records for each hour in the operating day may be discarded.

* * * * *

■ 25. Table 1 to Subpart OOO is amended by:

■ a. Removing entries 63.1(a)(6)–63.1(a)(8) and 63.1(a)(9);

■ b. Adding entries 63.1(a)(6) and 63.1(a)(7)–63.1(a)(9);
■ c. Revising entries 63.1(c)(4), 63.6(e), 63.6(e)(1)(i), and 63.6(e)(1)(ii);
■ d. Adding entry 63.6(e)(3);
■ e. Removing entries 63.6(e)(3)(i), 63.6(e)(3)(i)(A), 63.6(e)(3)(i)(B), 63.6(e)(3)(i)(C), 63.6(e)(3)(ii), 63.6(e)(3)(iii), 63.6(e)(3)(iv), 63.6(e)(3)(v), 63.6(e)(3)(vi), 63.6(e)(3)(vii), 63.6(e)(3)(vii)(A), 63.6(e)(3)(vii)(B), 63.6(e)(3)(vii)(C), 63.6(e)(3)(viii), and 63.6(e)(3)(ix);
■ f. Revising entries 63.6(f)(1), 63.7(e)(1), 63.8(c)(1)(i), 63.8(c)(1)(ii), 63.8(c)(1)(iii), and 63.10(d)(5); and
■ g. Removing footnote a.

The revisions and additions read as follows:

TABLE 1 TO SUBPART OOO OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOO AFFECTED SOURCES

Reference	Applies to subpart OOO	Explanation
* * * * * * *		
63.1(a)(6)	Yes	
63.1(a)(7)–63.1(a)(9)	No	[Reserved].
* * * * * * *		
63.1(c)(4)	No	[Reserved].
* * * * * * *		
63.6(e)	Yes	Except as otherwise specified in this table.
63.6(e)(1)(i)	No	See § 63.1400(k)(4) for general duty requirement.
63.6(e)(1)(ii)	No	
* * * * * * *		
63.6(e)(3)	No	
63.6(f)(1)	No	
* * * * * * *		
63.7(e)(1)	No	See § 63.1413(a)(2).
* * * * * * *		
63.8(c)(1)(i)	No	
63.8(c)(1)(ii)	No	
63.8(c)(1)(iii)	No	
* * * * * * *		
63.10(d)(5)	No	See § 63.1417(g) for malfunction reporting requirements.
* * * * * * *		

■ 26. Table 5 to Subpart OOO is amended by removing entry 63.1417(g) and adding entry 63.1417(h)(8) to read as follows:

TABLE 5 TO SUBPART OOO OF PART 63—REPORTS REQUIRED BY THIS SUBPART

Reference	Description of report	Due date
* * * * * * *		
63.1417(h)(8)	Electronic reporting	Within 60 days after completing performance test.

* * * * *

[FR Doc. 2014–23099 Filed 10–7–14; 8:45 am]

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Part III

The President

Proclamation 9185—Fire Prevention Week, 2014
Proclamation 9186—Child Health Day, 2014
Proclamation 9187—German-American Day, 2014
Proclamation 9188—To Modify the List of Beneficiary Developing Countries Under the Trade Act of 1974
Executive Order 13678—Conversion Authority for Criminal Investigators (Special Agents) of the Bureau of Alcohol, Tobacco, Firearms, and Explosives

Federal Register
Vol. 79, No. 195
Wednesday, October 8, 2014

Presidential Documents

Title 3—

The President

Proclamation 9185 of October 3, 2014

Fire Prevention Week, 2014

By the President of the United States of America

A Proclamation

Fires can take lives, devastate communities, and destroy our homes and businesses. They pose a threat to Americans across our Nation, and they cost us billions of dollars each year. As we mark Fire Prevention Week, we emphasize the importance of taking steps to prevent fires, and we recognize the selflessness of those who answer the call to fight these blazes, placing themselves in danger to help others.

All Americans can protect themselves by taking precautions to guard against fires. This week's theme, ''Smoke Alarms Save Lives: Test Yours Every Month,'' reminds us of the importance of installing and maintaining smoke alarms in the places we live and work. Powerful and unpredictable, fire spreads rapidly and widely. That is why I encourage every American to develop and practice fire evacuation plans that will allow for swift exits from regularly visited places. It is our responsibility to teach our children about fire prevention and do everything we can to protect our loved ones during these emergencies. To learn more about fire safety, visit *www.Ready.gov.*

This year, our Nation has suffered tragic losses as wildfires ravage States across our country. As wildfires increase in frequency and intensity in a changing climate, fire prevention and planning only become more urgent. My Administration continues to take action to increase our Nation's preparedness and resiliency, and every person can do his or her part. Americans who live near woodlands should clear flammable vegetation away from homes and buildings, and everyone can be ready by making an emergency kit and discussing evacuation routes and emergency plans with their families.

We owe a great debt to our brave first responders and firefighters who run toward the scene of a disaster to fight fires. They are heroes who demonstrate courage, determination, and professionalism every day as they battle flames and smoke and teach their neighbors how to protect themselves. During Fire Prevention Week, we recognize our duty to be vigilant and take action to avert fires, and we remember the sacrifices of those who gave their lives so others might live.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States do hereby proclaim October 5 through October 11, 2014, as Fire Prevention Week. On Sunday, October 12, 2014, in accordance with Public Law 107–51, the flag of the United States will be flown at half-staff at all Federal office buildings in honor of the National Fallen Firefighters Memorial Service. I call on all Americans to participate in this observance with appropriate programs and activities and by renewing their efforts to prevent fires and their tragic consequences.

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

[FR Doc. 2014–24212
Filed 10–7–14; 11:15 am]
Billing code 3295–F5

Presidential Documents

Proclamation 9186 of October 3, 2014

Child Health Day, 2014

By the President of the United States of America

A Proclamation

All children deserve equal opportunities to realize their potential and reach their dreams. Securing this promise for our daughters and sons begins with ensuring their health and well-being. As we pause on Child Health Day to reflect on this profound obligation, let us recommit to fostering a society where there are no limits to what our Nation's young people can achieve.

The Affordable Care Act supports children's health not only by expanding access to quality, affordable health insurance for millions of Americans, but also by guaranteeing that most health plans cover recommended preventive services for children without copays, including immunizations and developmental screenings. Millions of children are already benefiting from this care, and even more will be protected in the years to come. As kids grow, the Affordable Care Act continues to support their health by prohibiting insurance companies from denying coverage to children with pre-existing conditions and allowing young adults to stay on a parent's health insurance plan until age 26. This builds on the successes of Medicaid and the Children's Health Insurance Program, which have significantly reduced the percentage of uninsured children.

When more than one-third of American children and adolescents are overweight or obese, expanding access to nutritious foods and opportunities for physical activity is an urgent health issue. Working with both the public and private sectors, First Lady Michelle Obama's *Let's Move!* initiative is making it easier for parents and children to make healthy choices that put kids on the path to a bright future during their earliest months and years.

As a Nation, we have an obligation to invest in the health of future generations by protecting our planet and our environment. In the past 30 years, asthma rates have doubled, and as air pollution gets worse, more kids will suffer. Clean air and water are essential to the well-being of our children and grandchildren, and we must work today to secure their tomorrow. My Administration has taken action and will continue to pursue policies that reduce harmful air pollution, improve water quality, and protect communities from toxic chemical exposures.

When young Americans have the opportunity to live healthy and safe lives, they are free to pursue their full measure of happiness. Today, we continue our work to support our children's health and build a Nation where all our daughters and sons can thrive.

The Congress, by a joint resolution approved May 18, 1928, as amended (36 U.S.C. 105), has called for the designation of the first Monday in October as Child Health Day and has requested that the President issue a proclamation in observance of this day.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim Monday, October 6, 2014, as Child Health Day. I call upon families, educators, child health professionals, faith-based and community organizations, and all levels of government to help ensure America's children are healthy.

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

[FR Doc. 2014–24215
Filed 10–7–14; 11:15 am]
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Presidential Documents

Proclamation 9187 of October 3, 2014

German-American Day, 2014

By the President of the United States of America

A Proclamation

America is and always has been a Nation of immigrants, and from our earliest days, German Americans have contributed to our national identity. Germans were among the first settlers in the original 13 Colonies, bringing their talents and ideas across the ocean to a new and unfamiliar world. And today, with their descendants and all who followed in their path, we continue to perfect our Union together. On German-American Day, we recognize their distinctive identity and the ways they enrich our country.

German Americans helped build our Nation, and every day they contribute to its growth. As they teach in our schools, farm in our heartland, and serve in our Armed Forces, their German roots offer a sense of their place in the American story. From a land of poets and thinkers, they brought passion for music, science, and art, fortifying our culture and broadening our understanding of the world. Our greatest cities and our biggest advances reflect their daring spirit and diverse contributions.

As we consider our German-American history, we are also reminded that the United States and Germany are vital partners. With the 25th anniversary of the fall of the Berlin Wall approaching, our security and prosperity remain interwoven, and our friendship continues as we work together in pursuit of a more peaceful, stable world. On this occasion, may citizens from both sides of the Atlantic draw strength from the legacy of our Nation's earliest immigrants who boldly pushed forward in unforgiving times. May our shared past continue to inspire us as we face new challenges in our own time.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim October 6, 2014, as German-American Day. I encourage all Americans to learn more about the history of German Americans and reflect on the many contributions they have made to our Nation.

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

[FR Doc. 2014–24216
Filed 10–7–14; 11:15 am]
Billing code 3295–F5

Presidential Documents

Proclamation 9188 of October 3, 2014

To Modify the List of Beneficiary Developing Countries Under the Trade Act of 1974

By the President of the United States of America

A Proclamation

1. Sections 501(1) and (4) of the Trade Act of 1974 (the ''1974 Act'') (19 U.S.C. 2461(1) and (4)), provide that, in determining whether duty-free treatment would be appropriate under the Generalized System of Preferences, the President shall have due regard for, among other factors, the effect such action would have on furthering the economic development of a beneficiary developing country through the expansion of its exports and the extent that the beneficiary developing country would be competitive with respect to eligible articles. Section 502(c) of the 1974 Act (19 U.S.C. 2462(c)), provides that, in determining whether to designate any country as a beneficiary developing country, the President shall take into account various factors, including the country's level of economic development, the country's per capita gross national product, the living standards of its inhabitants, and any other economic factors he deems appropriate. Section 502(d)(1) of the 1974 Act (19 U.S.C. 2462(d)(1)), authorizes the President to withdraw or suspend the designation of any country as a beneficiary developing country after considering the factors set forth in sections 501 and 502(c) of the 1974 Act. Section 502(f)(2) of the 1974 Act (19 U.S.C. 2462(f)(2)), requires the President to notify the Congress and the affected country, at least 60 days before termination, of the President's intention to terminate the affected country's designation as a beneficiary developing country.

2. Consistent with section 502(d) of the 1974 Act, and having considered the factors set forth in sections 501 and 502(c), I have determined that Russia is sufficiently advanced in economic development and improved in trade competitiveness that it is appropriate to terminate the designation of Russia as a beneficiary developing country effective October 3, 2014. I notified the Congress and Russia on May 7, 2014, of my intent to terminate Russia's designation. In order to reflect the termination of Russia's designation as a beneficiary developing country, I have determined that it is appropriate to modify general notes 4(a) and 4(d) and pertinent subheadings of the Harmonized Tariff Schedule of the United States (HTS).

3. Section 604 of the 1974 Act (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other Acts affecting import treatment, and actions thereunder, including removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, including but not limited to title V and section 604 of the 1974 Act, do proclaim that:

(1) The designation of Russia as a beneficiary developing country is terminated, effective on October 3, 2014.

(2) In order to reflect the termination of Russia's designation as a beneficiary developing country, general notes 4(a) and 4(d) and pertinent subheadings of the HTS are modified as set forth in the Annex to this proclamation.

(3) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

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

Billing code 3295–F5–P

ANNEX
MODIFICATION TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 3, 2014:

1. General Note 4(a) to the Harmonized Tariff Schedule of the United States (HTS) is modified by: deleting "Russia" from the list entitled "Independent Countries".

2. General Note 4(d) to the HTS is modified:

A. by striking the following subheadings and the country set out opposite them:

2843.90.00	Russia
4412.39.30	Russia
7202.49.50	Russia
7407.29.34	Russia
7604.10.50	Russia
8104.11.00	Russia
8108.90.60	Russia
8112.92.60	Russia

B. by deleting the country "Russia" set out opposite the following HTS subheadings:

7408.11.60
7606.12.30

3. The following HTS subheadings are modified by deleting from the Rates of Duty1-Special subcolumn, from the parenthetical expression following the duty rate of "Free", the Symbol "A*" and by inserting in lieu thereof "A":

2843.90.00	8104.11.00
4412.39.30	8108.90.60
7202.49.50	8112.92.60
7407.29.34	
7604.10.50	

[FR Doc. 2014–24217
Filed 10–7–14; 11:15 am]
Billing code 7020–02–C

Presidential Documents

Executive Order 13678 of October 3, 2014

Conversion Authority for Criminal Investigators (Special Agents) of the Bureau of Alcohol, Tobacco, Firearms, and Explosives

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, and section 301 of title 3, United States Code, it is hereby ordered as follows:

Section 1. *Providing Conversion Authority.* I find that conditions of good administration (specifically, the need to make the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice (ATF), competitive in recruiting high quality special agents by giving the ATF an authority held by other Federal law enforcement agencies) make necessary an exception to the competitive examination rules for appointment to certain positions in the Federal civil service.

Criminal Investigators of the ATF, who have been appointed under Schedule B, and who have completed 3 years of fully satisfactory service, may be converted non-competitively to career appointments if they meet qualifications and other requirements established by the Director of the Office of Personnel Management.

Sec. 2. *Implementation.* The Director of the Office of Personnel Management shall prescribe such regulations as may be necessary to implement this order.

Sec. 3. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
October 3, 2014.

[FR Doc. 2014–24218
Filed 10–7–14; 11:15 am]
Billing code 3295–F5

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Federal Register

Vol. 79, No. 195

Wednesday, October 8, 2014

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The United States Government Manual	**741–6000**
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FEDERAL REGISTER PAGES AND DATE, OCTOBER

59087–59422	1
59423–59622	2
59623–60056	3
60057–60318	6
60319–60738	7
60739–60950	8

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
9174 59417
9175 59419
9176 59421
9177 60043
9178 60045
9179 60047
9180 60049
9181 60051
9182 60053
9183 60055
9184 60737
9185 60939
9186 60941
9187 60943
9188 60945

Executive Orders:
13678 60949

Administrative Orders:
Memorandums:
Memorandum of September 24, 2014 60041

7 CFR

319 ..... 59087, 59089
761 60739
762 60739
763 60739
764 60739
765 60739

Proposed Rules:
948 60117
980 60117

10 CFR

72 59623
431 59090

Proposed Rules:
50 60383
72 59693
431 59153
460 59154

11 CFR

Proposed Rules:
100 59459

12 CFR

701 59627
706 59627
790 59627

Proposed Rules:
931 60783
933 60783
1001 60762
1090 60762
1263 60384
1277 60783

14 CFR

25 ..... 59423, 59431, 60319
39 ..... 59091, 59093, 59096, 59102, 59630, 59633, 59636, 59640, 59643, 60322, 60325, 60327, 60329, 60331, 60334, 60337, 60339
73 59645

Proposed Rules:
39 ..... 59154, 59157, 59160, 59162, 59459, 59461, 59463, 59465, 59467, 59468, 59695, 59697, 60384, 60389, 60789
71 60793
1245 60119

15 CFR

Proposed Rules:
762 59166

16 CFR

1240 59962

17 CFR

200 59104

Proposed Rules:
23 59898
140 59898

18 CFR

4 59105
380 59105

21 CFR

Proposed Rules:
179 59699

22 CFR

62 60294

23 CFR

771 60100

24 CFR

5 59646
232 59646

Proposed Rules:
891 60590
892 60590

25 CFR

Proposed Rules:
169 60794

26 CFR

1 59112
54 59130

27 CFR

Proposed Rules:
478 60391
555 60391
771 60391

29 CFR

10 60634

2590.....59130

30 CFR

Proposed Rules:
7.....59167
75.....59167

31 CFR

Proposed Rules:
1.....59699

32 CFR

Proposed Rules:
86.....59168, 60794

33 CFR

100.....59647
117.....59431, 59432
165 .....59648, 59650, 60057, 60745

Proposed Rules:
165.....59173, 59701

38 CFR

Proposed Rules:
38.....59176

40 CFR

51.....60343
52 .....59433, 59435, 59663, 60059, 60061, 60064, 60065, 60070, 60073, 60075, 60078, 60081, 60347
63.....60898
81 .....59674, 60078, 60081
93.....60343
180 .....59115, 59119, 60748
194.....60750
271.....59438, 60756
272.....59438
312.....60087
721.....60759

Proposed Rules:
52 .....59471, 59703, 60123, 60124, 60125, 60405
63.....60238
81.....59703
271.....59471, 60795
272.....59471
300.....59179, 59182
721.....59186

42 CFR

405.....59675
412.....59121, 59675
413.....59675
415.....59675
422.....59675
424.....59675
430.....59123
431.....59123
433.....59123
435.....59123
436.....59123
440.....59123
485.....59675
488.....59675

Proposed Rules:
1001.....59717
1003.....59717

44 CFR

64.....59123, 59127

45 CFR

146.....59130
147.....59137
155.....59137

47 CFR

20.....59444
27.....59138
54.....60090
73 .....59447, 60090, 60091
95.....60092

Proposed Rules:
54.....60406
73.....60796

49 CFR

10.....59448
26.....59566
355.....59450
365.....59450
369.....59450
383.....59450
384.....59450
385.....59450
387.....59450
390.....59450
391.....59139, 59450
392.....59450
395.....59450
397.....59450
602.....60349
622.....60100

50 CFR

17 .....59140, 59992, 60365
622.....60379
648.....59150
679.....60381

Proposed Rules:
17 .....59195, 59364, 60406
300.....60796
622.....59204
648.....59472
679.....59733, 60802

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List October 2, 2014

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